CLUSTER 4D WITCHCLIFFE ECOVILLAGE

LOT __________
CONTRACT OF SALE BY OFFER AND ACCEPTANCE

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REF 200062

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CONTRACT FOR SALE OF STRATA TITLE PROPERTY BY OFFER & ACCEPTANCE WHICH CONTAINS:

The Buyer acknowledges having received a copy of each of the annexures and attachments referred to above and that each form part of the Contract and bind the Buyer and the Seller.

Signature(s) of Buyer	Signature(s) of Buyer
Date:	Date:

CONTRACT FOR SALE OF STRATA TITLE PROPERTY BY OFFER AND ACCEPTANCE
REFERENCE SCHEDULE

ITEM 1. BUYER DETAILS

Name/s ______________________________

Address ______________________________

____

Phone(s) ______________________________

Email(s) ______________________________

Tenancy: ☐ Joint Tenants ☐ Tenants in Common in following shares ________________

ITEM 2. SELLER DETAILS

Name	Perron Developments Pty Ltd (ACN 000 230 446) & Sustainable Settlements Pty Ltd (ACN 169 286 337)
Address	10437 Bussell Highway, Witchcliffe, Western Australia
Phone:	+61 8 9757 6688
Email:	sales@ecovillage.net.au
ABN	34 240 529 823

ITEM 3. PROPERTY

Strata Lot	Proposed Lot _______________ on Survey Strata Plan 85750
Address	Proposed Cluster 4D, Witchcliffe Ecovillage, Witchcliffe WA 6286

ITEM 4. PURCHASE PRICE AND GST

Purchase Price	$ ____(including GST)
GST Withholding	$__________________________ being 7% of the Purchase Price (margin scheme applies)

ITEM 5. DEPOSIT

Amount	$ 5,000.00		
Payment Terms	$ 5,000.00 payable within 7 days of the Contract Date.		
Deposit Holder	Vicki Philipoff Settlements (Trust Account)		
	Bank: BankWest	BSB: 306 053	Account Number: 0151971

ITEM 6. FINANCE CONDITION

☐ Finance Condition Applicable ☐ Finance Condition Not Applicable

Latest Time __________________________

Lender __________________________

Amount of Loan $__________________________

Buyer Sign

________________________________ ________________________________

ITEM 7. SETTLEMENT DATE

The date that is the later of:

(a) 30 November 2022;

(b) the date 21 days after the Contract Date (being the date of acceptance of the Buyer's offer);

(c) 21 days after the issue of a separate Certificate of Title for the Property; and

(d) where the Finance Condition is noted as applicable in Item 6 of the Reference Schedule, the date 21 days after the Buyer receives Finance Approval or waives that condition.

ITEM 8. SELLER'S REPRESENTATIVE / SETTLEMENT AGENT

Name	Vicki Philipoff Settlements		
Address	PO Box 1800 West Perth WA 6872		
Phone	+61 8 6311 4888	Email	info@vickiphilipoff.com.au

ITEM 9. BUYER'S REPRESENTATIVE / SETTLEMENT AGENT

Name ______________________________

Contact ______________________________

Address ______________________________

Phone ______________________ Email ______________________

ITEM 10. ADDITIONAL CONDITIONS

If there is any inconsistency between the Additional Conditions and any provision of the Special Conditions, the Additional Conditions shall prevail to the extent of that inconsistency

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CONTRACT FOR SALE OF STRATA TITLE PROPERTY BY OFFER AND ACCEPTANCE
OFFER AND ACCEPTANCE

1. The Buyer (and where more than one person comprises the Buyer, all of those persons as joint tenants or tenants in common as specified in Item 1 of the Reference Schedule) hereby offers to Purchase the Property free of Encumbrances except the Specified Encumbrances, and including all improvements with vacant possession at the Purchase Price and on the terms set out in the Contract including the Special Conditions and other Annexures hereto.
2. The Buyer shall pay the Deposit to the Deposit Holder on or before the Deposit Due Date. The balance of the Purchase Price shall be paid at Settlement.
3. Acceptance of this offer will be sufficiently communicated to the Buyer if verbal or written notification is given by the Seller or the Seller's Representative to the Buyer that this Offer and Acceptance has been signed as accepted by the Seller.
4. Settlement of the sale and purchase of the Property shall occur on the Settlement Date.
5. The Buyer acknowledges that before signing this offer it has received a true copy of and has read and understood the Contract including Annexure A - Annexure E and the Attachments thereto (all of which form part of this Contract).
6. The Special Conditions comprising Annexure A form part of this offer and, subject to the Additional Conditions, prevail to the extent of any inconsistency with any other term of the Contract including the General Conditions.

EXECUTION:

EXECUTION FOR INDIVIDUAL BUYER(S)

______________________________	______________________________
Signature of Buyer	Signature of Buyer
______________________________	______________________________
Full Name	Full Name
______________________________	______________________________
Date	Date

EXECUTION FOR CORPORATE BUYER(S)

Signed for and on behalf of ____Pty Ltd

A.C.N.________________________ by its authorised signatory

____

Signature

____

Full Name

____

Position

____

Date

EXECUTION FOR SELLER (being acceptance of the Buyer's offer)

Signed for and on behalf of Sustainable Settlements Pty Ltd (ACN 169 286 337) by its authorised signatory:

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Signature

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Full Name

____
Position

____
Date

Signed for and on behalf of Perron Developments Pty Ltd (ACN 000 230 446) by its authorised signatory:

____
Signature

____
Full Name

____
Position

____
Date

ANNEXURE A – SPECIAL CONDITIONS

1 BUYER'S ACKNOWLEDGMENTS

1.1 Without limiting the generality of the Contract, the Buyer expressly acknowledges and agrees as follows:

(a) these are the Special Conditions referred to in the Offer and Acceptance and forming part of the Contract;

(b) the Annexures and Attachments, including these Special Conditions and the Disclosure Statement and its Attachments, form part of the Contract;

(c) it has received all of the notifiable information for the purposes of section 156 of the *Strata Titles Act*; and

(d) it has read and understood the Contract including the Offer and Acceptance, Special Conditions, the Annexures and the Attachments.

2 FINANCE CONDITION

2.1 This Special Condition applies only if the Buyer has selected that the Finance Condition is applicable in Item 6 of the Reference Schedule. If the Buyer has not selected that the Finance Condition is applicable in Item 6 of the Reference Schedule this Special Condition does not apply and the Contract is not subject to the Buyer obtaining any form of finance for the purchase of the Property.

2.2 If this Special Condition applies the Contract is subject to and conditional upon the Buyer obtaining Finance Approval or waiving that requirement on or before the Latest Time as set out in this Special Condition; and

2.3 The Buyer must immediately give to the Seller or Seller Agent notice if:

(a) it obtains Finance Approval or waives the requirement to obtain Finance Approval (**Approval Notice**); or

(b) the application for Finance Approval is rejected (**Non-Approval Notice**).

2.4 If by the Latest Time the Buyer has not obtained Finance Approval, the Buyer may terminate this Contract by notice in writing to the Seller or the Seller's Agent.

2.5 If by the Latest Time the Buyer has not given an Approval Notice or written notice of a waiver of this condition to the Seller or Seller Agent then, at any time until an Approval Notice or written notice of a waiver is given, the Seller may terminate this Contract by written notice to the Buyer.

2.6 The Buyer acknowledges and agrees that upon providing an Approval Notice or waiving this condition in writing to the Seller:

(a) the Contract ceases to be subject to the Finance Condition and this Special Condition (becoming unconditional concerning any requirement for the Buyer to obtain any form of finance to purchase the Property); and

(b) the Contract will not be effected by, and the Buyer will be required to complete the Contract and purchase the Property notwithstanding, any subsequent withdrawal, expiry, variation or termination of any finance the Buyer may have received approval for (even where this risk or likelihood is noted on or advised as part of the Approval Notice).

2.7 If the Buyer gives a Non-Approval Notice, this Contract shall automatically terminate.

2.8 If a Party has the right to terminate under this Special Condition 2, then:

(a) clauses 23 and 24 of the General Conditions do not apply to the right to terminate;

(b) upon termination:

i. the Deposit and any other monies paid by the Buyer must be repaid to the Buyer; and.

ii. neither Party will have any action or claim against the other for breach of this Contract.

2.9 In this Special Condition 2 the following terms have the following meaning:

Amount of Loan means either:

(a) the amount referred to in Item 6 of the Reference Schedule or any lesser amount of finance referred to in the Finance Application; or

(b) if no amount is referred to in Item 6 of the Reference Schedule, an amount equivalent to the Purchase Price;

Finance Application means an application made by or on behalf of the Buyer to the Lender to lend any monies payable under the Contract;

Finance Approval means:

(a) a written approval by the Lender of the Finance Application or a written offer to lend or a written notification of an intention to offer to lend made by the Lender; and

(b) for the Amount of the Loan; and

(c) which is unconditional or subject to terms and conditions:

i. which are the Lender's usual terms and conditions for finance of a nature similar to that applied for by the Buyer; or

ii. which the Buyer has accepted by written communication to the Lender, but a condition which is the sole control of the Buyer to satisfy will be treated as having been accepted for the purposes of this definition; or

iii. which, if the condition is other than those referred to in subparagraphs i and ii. above, includes:

(A) an acceptable valuation of any property;

(B) attaining a particular loan to value ratio;

(C) the sale of another property; or

(D) the obtaining of mortgage insurance;

and has in fact been satisfied.

Latest Time means 4:00PM on the day specified as the Latest Time in Item 6 of the Reference Schedule or where there is no such day is specified, the day that is 15 Business Days after the Contract Date;

Lender means:

(a) the lender or mortgage broker nominated in Item 6 of the Reference Schedule; or

(b) if the Buyer makes a Finance Application to, or if no lender is nominated in Item 6 of the Reference Schedule then, any bank, building society, credit union or other institution which makes loans and in each case is carrying on business in Western Australia or a mortgage broker carrying on business in Western Australia;

3 CONSTRUCTION OF DEVELOPMENT

3.1 The Buyer acknowledges that at the Contract Date the Development and Property may not have been constructed.

3.2 Subject to the provisions of the Contract the Seller will use its reasonable endeavours to procure that the Development is constructed in a reasonably expeditious and proper workmanlike manner, substantially in accordance with the Detailed Plans to the satisfaction of any applicable Authority.

3.3 The Buyer acknowledges and agrees that:

(a) it has had an opportunity to inspect the Detailed Plans before entering into the Contract (which are available for inspection at the office of the Seller or the Seller's Agent during normal business hours) and accordingly the Buyer is deemed to be fully aware of the exact nature, extent and details of the Detailed Plans; and

(b) the Detailed Plans are subject to variation as set out in these Special Conditions.

3.4 The Seller will complete the following works on or before the Settlement Date:

(a) sewer connection to the Property; and

(b) National Broadband Network conduit and pits to enable future fibre connection to the Property in accordance with NBN service providers' requirements.

3.5 The Buyer acknowledges and agrees that the Seller will complete by no later than the Registration Date all works required to enable construction of the dwelling for the Property to commence, including:

(a) all roadworks, except the Stage 4 & 5 Bussell Hwy entrance, which is to first be bonded with Main Roads and the Local Government to obtain clearance of the relevant conditions of the Subdivision, prior to those roadworks being completed, to enable registration of the Strata Plan;

(b) concrete paths in accordance with the Detailed Plan through Common Property enabling connection to the future Ecovillage path network; and

(c) the microgrid and Western Power connection for the Strata Plan enabling access to power to the Property,

and the Buyer will not make or cause any Objection concerning such works not being completed prior to this date.

3.6 Prior to completion of the Stage 4 & 5 Bussell Hwy entrance roadworks, vehicular access to the Property will be via Kyloring Drive and secondary access will be provided via Gilgie Drive.

3.7 The Buyer acknowledges and agrees that:

(a) there may be some outstanding works for the Development that are not required to be completed prior to registration of the Strata Plan or Settlement (**Final Works**);

(b) the Final Works may include but are not limited to installation of the strata electric vehicle charger, landscaping of Common Property (including construction of chicken pens, netted orchard, hard landscaping features, and localised amendments to stormwater drainage infrastructure if required) and installation of irrigation network;

(c) the Seller reserves the right to complete the Final Works within 24 months of Settlement, except the electric vehicle charger, which will be installed when the dwellings of all Lots are constructed to lock-up / practical completion standard, or at another date as determined mutually by the Scheme Developer and a future Strata Council;

(d) the Final Works may involve voluntary community building workshops and community garden planting events;

(e) the Seller may require access to the Common Property (including exclusive use areas such as that associated with the Property) and Property as is reasonable to carry out the Final Works and the Buyer shall permit such access.

(f) the Final Works may require the Seller to restrict access to the Common Property; and

(g) the Buyer will not make or cause any Objection concerning the matters referred to in this Special Condition 3.7.

4 REGISTRATION OF STRATA PLAN

4.1 The Parties agree that:

(a) the Strata Plan may be registered at any time prior to the Registration Date (**Registration Period**);

(b) the Registration Period will apply in lieu of the period of 6 months after the Contract Date referred to in section 163(3)(b) of the *Strata Titles Act*; and

(c) this Special Condition is an agreement in writing between the Parties for the purpose of section 163(3)(b) of the *Strata Titles Act*.

5 VARIATIONS BY SELLER

5.1 The Buyer acknowledges and agrees that the Proposed Strata Plan and Detailed Plans may be amended by the Seller.

5.2 Without limiting Special Condition 5.1 the Seller may alter (whether being a modification, addition, deletion or otherwise) any one or more of the following in the circumstances referred to in Special Condition 5.3:

(a) the lot or street number or address allocated to any Strata Lot;

(b) the dimensions, size, position, design or uses of a Strata Lot or Common Property including:

i. adding, amending, or relocating any landscaping or common facilities (including design, extent and type); and

ii. allocating any areas on an exclusive use basis to any Strata Lot or varying any such areas, in general accordance with the Detailed Plans; and

(c) the Initial By-Laws, easements and any agreement between the Strata Company and another (including agreements for the provision of services and utilities, whether or not those agreements are with Ecovillage Commons Ltd) and/or any other information, document, agreement, notice or material forming part of the Contract.

5.3 The Seller may alter any one or more of the matters referred to in Special Condition 5.2 after the Contract Date where:

(a) arising from any condition imposed by an Authority;

(b) for the purpose of meeting practical methods of construction;

(c) for environmental sustainability purposes;

(d) in accordance with any recommendation of the Seller's civil engineer, structural engineer, mechanical engineer, electrical engineer, environmental consultants, solicitor, town planner or other professional advisor and not materially and adversely affecting the Buyer's use and enjoyment of the Property;

(e) due to the availability of materials or products or materials or products being superseded;

(f) due to increases in the cost of materials or products it is reasonable for the Seller to substitute those materials or products with equivalent materials or products;

(g) due to any change in any law, regulation, by-law, ordinance, Australian Standard or the like;

(h) due to matters that arise which the Seller could not have reasonably foreseen; or

(i) where the Seller believes the changes will enhance the Ecovillage, Development or Property.

5.4 If the Seller makes any variation in accordance with this Special Condition 5 then it will, so far as reasonably practicable, ensure that the variation will not materially alter or affect the use and enjoyment of the Property by the Buyer or substantially diminish its value.

5.5 The Seller will communicate any such changes with the Buyer but is not obliged to enter into any supplementary agreement with the Buyer if the Seller makes any variation permitted under the Contract including this Special Condition 5.

5.6 Where a variation in accordance with the Contract including this Special Condition 5 varies any part of the Development, including any part of the Common Property intended to be for the exclusive use of the Property, not comprising the Property (**External Variation**) the Buyer is not entitled to make any Objection to the External Variation unless, viewed objectively, the External Variation materially adversely affects the use of the Property or reduces the market value of the Property by greater than 5%.

5.7 The Buyer may not make any Objection to any variation to the Property or Development permitted under this Contract including this Special Condition 5 unless:

(a) the variation reduces the area of the Property by greater than 3%; or

(b) the variation is an External Variation to which an Objection is permitted under Special Condition 5.6.

6 TITLE AND ENCUMBRANCES

6.1 The Property is sold and the Buyer shall take title to the Property subject to the relevant matters referred to in the General Conditions and in particular, and without prejudice to the generality of the foregoing, subject to the following matters (each a Specified Encumbrance for the purpose of the General Conditions):

(a) the provisions of the *Strata Titles Act*, the *Transfer of Land Act 1893* (WA) and all other laws affecting the Property;

(b) the Unit Entitlement and all other matters contained in or endorsed upon or annexed to the Strata Plan;

(c) the easements and restrictions and/or all ancillary rights and all burdens and obligations of the proprietor of a Strata Lot shown on the Strata Plan or expressed or implied by virtue of the *Strata Titles Act* or the *Planning and Development Act 2005*;

(d) the By-laws, including any substitution or variation of these;

(e) a notification, such as pursuant to Section 70A of the Transfer of Land Act 1893 or Section 165 of the Planning and Development Act 2005, providing notice to the effect of any or all of the following:

i. ‘a mains potable water supply is not available to the lot’;

ii. ‘The lot may be subject to bylaws and covenants that relate to the management of land in accordance with the Witchcliffe Ecovillage Structure Plan and Shire of Augusta Margaret River Local Planning Scheme 1’;

iii. ‘This lot is located adjacent to rural land which has the potential to have a nuisance on the land from time to time’;

iv. ‘The lot is situated in the vicinity of a transport corridor and is currently affected or may in the future be affected by transport noise’;

(f) a notification on any lot rated 12.5 BAL and above in the Bushfire Management Plan stating: ‘This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner and may be subject to a Bushfire Management Plan. Additional planning and building requirements may apply to development on this land’;

(g) any transfer, lease, easement, encroachment, restriction, covenant (whether positive or negative) or other obligation arising from the requirement of any Authority whenever and howsoever arising;

(h) any memorial or notification required by any Authority (including any required concerning matters associated with the Ecovillage, neighbourhood in which the Development is located or factors effecting the Original Land);

(i) any agreement (including lease or licence) right or special privilege granted to a third party (including right to exclusive use) in respect of the Common Property;

(j) the Disclosure Statement and all matters referred to therein;

(k) all defects (if any) whether or not those defects could or should have been recognisable upon the Buyer’s inspection of the Property; and

(l) the obligations contained in the Contract;

but otherwise free from Encumbrances.

7 CAVEAT

7.1 The Buyer must not before the issue of a separate Certificate of Title for the Property, lodge any caveat against the Certificate of Title of the Original Land or any part of the Original Land to protect the Buyer's interest under the Contract.

7.2 To secure the performance by the Buyer of the Buyer's obligations set out in the Contract (including but not limited to Special Conditions 9, 14 and 18.2) the Buyer charges all of its right title and interest in the Property for the benefit of the Seller and authorises the Seller to lodge an absolute or subject to claim caveat (the form being at the discretion of the Seller) against the certificate of title to the Property.

8 LOCAL DEVELOPMENT PLAN, BUILDING DESIGN GUIDELINES AND CONSTRUCTION OF DWELLINGS

8.1 The Seller notifies the Buyer that the Development is subject to the Local Development Plan and Building Design Guidelines.

8.2 The Buyer acknowledges that:

(a) it has been given the opportunity to review the Local Development Plan and Building Design Guidelines and enters into the Contract with a full understanding of the Local Development Plan and Building Design Guidelines (including the restrictions, ancillary rights and burdens and obligations created thereunder);

(b) the Building Design Guidelines may be amended prior to Settlement;

(c) the Local Development Plan may be amended with the consent of the Local Authority; and

(d) any dwelling constructed upon the Property must satisfy the requirements of the Local Development Plan and Building Design Guidelines.

8.3 The Buyer further acknowledges and agrees that it may only construct a dwelling upon the Property in compliance with Schedule 1 By-law 16 of the Initial By-laws (**Building By-law**), which amongst other matters requires the plans for such dwelling to be approved by the Seller, as agent of the Strata Company.

8.4 The Buyer may not make any Objection concerning any costs that the Buyer may incur (including design costs or additional construction costs) or construction delays associated with the Buyer:

(a) only being permitted to construct a dwelling that satisfies the Local Development Plan and Building Design Guidelines; and

(b) having to comply with the Building By-law.

9 REPURCHASE OPTION

9.1 In this Special Condition 9 the following terms have the following meaning:

(a) **Commencement Date** means the date 36 months after the Settlement Date;

(b) **Completion Date** means the date 48 months after the Settlement Date;

(c) **Dwelling** means a residential dwelling (including an ancillary dwelling) that complies with the Local Development Plan and Building Design Guidelines and is approved pursuant to the Building By-law;

(d) **Repurchase Price** means the Purchase Price less all costs paid or payable by the Seller in relation to the sale and repurchase of the Property to and from the Buyer upon the exercise of the Repurchase Option (including any stamp duty, solicitor's or settlement agent's costs and agent fees); and

(e) **Repurchase Option** means the option granted by the Buyer pursuant to Special Condition 9.3 for the Seller or its nominee to repurchase the Property should the Buyer breach Special Condition 9.2(a).

9.2 In consideration of the Seller entering into the Contract and agreeing to sell the Property to the Buyer, the Buyer:

(a) covenants for the benefit of the Seller that the Buyer will:

i. commence construction of a Dwelling on the Property on or before the Commencement Date; and

ii. complete construction of that Dwelling on or before the Completion Date; and

(b) grants to the Seller the Repurchase Option.

9.3 The Buyer irrevocably grants to the Seller the option to repurchase the Property from the Buyer free from any Encumbrance (other than an Encumbrance that the Property is sold subject to under this Contract) for the Repurchase Price if the Buyer breaches Special Condition 9.2(a).

9.4 The Seller may (but is not obliged to) exercise the Repurchase Option:

(a) by notice in writing to the Buyer; and

(b) in the name of a nominee (such that the obligation of the Buyer is to transfer the Property free from Encumbrances to that nominee),

at anytime whilst a breach of Special Condition 9.2(a) is subsisting. For the avoidance of doubt the Repurchase Option may not be validly exercised should the Buyer have rectified any breach of Special Condition 9.2(a) prior to the Seller attempting to exercise the Repurchase Option.

9.5 Notwithstanding Special Condition 9.4, the Seller may (in its absolute discretion) grant an extension to the Commencement Date or Completion Date, such as if the Buyer provides proof to the Seller in writing of unforeseen or unavoidable circumstances which have caused delays to the Commencement or Completion of construction of a Dwelling.

9.6 If the Repurchase Option is exercised:

(a) settlement of the sale of the Property back to the Seller (or its nominee) shall occur on the date that is 45 days after the exercise of the Repurchase Option (or any other date the parties may agree in writing);

(b) the General Conditions shall apply to the sale (with any necessary changes made);

(c) the Buyer must promptly upon request (and within no greater than 5 Business Days) sign and return any reasonable document the Seller requests the Buyer sign to give effect to the sale; and

(d) unless the Seller agrees otherwise, the Buyer must prior to settlement and at the Buyer's cost remove any buildings and other improvements constructed upon the Property and make good the Property to the same state and condition it was in at Settlement. Should the Buyer fail to do so the Seller may undertake such activities and deduct the associated costs from the Repurchase Price or if the costs exceed the Repurchase Price the differential shall be a debt owing to the Seller by the Buyer and payable upon demand.

10 USE FOR SHORT STAY ACCOMMODATION

The Buyer acknowledges and agrees that the Strata Lots comprising this Strata Plan are entitled to be used for sort short stay accommodation provided that any such use is undertake in compliance with the By-laws including Schedule 2 By-law 21 which requires the owner or other manager of that accommodation:

(a) is a permanent resident of another lot in the Ecovillage or the manager of a tourism accommodation management company lawfully operating from a premises in the Ecovillage, or, if a manager located within the Ecovillage is not available, a manager of a tourism accommodation management company lawfully operating from premises within the Augusta Margaret River;

(b) provides at all times to the Strata Council the current 24-hour accessible contact details of the owner or any other manager of that accommodation;

(c) maintains approval for short stay accommodation from the local government in accordance with all applicable policies and regulations;

(d) maintains an appropriate level of insurance required for short stay accommodation;

(e) ensures all health and safety requirements pertaining to short stay accommodation are complied with;

(f) takes all reasonable steps to ensure that all tenants are informed of and observe the By-laws;

(g) takes all reasonable steps to ensure that all tenants or visitors comply with any restrictions to Ecovillage Commons land access imposed upon visitors or tenants as communicated by ECL from time to time;

(h) takes all reasonable steps to ensure that all tenants do not behave in a manner likely to interfere with the peaceful enjoyment of any owner or occupier of any other Strata Lot or any person lawfully using the Common Property; and

(i) manages and advertises the short-stay accommodation as environmentally friendly sustainable accommodation in line with the overarching theme and vision of the Ecovillage, including providing guests with Ecovillage specific educational material, a prominently displayed summary of relevant conduct bylaws, a summary of Ecovillage Visitor rules as provided by the Original Proprietor and updated by Ecovillage Commons Limited from time to time, and implementing sustainable waste management practices.

11 ECOVILLAGE

11.1 The Buyer acknowledges and agrees that:

(a) the Development forms one cluster of the broader Ecovillage that the Seller is undertaking on the Original Land;

(b) the objectives of the Ecovillage are to be 100% self-sufficient in renewable energy and water, provide infrastructure to grow fresh food on site in community gardens, build carbon negative dwellings and function as a highly sustainable, self-reliant, socially and culturally diverse community in a regional setting;

(c) details of the intended design of the Ecovillage and uses it may comprise are set out in the Structure Plan and Concept Plan and subject to change;

(d) the Ecovillage is intended to be constructed in a number of clusters/stages and these may be constructed separately or concurrently in the Seller's absolute discretion;

(e) the Ecovillage is to include the Ecovillage Commons a large area of land (presently intended to be approximately 39.63ha) owned by Ecovillage Commons Ltd and used for communal purposes, agricultural and/or agroforestry, conservation areas, water resources, recreational and community facilities;

(f) the facilities and infrastructure comprising the Ecovillage Village Common is intended to be constructed in a number of stages and these may be constructed separately or concurrently with any other part of the Ecovillage in the Seller's absolute discretion;

(g) the initial stage of the Ecovillage Commons is to include the 3 Ecovillage dams and associated pumping infrastructure, and the Ecovillage wastewater treatment facility, storage dam and irrigation area located on Ecovillage Commons land;

(h) the ultimate size, design, configuration and facilities that the Ecovillage Commons may comprise is subject to change in the Seller's absolute discretion but will generally reflect the Concept Plan;

(i) the Ecovillage will involve the granting of various rights and the creation of various obligations between its parts including the Development and Ecovillage Commons Ltd. Such rights and obligations may include but are not limited to:

i. access to and use of pathways; and

ii. access to and use of drainage and stormwater; and

(j) the Seller retains absolute control over determining the design, final mix of uses, configuration, number of lots, timing and the number of stages/clusters that the Ecovillage or any part of it may involve.

11.2 The Buyer further acknowledges and agrees that:

(a) the Seller and its agents may undertake works in the vicinity of the Property as part of the construction of the Ecovillage; and

(b) works undertaken in the vicinity of the Property may generate noise, vibration, dust and other disturbance;

and the Buyer enters into the Contract in reliance of its own inquiries concerning the Ecovillage.

11.3 The Buyer may not make any Objection to:

(a) the matters referred to in Special Conditions 10.1 (including any part of the Ecovillage being delayed, varied or not undertaken); or

(b) provided that such works are undertaken in accordance with any applicable requirements of the relevant Authorities, the matters referred to in Special Condition 10.2.

12 ECOVILLAGE COMMON LTD

12.1 The Buyer acknowledges that:

(a) as part of the Ecovillage, Ecovillage Commons Ltd has been incorporated under the *Corporations Act 2001 (Cth)* as a company limited by guarantee;

(b) Ecovillage Commons Ltd is a not for profit organisation for the purposes of the *Australian Charities and Not-for-profits Commission Act 2012 (Cth)* with the objective of facilitating sustainable environment, social and amenity outcomes in the Ecovillage;

(c) Ecovillage Commons Ltd:

i. owns the Ecovillage Commons and is responsible for their maintenance, upkeep and operation (including the improvements and facilities situated on or provided by the Ecovillage Commons);

ii. provides, or procures to be provided, services to the Ecovillage including stormwater collection and dispersal;

iii. is not intended to supply non-potable water to this Strata Plan (though does supply non-potable water to various Clusters in the Ecovillage);

iv. provides a representative forum for the strata companies (and their owners) comprising the Ecovillage;

v. will undertake community and social events and initiatives for the Ecovillage; and

vi. monitors the sustainability objectives and compliance with the applicable by-laws and covenants of the Ecovillage;

(d) Ecovillage Commons Ltd will charge the strata companies comprising the Ecovillage (who will on charge to their owners) for any utilities, such as non-potable water (to the Clusters no-potable water is supplied), and goods and services it provides. Such charges are to be reasonable commercial charges based on the current and anticipated future costs and expenses of Ecovillage Commons Ltd.

(e) the Seller is the initial member of Ecovillage Commons Ltd, having a special class of membership (**Founder's Membership**). The Founder's Membership:

i. is valid for a period commencing on the incorporation of the company and ending on the date that is 12 months after the last strata plan for the Ecovillage is registered (**Cancellation Date**), at which time it shall automatically be cancelled; and

ii. for the period commencing on incorporation of the Company and ending on the Cancellation Date:

(A) requires the Seller to meet the costs of Ecovillage Common Ltd, both its establishment costs and ongoing operational costs, to the extent that the income of this company is not sufficient to meet those ongoing costs;

(B) entitles the Seller to appoint the board of the company (which shall only be 3 at this time); and

(C) provides the Seller with the sole voting rights at any meeting of the company; and

(f) following the Cancellation Date, a representative board will be appointed for Ecovillage Commons Ltd. This board will comprise of 6 owners of different types of lots in the Ecovillage who will be appointed as specified in the Constitution of Ecovillage Commons Pty Ltd (provided that whilst the Seller continues to be an owner of any lot it may additionally be a member of the board) and being:

i. 3 being owners of residential lots;

ii. 1 being an owner of an agricultural lot;

iii. 1 being an owner of a commercial lot; and

iv. 1 being an owner of a short stay/tourism lot.

12.2 The Buyer further acknowledges that on and from the Cancellation Date, Ecovillage Commons Ltd will operate financially independent of the Seller. Should the income generated from the activities of the company be insufficient to meet its expenses (including future expenses such as for any additional community facilities the members of Ecovillage Commons Ltd resolve to undertake) Ecovillage Commons Ltd may levy the strata companies in the Ecovillage for a proportionate amount of those additional expenses.

12.3 A copy of the constitution of Ecovillage Commons Ltd is available at the office of the Seller during business hours, or upon request can be emailed to the Buyer. In entering into the Contract, the Buyer acknowledges and agrees that:

(a) it has been provided the opportunity to read and review the constitution and is deemed to have done so; and

(b) the Seller (by reason of its Founder's Membership) reserves the right to amend the constitution prior to the Cancellation Date provided the amendment is in keeping with the overall objectives of the Ecovillage and the Buyer may not make any Objection concerning any such amendment.

13 ELECTRICITY MICROGRID

13.1 The Buyer acknowledges and agrees that, in accordance with the sustainability theme of the Cluster:

13.2 the Cluster is to be serviced by an electricity microgrid;

13.3 every Strata Lot will be provided with a household storage battery (approx. 11 kWh) by the Seller at the completion of the construction of the primary Dwelling for that Strata Lot;

(a) The strata company must:

i. provide access to the microgrid to all Strata Lots;

ii. manage and administer the microgrid, including regular and accurate reading of meters; and

iii. maintain the microgrid including the Western Power single point connection and infrastructure to allow the trading of electricity between owners and the Western Power grid.

13.4 The Strata Company may appoint a third party to manage and administer the microgrid and its operation and maintenance including reading of meters.

13.5 The Buyer must adhere to all energy requirements of the Building Design Guidelines, including installing and maintaining compliant solar panels, inverter/s, metering devices, and a National Metering Identifier (NMI) certified meter (as advised by the Seller) at the time of construction to enable energy trading and billing to occur.

13.6 The Buyer and any other owner or occupier of a Strata Lot must not:

(a) disconnect any dwelling on their Strata Lot from the microgrid or their Strata Lot's household storage battery, unless for the purposes of servicing or replacement.

(b) replace the household storage battery on their Strata Lot other than with a battery system of no less capacity that the battery supplied by the Seller and approved by Ecovillage Commons Ltd acting reasonably.

14 FENCING

14.1 Unless the Seller has expressly agreed in writing otherwise:

(a) the Seller has no responsibility or liability for the cost of any fencing for the Property, even should the Seller be the owner of any adjoining land;

(b) the Buyer must not claim against the Seller under the *Dividing Fences Act 1961 (WA)* for any contribution towards the cost of installing or constructing any boundary fence (any right to make such a claim being expressly released and waived); and

(c) the Buyer must construct fencing with regard to the requirements set out in the Building Design Guidelines.

15 INITIAL BY-LAWS

15.1 The Buyer acknowledges and agrees that the Initial By-laws are provisional and those intended to be registered with the Strata Plan.

15.2 The Seller reserves the right to amend the Initial By-laws in any manner prior to registration of the Strata Plan, provided it is in keeping with the overall objectives of the Ecovillage.

15.3 Except as provided for in the *Strata Titles Act*, the Buyer may not make any Objection to any amendment of the Initial By-laws by the Seller that is in accordance with the Contract including this Special Condition.

15.4 The Buyer must promptly following request by the Seller, procure any third party consents required to give effect to an amendment of the Initial By-Laws that is in accordance with the Contract.

16 STRATA COMPANY DRAFT BUDGET

16.1 The Strata Company Draft Budget is an estimate of the income and expenses of the Strata Company for the first year after its registration and may be varied by the Seller from time to time.

16.2 The Seller has used reasonable endeavours to ensure that so far as is possible the Strata Company Draft Budget is sufficient for the control and management of the Common Property, for the payment of any premiums of insurance, depreciation of infrastructure, and the discharge of any other obligations of the Strata Company but if the Strata Company Draft Budget for any reason is found not to be adequate and the Strata Company subsequently levies the proprietors (including the Buyer) for further contributions to make up any deficiency then the Buyer shall not make any Objection or claim on the Seller to meet that further contribution (provided it is reasonable).

16.3 If the Seller pays any expense of the Strata Company, including but not limited to premiums in respect of any insurance the Strata Company is required to effect, to the extent that such amount has not been reimbursed by the Strata Company to the Seller, there shall be an adjustment between the Seller and the Buyer at Settlement of that part of such expense which bears the same proportion of the total expense as the Unit Entitlement of the Property bears to the total entitlement of all Strata Lots on the basis that they shall be paid by the Seller up to and including the Settlement Date from which date they shall be paid by the Buyer.

17 FIRST MEETING OF STRATA COMPANY

17.1 The Buyer acknowledges and agrees that:

(a) the Seller will convene and hold the first annual general meeting of the Strata Company and this meeting is intended to occur prior to the Settlement Date; and

(b) subject to any provision of any Act, including the *Strata Titles Act*, to the contrary that cannot be excluded:

i. the Buyer shall not receive notice of or be entitled to personally vote at that meeting; and

ii. should the Buyer for any reason be entitled to attend, they irrevocably appoint the Seller as their proxy to attend and vote at such meeting to the Buyer's exclusion.

17.2 The Buyer further acknowledges and agrees that matters the Seller may address at the first annual general meeting include but are not limited to:

(a) repealing, varying or adding to the By-laws as may be permitted by this Contract;

(b) accepting the Strata Company Draft Budget (as amended from time to time) and approving the Strata Company levies and contributions;

(c) entering into or varying any agreement for:

i. the cleaning, maintenance, repair or administration of the Common Property or Strata Company; or

ii. the supply of goods or services (including utilities) to the Strata Company or by the Strata Company and whether or not involving owners or occupiers of Strata Lots, Ecovillage Commons Ltd or neighbouring parts of the Ecovillage;

(d) granting a party rights of access or use (including exclusive use), special privilege or otherwise in respect of Common Property; and

(e) imposing, amending or repealing any of the following:

i. any building, design or planning guidelines or framework concerning the Ecovillage; and

ii. any covenants, easements or the like concerning the Ecovillage,

for any of the following purposes:

iii. regulating any specific uses and activities within the Ecovillage;

iv. developing, operating and maintaining the Ecovillage Commons;

v. facilitating and regulating the provision of services or utilities within the Ecovillage (whether or not by Ecovillage Commons Ltd or involving the Ecovillage Commons); and

vi. facilitating the development of the Ecovillage.

18 ADVERTISING AND MARKETING

18.1 The Buyer acknowledges and agrees that the Seller may, following Settlement:

(a) use one or more Strata Lots as displays (including erecting a display home); and

(b) use part of the Common Property for the purpose of advertising and marketing the Ecovillage.

18.2 The Buyer may not make any Objection to any of the methods used by the Seller, its servants, agents or contractors in their efforts to sell or market any Strata Lot (other than the Property), including but not limited to the use of any signs, any public auction or any use of the Common Property and provided that the Seller shall endeavour not to cause any unreasonable inconvenience to the Buyer.

19 DEALINGS WITH THE PROPERTY PRIOR TO SETTLEMENT

19.1 As a condition of the Seller entering into the Contract and agreeing to sell the Property to the Buyer the Buyer may not sell, transfer, assign or otherwise dispose of its interest in this Contract or the Property before Settlement without the prior written consent of the Seller, which the Seller shall not unreasonably withhold.

19.2 Without limiting Special Condition 18.1, the Buyer must not dispose of or grant any interest in the Property prior to construction of a Dwelling unless the transferee or party taking an interest in the Property (**Transferee**) executes a deed in favour of the Seller on terms prepared by the Seller at the Buyer's cost under which the Transferee:

(a) agrees to be bound by and perform the then subsisting provisions of this Contract (including the Repurchase Option if applicable); and

(b) covenants to obtain the same covenant as contained in this Special Condition 18.2 from any further purchaser, transferee or assignee in a way that is satisfactory to the Seller.

20 TERMINATION FOR INSOLVENCY OR IMPRISONMENT

Without prejudice to any other rights the Seller may have, if the Buyer:

(a) suffers an Insolvency Event; or

(b) being a natural person becomes sentenced to imprisonment,

the Seller will be entitled to terminate the Contract by written notice, without any requirement to comply with Clauses 1, 23 and 24 of the General Conditions, and the Buyer shall forfeit the Deposit to the Seller.

21 GOODS AND SERVICES TAX

21.1 The Seller gives the Buyer notice that:

(a) the Buyer is required to make a payment under section 14-250 of the Taxation Administration Act 1953 (Cth) (**GST Withholding Law**) in relation to the sale of the Property;

(b) the Seller's name and ABN is stated in Item 2 of the Reference Schedule;

(c) the Margin Scheme applies to this Contract, with the Purchase Price being inclusive of GST;

(d) the Buyer must, at Settlement, pay to the Commissioner the GST Withholding stated in Item 4 of the Reference Schedule, being 7% of the Purchase Price; and

(e) the GST Withholding paid by the Buyer forms part of the Purchase Price.

21.2 At Settlement, the Buyer must pay the GST Withholding as follows:

(a) if Settlement is not conducted facilitating Electronic Conveyancing, by providing to the Seller, a bank cheque for the GST Withholding payable to the Commissioner; or

(b) if Settlement is conducted facilitating Electronic Conveyancing, by paying the GST Withholding directly to the Commissioner making reference to the relevant payment reference number and lodgement reference number.

21.3 The Buyer must promptly provide to the Seller a copy of any notice it provides to the Commissioner in respect of the GST under the Contract or the GST Withholding.

22 SEVERABILITY

22.1 If any part of the Contract can be read in a way that makes it illegal, unenforceable or invalid (such as by reason of the change of any Law), but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.

22.2 If any part of the Contract is illegal, unenforceable or invalid:

(a) that part is to be treated as removed from the Contract, but the rest of the Contract is not affected; and

(b) if the removal of that part materially alters the commercial allocation of benefit and risk (or management of risk) in the Contract, the Parties agree to negotiate in good faith to amend or modify the terms of the Contract as may be necessary or desirable having regard to the original terms of the bargain and the prevailing circumstances.

23 ENTIRE AGREEMENT

23.1 The Contract constitutes the entire agreement between the Seller and the Buyer with respect to its subject matter. There are no prior or other agreements which shall have any effect on the Contract nor shall any correspondence or documents which may have passed between the Seller and the Buyer before execution have any effect whatsoever on the Contract.

23.2 Each Party acknowledges that it has not relied on any oral statement, representation, undertaking, covenant or agreement made before the date of the Contract relating to the subject matter of the Contract and not contained in the Contract.

24 NOTICES BY EMAIL AND TO REPRESENTATIVES

24.1 The Parties consent to Notice being given by email unless a Party gives written Notice to the other Party or the Representative of that other Party that they do not consent to Notices being by email.

24.2 The Parties acknowledge and agree that any notice required under the Contract or required by any law relating to the Contract or the Property (including but not limited to the *Strata Titles Act*), shall be validly served if it is served on the Representative of a Party and otherwise in accordance with Clause 21 of the General Conditions.

25 COUNTERPARTS

25.1 The Contract is properly executed if each Party executes either the Contract or an identical Contract, in which case the Contract takes effect when the separately executed Contracts are exchanged (which may be by email or facsimile) between the Parties.

26 FURTHER ACTS

26.1 The Buyer and Seller will promptly do and perform all acts and things and execute all documents as may from time to time be required, and at all times will act in good faith, for the purposes of or to give effect to the Contract.

27 INTEPRETATION

27.1 In these Special Conditions, unless the context requires otherwise:

(a) clause 26 (Definitions and Interpretations) of the General Conditions shall apply to the interpretation of this Contract as if a reference to 'document' was a reference to these Special Conditions and a reference to a "clause" was a reference to a Special Condition;

(b) a word defined in the General Conditions and not defined in Special Condition 29.1 shall have the meaning given to that term in the General Conditions;

(c) a reference to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced from time to time;

(d) grammatical derivations of a defined term have a corresponding meaning;

(e) a reference to any item, matter or thing including Common Property, Development, Ecovillage, Ecovillage Commons, Land, Property, Strata Lot or Strata Plan shall, where the context permits, include a reference to any part of that item, matter or thing; and

(f) words of inclusion are not words of limitation.

27.2 During any period that the *Strata Titles Act* or *Sale of Land Act* applies to the Contract, if a provision of the Contract conflicts with a provision of either of those Acts that under either of those Acts is to prevail or otherwise renders the Contract voidable or unenforceable by the Seller, that conflicting provision of the Contract is deemed to be amended or deleted to the extent necessary to enable the Contract to comply with those Acts and be valid and enforceable by the Seller.

27.3 The Parties agree the Contract is governed by the laws in force in Western Australia and each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of Western Australia.

28 GENERAL CONDITIONS

28.1 The Parties acknowledge that the General Conditions, as modified by these Special Conditions, are incorporated in and form part of the Contract.

28.2 Clauses 3.8, 3.10(c), 9, 10.2 - 10.4, 10.6, 11, 12, 13, 16 and 24.4 of the General Conditions do not apply to the Contract.

28.3 Where there is any inconsistency between the General Conditions and any Special Conditions, the Special Conditions shall prevail to the extent of the inconsistency.

29 ADDITIONAL CONDITIONS

29.1 The Additional Conditions (if any) shall form part of the Contract and apply as if they were set out in this Special Condition 28.

29.2 If there is any inconsistency between the Additional Conditions and any other provision of these Special Conditions, the Additional Conditions shall prevail to the extent of that inconsistency.

30 DEFINITIONS

30.1 In these Special Conditions and the Contract unless the context otherwise requires:

Additional Conditions means the conditions (if any) stated in Item 10 of the Reference Schedule;

Annexure means an annexure to the Contract;

Attachment means an attachment to the Contract (including to any Annexure);

Building Design Guidelines means the building design guidelines applicable for the Development a copy of which is available at http://www.ecovillage.net.au/library/document-library;

Bushfire Management Plan means the bushfire management plan submitted to the Local Authority and Department of Fire and Emergency Services and applicable for the Development, which at the date of preparation of this Contract is the Bushfire Management Plan for Lots 2807 and 2812 Bussell Highway Witchcliffe prepared by RUIC Fire (Rural Fire Risk Consultancy Pty Ltd) and dated January 2016 and amended by Ecosystems Solutions in 2019, a copy of which is available at http://www.ecovillage.net.au/library/document-library;

Buyer means the person/s specified in Item 1 of the Reference Schedule;

By-laws means the by-laws of the Strata Company;

Common Property means so much of the land comprised in the Strata Plan that does not comprise a Strata Lot, including any land noted as a "CP Lot";

Concept Plan means the concept plan for the Ecovillage, the current copy of which is available at https://www.ecovillage.net.au/wp-content/uploads/2019/11/WEV-Concept-Master-Plan-061119.pdf;

Contract means the Offer and Acceptance (including Reference Schedule), these Special Conditions and includes all Annexures and Attachments;

Deposit means the deposit specified in Item 5 of the Reference Schedule;

Deposit Holder means the person referred to as the "Deposit Holder" in Item 5 of the Reference Schedule;

Detailed Plans mean the detailed plans and drawings for the Development available for inspection at the Seller's office;

Development means the improvements which are to be, are in the course of being or are erected (as the case may be) on the Original Land to create the Strata Plan and Strata Lots, including Property, and Common Property it is to comprise;

Disclosure Statement means the Precontractual Disclosure Statement to the Buyer forming Annexure B, including all Attachments, and provided in accordance with section 156 of the *Strata Titles Act*;

Ecovillage means the master plan development intended by the Seller to be undertaken on the Original Land in accordance with the Concept Plan, Structure Plan and Local Planning Scheme provisions and commonly referred to as Witchcliffe Ecovillage;

Ecovillage Commons means that part of the Ecovillage to be owned by Ecovillage Commons Ltd and intended to provide infrastructure, facilities and services to the Ecovillage at large and which is intended to include conservation areas, recreational areas and water storage (dams) and may include wastewater treatment;

Ecovillage Commons Ltd means Ecovillage Commons Limited ACN 646 707 486 a company limited by guarantee and whose members will be each strata company of the strata plans/clusters comprising the Ecovillage;

General Conditions means the Joint Form of General Conditions for the Sale of Land (2018 Revision) a copy of which forms Annexure C;

Initial By-laws means the initial By-laws intended for the Strata Plan and Strata Company and which shall be substantially in the form set out in Attachment 3 of the Disclosure Statement with such variations as the Seller reasonably requires and are notified to the Buyer;

Insolvency Event means the happening of any of the following events in relation to the Buyer:

(a) an application is made to a court that it be wound up or that a provisional liquidator be appointed or it is wound up voluntarily or by the court or a provisional liquidator or official manager is appointed;

(b) it proposes to enter into or enters into any form of arrangement (formal or informal) with its creditors or any of them and this is entered into due to an inability to pay those creditors in full as and when its debts fall due;

(c) a receiver or receiver and manager is appointed to any of its assets;

(d) it is taken to be unable to pay its debts within the meaning of the *Corporations Act*;

(e) it becomes an insolvent under administration as defined in section 9 of the *Corporations Act*;

(f) it becomes bankrupt, commits an act of bankruptcy, becomes subject to an arrangement under the *Bankruptcy Act 1966*;

(g) the holder of a mortgage or charge over any asset of the Buyer enforces or attempts to enforce any right under that mortgage or charge;

(h) any creditor levies or attempts to levy any distress or execution against any asset or obtains a garnishee order in respect of any debt of the Buyer; or

(i) anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction;

Local Authority means the Augusta Margaret River Shire;

Local Development Plan means the local development plan approved by the Planning Commission for the Development, the most recent copy of which is available at http://www.ecovillage.net.au/library/document-library;

Objection means any objection, requisition, claim for compensation loss or damage, delay in completing Settlement, withholding of part of the Purchase Price or any other monies payable under the Contract or termination of the Contract;

Offer and Acceptance means the Offer and Acceptance which appears immediately before these Special Conditions;

Original Land means the land known or formerly known as Lot 1500 on Deposited Plan 416913 and being the whole of the land comprised in Certificate of Title Volume 2976 Folio 628 and commonly referred to as 10437 and 10347 Bussell Highway, Witchcliffe, Western Australia;

Property means the property being purchased by the Buyer as described in Item 3 of the Reference Schedule which comprises:

(a) the Strata Lot specified in the Item 3 of the Reference Schedule; and

(b) that undivided interest in the Common Property applicable to that Strata Lot;

Proposed Strata Plan means the plan or plans forming Attachment 2 of the Disclosure Statement, as amended, varied or supplemented from time to time;

Purchase Price means the purchase price specified in Item 4 of the Reference Schedule;

Reference Schedule means the “Reference Schedule” attached to and forming part of the Contract;

Registration Date means the date twelve (12) months after the Contract Date;

Sale of Land Act means the *Sale of Land Act 1970* of Western Australia;

Schedule of Unit Entitlements means the proposed schedule of Unit Entitlements shown in Attachment 4 of the Disclosure Statement as may be amended, varied or supplemented from time to time;

Seller means the person/s specified in Item 2 of the Reference Schedule;

Seller's Representative means the person specified in Item 8 of the Reference Schedule or such other person the Seller nominates in writing to the Buyer to be the Seller's Representative;

Settlement Date means the date specified in Item 7 of the Reference Schedule;

Strata Company means the Strata Company referred to in section 14 of the *Strata Titles Act* created upon registration of the Strata Plan;

Strata Company Draft Budget means the draft annual budget for the Strata Company contained in Attachment 7 of the Disclosure Statement as may be varied in accordance with the Contract;

Strata Council means the council of owners of the Strata Company;

Strata Lot means a strata lot on the Strata Plan;

Strata Plan means the Proposed Strata Plan in the form it is registered at Landgate, as amended varied or supplemented from time to time;

Structure Plan means the structure plan approved by the Planning Commission applicable to the Ecovillage a copy of which is available at https://www.dplh.wa.gov.au/getmedia/230fd954-8b71-407b-b431-78c61438c359/SPL-AugustaMR-Witchcliff-Eco-Village-Structure-Plan-WAPC-ref-SPN-2083; and

Unit Entitlement means the unit entitlement or proposed unit entitlement (as the case may be) of each Strata Lot, as amended, varied or supplemented from time to time.

ANNEXURE B – PRECONTRACTUAL DISCLOSURE STATEMENT TO THE BUYER

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Precontractual Disclosure Statement to the Buyer

Part A | General Information about strata titles schemes

What you need to know

This information applies to a lot in a strata scheme or survey-strata scheme (scheme), which is subject to the *Strata Titles Act 1985* (the Act). Section 156 of the Act sets out that the seller of a strata lot or survey-strata lot (lot) must give the buyer certain information before the buyer signs the contract of sale.

Instruction for the seller

The seller must give the information incorporated in this document to a buyer before the buyer signs a contract for the sale and purchase of a lot in a scheme. Failure to do so may give the buyer the right to avoid the contract and/or delay the proposed settlement date.

Information for the buyer

The buyer should keep this document including any attachments in a safe place as it contains important information which might be needed at a later date.

It is strongly recommended that the buyer read all the information provided by the seller before signing the contract. The buyer should consider obtaining independent professional legal advice before signing the contract.

There are different rights, restrictions and obligations that apply in relation to a lot in a scheme than those that apply to a 'green title' lot. Those rights, restrictions and obligations can be found in the Act, the *Strata Titles (General) Regulations 2019* (regulations), scheme by-laws, the certificate of title, the strata / survey-strata plan for the lot and, if the scheme is a leasehold scheme, the strata lease for the lot. Your right to deal with the lot and to use the common property is restricted by these, as well as by any resolutions and decisions made by the strata company. You will not be able to build on the lot or make any alterations to (including removal of) a building on the lot without the approval of the strata company, except in certain circumstances.

As an owner of a lot, you will also have a share in any common property in the scheme. You will be a member of the strata company, along with all of the other lot owners, and have a right to participate in managing the scheme.

Each lot owner has to abide by the rules of the strata company, known as by-laws. By-laws can be different for each strata scheme and you should understand which by-laws apply to your scheme. The seller must give you the current by-laws before you sign the contract for sale. A strata company can make, amend or repeal by-laws by voting on them, and registering them with the Registrar of Titles at Landgate within 3 months.

As the owner of a lot, you will be liable to pay a strata levy or contribution to the strata company for expenses including for maintenance, repair and insurance of the common property unless the lot is in a scheme of 2 to 5 lots which may be exempt from these requirements. Be aware that if the unpaid amounts for the lot are not paid by the seller before you complete the purchase (settle), you as the new owner will have to pay the strata company these unpaid amounts.

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As part of this disclosure you must receive the strata or survey-strata plan (the plan) which includes the lot you are proposing to buy. This plan will show all of the lots and the common property in the scheme. The common property is all the land within the scheme boundary that is not a lot. In a strata plan each lot is clearly identified, but the common property is not; it is everything that is not a lot. In comparison, in a survey-strata plan common property areas are clearly identified as common property. It is important to understand what is your lot, as you will be responsible for repairing and maintaining it, whereas the strata company will generally be responsible for the common property, unless there are by-laws which set out something different.

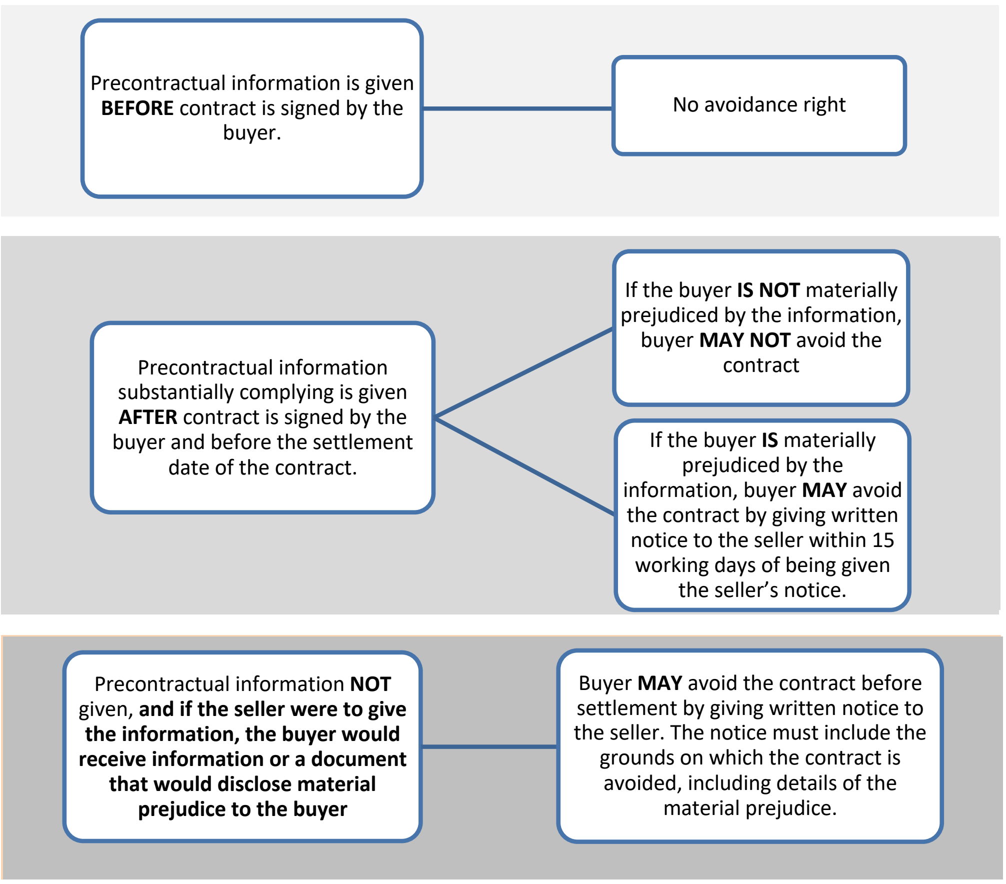
A buyer may consider seeking more information about the lot, the strata company and the strata / survey-strata scheme by asking the seller to provide it, or by making an application to the strata company for more information under section 107 of the Act.

The buyer should consider reading Landgate's publication *A Guide to Strata Titles* as this provides extra information about schemes.

Buyer's avoidance and other rights

Avoidance for failure to give precontractual information to the buyer

The buyer's right to avoid the contract for precontractual information is as follows:



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Buyer's right to delay settlement

The buyer has a right to postpone settlement by written notice if the seller does not give the buyer this disclosure statement, or gives it late. If this disclosure document is not provided until after the contract has been signed, the buyer can postpone settlement for up to 15 working days.

Avoidance rights for notifiable variations

After the buyer has signed the contract, it is possible a particular type of event known as a type 1 or type 2 notifiable variation may occur. If this happens, the seller must provide written notice of the variation to the buyer before the proposed settlement date.
Type 1 and Type 2 notifiable variations are as follows:

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Type 1 Notifiable Variation	Type 2 Notifiable Variation
• The area or size of the lot/proposed lot is reduced by 5% or more from the area or size notified to the buyer before the buyer entered into the contract. • The proportion that the unit entitlement, or a reasonable estimate of the unit entitlement of the lot bears to the sum of the unit entitlements of all the lots is increased/decreased by 5% or more in comparison to that which was notified to the buyer before the buyer entered into the contract. • Anything relating to a proposal for the termination of the strata titles scheme is served on the seller by the strata company. • Any other event classified by the regulations as a type 1 notifiable variation.	• The current/proposed scheme plan or amendment of the scheme plan for the scheme is modified in a way that affects the lot or the common property (that is not a type 1 notifiable variation). • The current/proposed schedule of unit entitlements or amendment of the schedule of unit entitlements for the scheme is modified in a way that affects the lot (that is not a type 1 variation). • The strata company or a scheme developer- (i) enters into a contract for the provision of services or amenities to the strata company or to members of the strata company or a contract that is otherwise likely to affect the rights of the buyer; OR (ii) varies an existing contract of that kind in a way that is likely to affect the rights of the buyer • The current/proposed scheme by-laws are modified. • A lease, licence, right or privilege over the common property in the strata titles scheme is granted or varied. • Any other event classified by the regulations as a type 2 notifiable variation.

See section 161 and 162 of the Act for further details.
Regulation 106 describes when certain notifiable variations are deemed to have occurred.

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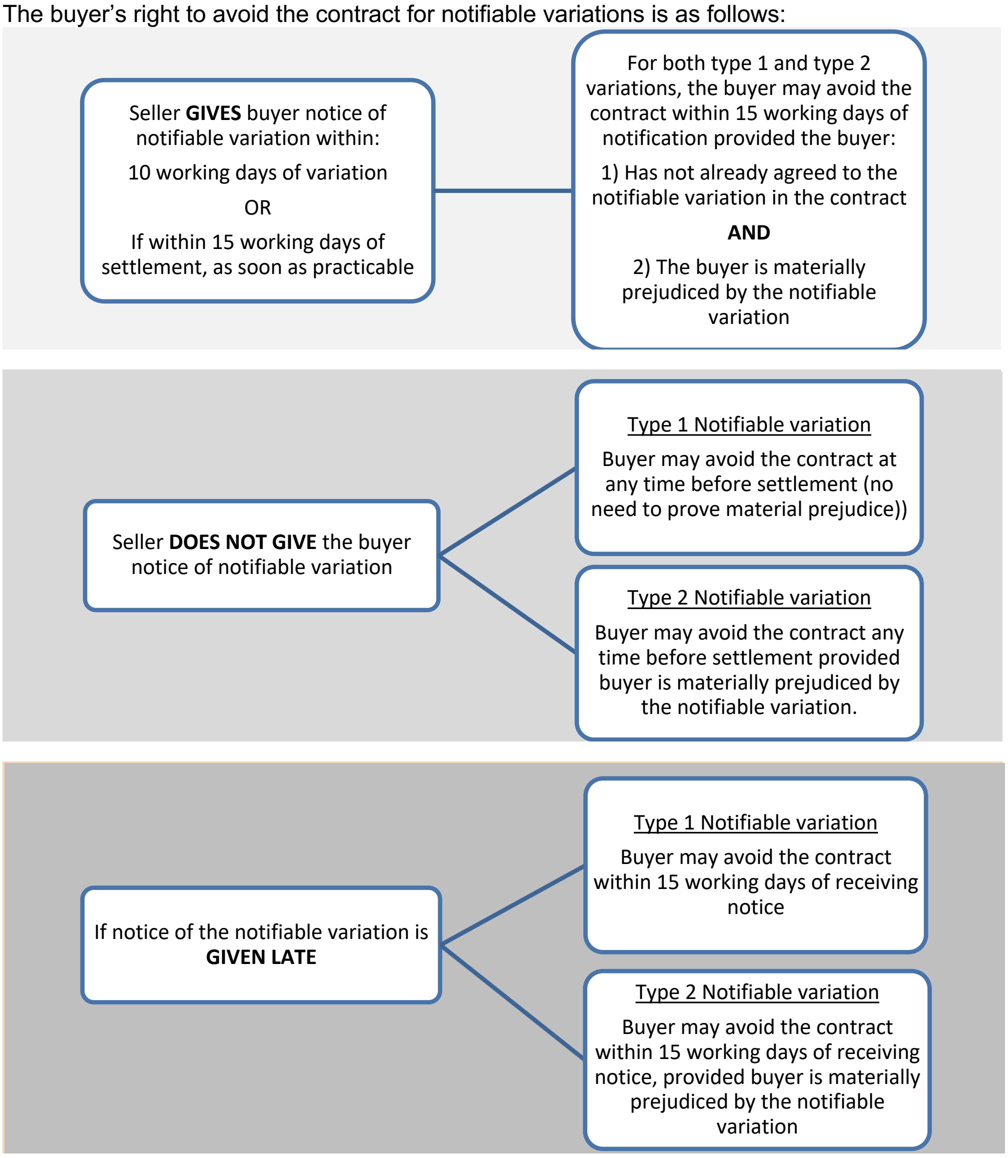
The buyer's right to avoid the contract for notifiable variations is as follows:



See section 163 of the Act for special protections which apply if the lot has not yet been created by the registration of the scheme or an amendment of the scheme – that is, an 'off the plan' sale.

Disputes about avoidance rights to be heard in the State Administrative Tribunal

If the buyer or seller has a dispute about a right to avoid or whether a seller has provided the notifiable information / notifiable variations as required and within the time required, the buyer and or seller may apply to the State Administrative Tribunal for orders to resolve the dispute.

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Precontractual Disclosure Statement to the Buyer

Part B | Information specific to the sale of the strata lot

This form sets out the information requirements in section 156 of the *Strata Titles Act 1985* (the Act), that the seller must give the buyer. It is the information designated as information specific to the sale of a strata lot. which, if included in the contract, must be included in a prominent position (such as the first page). The term 'lot' includes strata and survey-strata lot.

Personal information

The seller(s)

Name **Perron Developments Pty Ltd ACN 000 230 446**

Address **4 Plain St, East Perth, 6004**

Telephone/mobile **08 9221 1555** Email **perron@perrongroup.com.au**

Name **Sustainable Settlements Pty Ltd ACN 169 286 337**

Address **10437 Bussell Highway, Witchcliffe WA 6286**

Telephone/mobile **08 9757 6688** Email **sales@ecovillage.net.au**

Scheme Information

The term 'scheme' includes strata and survey-strata schemes

Scheme Details

Scheme name **Cluster 4D Witchcliffe Ecovillage**

Name of the strata company **The Owners of Cluster 4D Witchcliffe Ecovillage; Survey-Strata Plan 85750**

Address for service of the strata company (taken from scheme notice) **10437 Bussell Highway, Witchcliffe WA 6286**

The status of the scheme is:

☒ proposed

☐ registered

The scheme type is:

☐ strata

☒ survey-strata

The tenure type is

☒ freehold

☐ leasehold

For leasehold only:

The scheme has a term of ______ years ______ months ______ days commencing on registration of the scheme ______________________

If there is a registered scheme notice, the expiry day for the leasehold scheme is ____/____/____

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For any attachments, please include the attachment number in the column titled 'Att.' on the right-hand side of this document.	**Att.**
Scheme Documents (must be attached)	
Schemes created on or after 1/5/2020 must provide a copy of the scheme notice (Schemes created before 1/5/2020 only have to provide a scheme notice if a change of scheme name or address was registered on or after 1 May 2020).	1
A copy of the scheme plan showing the exact location and definition of the lot	2
A copy of the scheme by-laws	3
A copy of the scheme by-laws made but not yet registered by the Registrar of Titles at Landgate	3
Do the scheme by-laws include staged subdivision by-laws ☒ no ☐ yes	
☐ If yes, they are included with this form	
☐ If yes, they are not included but a notice concerning staged subdivision by-laws that are spent has been provided	
A copy of the schedule of unit entitlements showing the unit entitlement of the lot AND sum of unit entitlements of all the lots in the scheme	4
If this is a leasehold lot, a copy of the strata lease for the lot	
Additional comments: **The scheme plan, by-laws and unit entitlement are preliminary with the scheme not yet registered**	
Minutes (choose one option)	
☐ A copy of the minutes of the most recent annual general meeting and any subsequent extraordinary general meeting(s)	
☐ A statement that the strata company does not keep minutes of its meetings*	
☒ A statement of why the seller has been unable to obtain the minutes	5
Additional comments: **The scheme is not yet registered and therefore there has been no meetings**	
Statement of accounts (choose one option)	
☐ The statement of accounts last prepared by the strata company	
☐ A statement that the strata company does not prepare a statement of accounts*	
☒ A statement of why the seller has been unable to obtain a statement of accounts ** Note that section 140(1) sets out that 2-lot schemes are not required to keep minutes or statements of account, and section 140(3) provides that 3, 4 and 5-lot schemes are allowed to have a by-law exempting them from these requirements. If this applies to the scheme, write that down in these fields.*	5
Additional comments: **The scheme is not yet registered and therefore there is no statement of accounts. Refer to Attachment 7 for the estimate of income and expenses for the first year.**	
Termination proposal	
Has the seller received a copy of any notice from the strata company in relation to any current termination proposal for the scheme? ☒ no ☐ yes	
If yes, attach a copy.	

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Lot information (choose all that apply)

Att.

☐ This lot is on a registered scheme plan

☒ This lot has not yet been created

☐ This lot is a leasehold strata expiring on ____/____/____
(being the expiry day of the scheme set out in the scheme notice)

Street address of the lot (if known)

Not known

Lot ________on scheme plan no. **Survey-Strata Plan 85750**

(The lot owner will also own a share in the common property of the scheme)

Voting right restrictions
Does the contract contain any voting right restriction which has the meaning in regulation 103 of the *Strata Titles (General) Regulations 2019*? * ☐ no ☒ yes
If yes, describe the restriction **See Special Condition 16 of the Contract of Sale**

** A voting right restriction includes if the contract requires the buyer to grant an enduring proxy or power of attorney to the seller.*

Exclusive use by-laws
This lot is a 'special lot', subject to exclusive use by-laws giving exclusive use of an area of common property ☐ no ☒ yes
If yes, please give details **See By-laws 22** **3**

Strata levy/contributions for the lot (choose one option)
(Local government rates are payable by the lot owner in addition to the strata levy/contributions)
☐ Contributions that have been determined within the previous 12 months
☒ If not determined, estimated contributions for 12 months after proposed settlement date

	Actual ($)	OR	Estimated ($) 12 months after the proposed settlement date	Att.
Administrative fund:	______		**See Attachment 6**	
Reserve fund:	______		**See Attachment 6**	
Other levy (attach details)	______		**See Attachment 6**	**6**

☐ Actual ☒ Estimated total contribution for the lot $ **See Attachment 6**

Payable ☐ annually ☐ bi-annually ☒ quarterly ☐ other: ______

Due dates	**TBA**	on ____/____/____	**TBA**	on ____/____/____
	TBA	on ____/____/____	**TBA**	on ____/____/____

Strata levy/contributions/other debts owing
If the seller has a debt owed to the strata company, the total amount owing is $ **Nil**
If the seller has a debt owed to a utility company, the total amount owing is $ **Nil**
Details of who is owed, how the debt arose, date on which it arose and the amount outstanding is attached. ______

Additional comments: **Due dates are to be determined following registration of the scheme**

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Scheme developer specific information

Information specific to the sale of a strata lot – only to be **completed if the seller of the lot is a scheme developer**	Att.

The scheme developer is defined as:

- The registered owner(s) of a lot(s) before it is subdivided by a strata titles scheme
- The registered owner/s of a lot in a staged strata development that is to be subdivided by the registration of an amendment of scheme to which staged subdivision by-laws apply

This part applies where the seller of the lot is a scheme developer in any of the following circumstances:

- The scheme has not been registered
- The first annual general meeting of the strata company has not been held
- The scheme developer owns 50% or more of the lots
- The scheme developer owns lots with an aggregate unit entitlement of 50% or more of the sum of the unit entitlements of all lots in the scheme

Statement of estimated income and expenditure

A statement of the estimated income and expenditure of the strata company for the 12 months after the proposed settlement date is attached. **7**

Additional comments:

Agreements for amenity or service

Are there any current or proposed contracts for the provision of any amenity or service to the proposed strata company/strata company or members of the strata company entered into or arranged by the scheme developer? ☐ no ☒ yes

If yes, attach details including terms and conditions, the consideration and estimated costs to members of the strata company **8**

Additional comments:

Lease, licence, exclusive right or use and enjoyment or special privilege over common property

Are there any current or proposed leases, licences, right of exclusive use and enjoyment, restricted right of use and enjoyment, or special privilege over common property? ☐ no ☒ yes

If yes, attach details including terms and conditions. **3**

Additional comments: **Please refer to exclusive use by-laws**

Section 79 Disclosure of remuneration and other benefits

Has the scheme developer and/or their associate received or reasonably expects to receive remuneration or other benefit? ☒ no ☐ yes

Is there any other direct or indirect pecuniary interest the scheme developer and/or their associate has in the contract, lease or licence other than as a member of the strata company? ☒ no ☐ yes

If yes, attach details of any remuneration, other benefit and/or pecuniary interest disclosed in accordance with s.79 of the Act, including its value.

Additional comments:

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Acknowledgement by seller and buyer

The statements by the seller and buyer relate to the following precontractual disclosures:

- **Part A, general information about strata titles schemes**. This information can be included in a form that is separate from the rest of the contract; and
- **Part B, information specific to the sale of a strata lot**. This information can be included in a separate form, or within the contract in a prominent position.
  Both the Part A and Part B disclosures can be provided electronically if the buyer has consented to this.

Statement by the seller(s) / seller's representative

☒ **I** / ☐ **We**[1], hereby certify that Part A and Part B of the required precontractual disclosures were given to the buyer before the buyer signed the contract of sale.

Signature ______________________________

Name ______________________________ **(Seller's Representative)**

Date ____/____/____

Statement by the buyer(s) / buyer's representative

☐ **I** / ☐ **We**[1], the buyer/s, acknowledge that ☐ **I** / ☐ **we**[1] received Part A and Part B of the required precontractual disclosures before ☐ **I** / ☐ **We**[1] signed the contract of sale.

☐ **I** / ☐ **We**[1] understand that the disclosures given by the seller(s) or by the seller's representative are not an offer or a contract to purchase a lot (though they may be included in such contract) but only provide information to ☐ **me** / ☐ **us**[1].

Signature ______________________________

Name ______________________________

Date ____/____/____

Signature ______________________________

Name ______________________________

Date ____/____/____

[1] Select one.

ANNEXURE B
Attachment 1 – Scheme Notice

Landgate

Approved Form 2019-74763

SN

Scheme Notice

Strata Titles Act 1985
Section 29

Scheme Number: **Survey Strata Plan 85750**

Certificate of Title Volume/Folio Number:	**TBA/TBA (Lot 22 on DP 424111)**
Scheme Name:	**Cluster 4D Witchcliffe Ecovillage**
Address for Service of the Strata Company:	**10437 Bussell Highway, Witchcliffe WA 6286**
Email address for Strata Company[1]:	**sales@ecovillage.net.au**
Is this a Leasehold Scheme?	☐ Yes / ☒ No
Leasehold Scheme Term[2]:	_____ year(s) / _____ month(s) / _____ day(s) commencing on registration of the scheme.

[1] Optional.
[2] Not required unless this is a Leasehold Scheme and must be stated in years, months and days.

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EXECUTION[3]

Date of Execution: ______________

Signed for and on behalf of Sustainable Settlements Pty Ltd (ACN 169 286 337) by the authority of its directors in accordance with section 127 of the Corporations Act 2001 (Cth)

____
Signature of Owner[4]

Michael James Hulme (Sole Director and Sole Secretary)
Full Name

Signed for and on behalf of Perron Developments Pty Ltd (ACN 000 230 446)

[3] See Land Titles Policy & Procedure Guide "SIG-01 Signing of Documents" (and associated guides) in relation to execution requirements.
[4] To be signed by owner of the land described in the above-mentioned Certificate of Title.

Version 2.1 – Updated 07/05/2020 Page 2 of 3

Landgate

OFFICE USE ONLY

SN Scheme Notice

Lodged by:[5]	______________
Address:	______________
Phone Number:	______________
Fax Number:	______________
Reference Number:	______________
Issuing Box Number:	______________

Instruct if any documents are to issue to other than Lodging Party

____

Prepared by:	**Torrens Legal**
Address:	**PO Box 7320** **Cloisters Square PO WA 6850**
Phone Number:	**08 9235 3500**
Fax Number:	**08 9235 3501**
Reference Number:	**200062; Cluster 4D**

Titles, Leases, Evidence, Declarations etc. lodged herewith

1. ______________
2. ______________
3. ______________
4. ______________
5. ______________

OFFICE USE ONLY

Landgate Officer

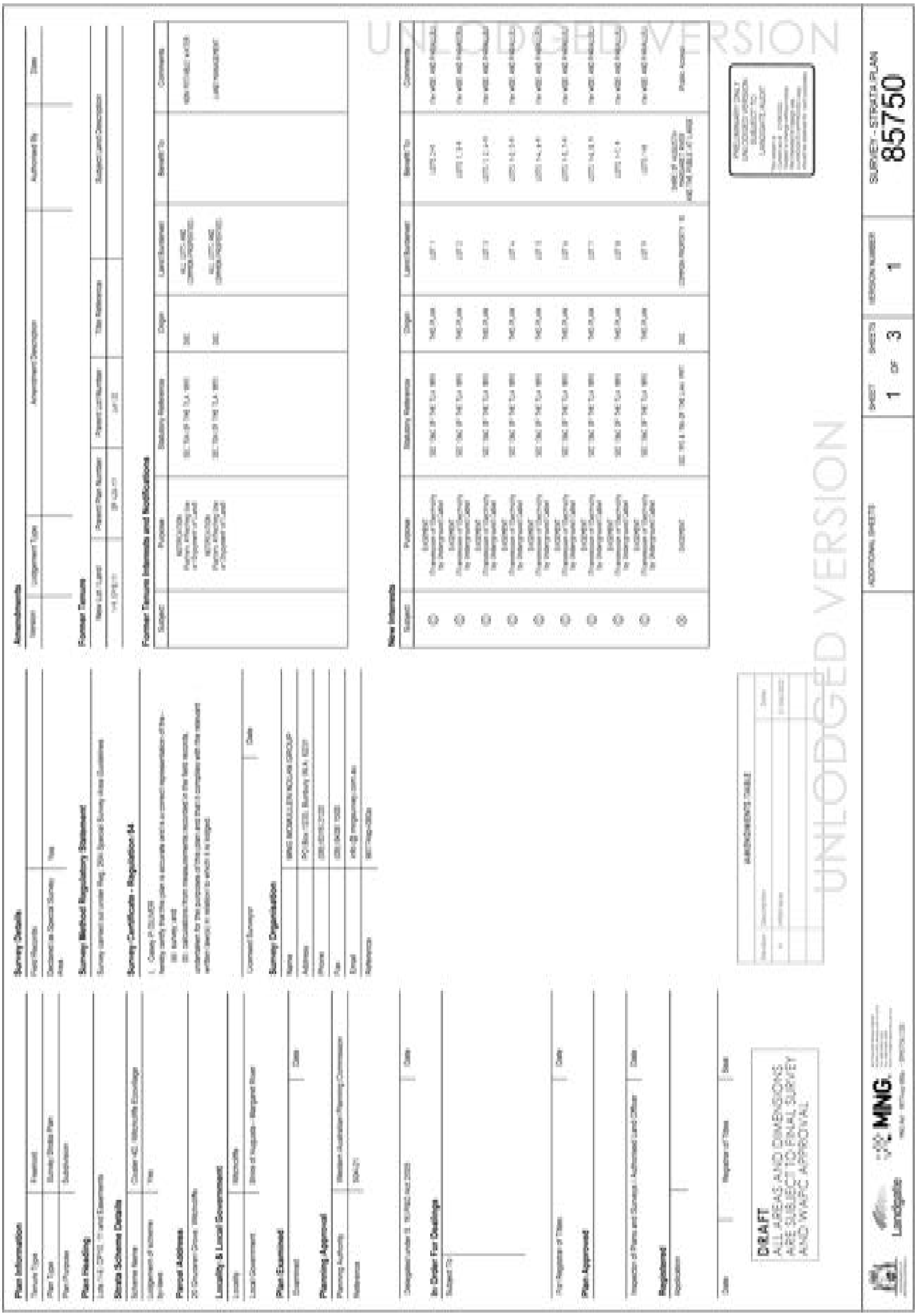
Number of Items Received: _____

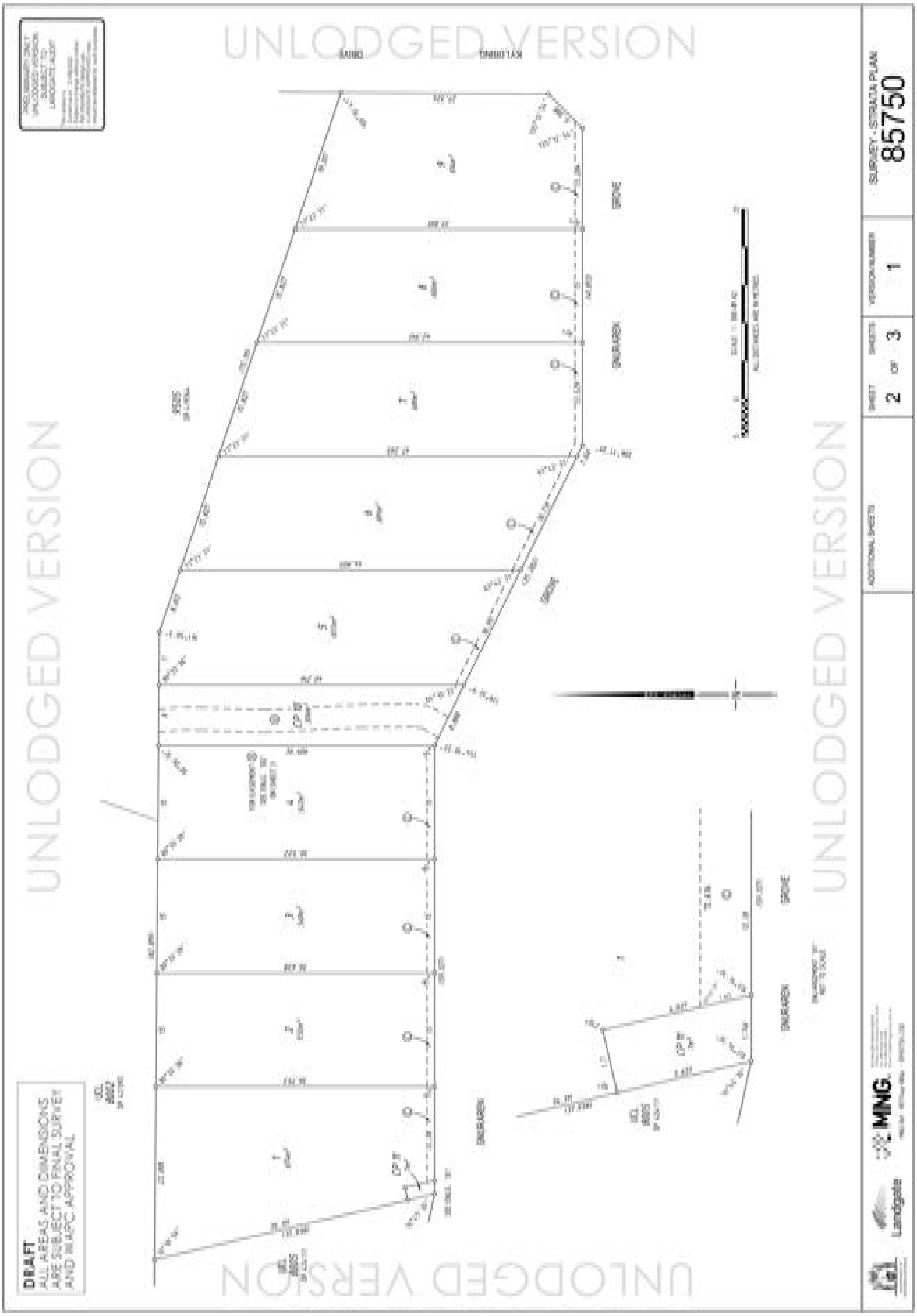
Landgate Officer Initial: _____

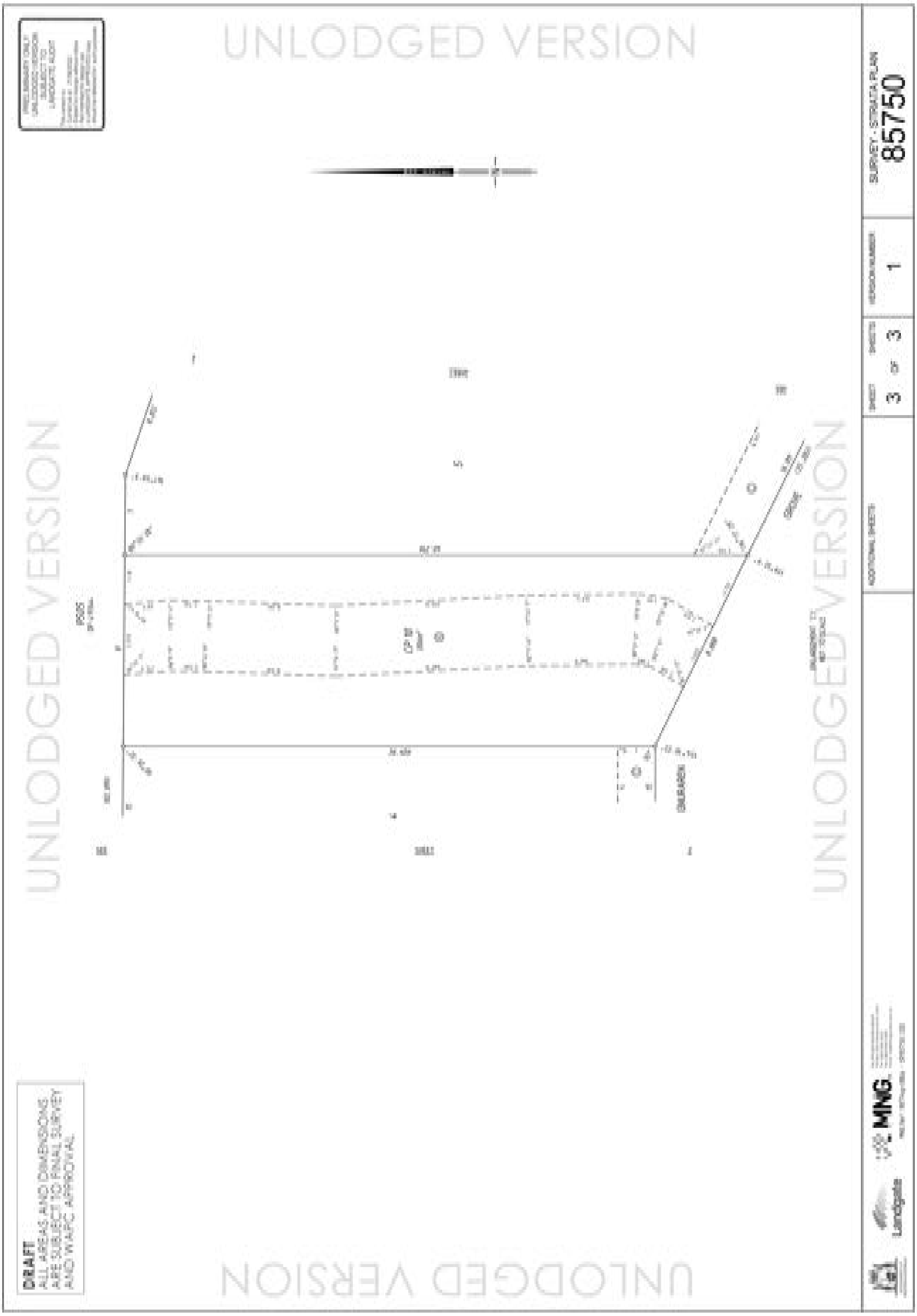
[5] Lodging Party Name may differ from Applicant Name.

Version 2.1 – Updated 07/05/2020. Page 3 of 3

ANNEXURE B
Attachment 2 – Proposed Strata Plan




UNLODGED VERSION
DRAFT
ALL AREAS AND DIMENSIONS ARE SUBJECT TO FINAL SURVEY AND WAPC APPROVAL
SURVEY - STRATA PLAN
85750
SHEET
2 OF 3
VERSION NUMBER
1
ADDITIONAL SHEETS
MNG
Landgate


UNLODGED VERSION
SURVEY - STRATA PLAN
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VERSION NUMBER
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SHEET
3 OF 3
ADDITIONAL SHEETS
DRAFT
ALL AREAS AND DIMENSIONS ARE SUBJECT TO FINAL SURVEY AND WAPC APPROVAL
Landgate
MNG

ANNEXURE B
Attachment 3 – Scheme By-laws

Please access Annexure B via the following link and password:

https://www.ecovillage.net.au/stage-4-cluster-4d-sales-documents/

Password: WEVsalesdocs4D

ANNEXURE B
Attachment 4 – Proposed Unit Entitlement

GOVERNMENT OF WESTERN AUSTRALIA

Landgate

Approved Form 2020-90740
Effective for Use from 1 - 01/02/2021

Schedule of Unit Entitlements

Strata Titles Act 1985
Section 37, Schedule 2A cl. 21T(1)(d) & Schedule 2A cl. 31E(1)(c)

Scheme Number: 85750

Scheme Address: Cluster 4D, Witchcliffe Ecovillage

Lot Number	Unit Entitlement	Lot Number	Unit Entitlement	Lot Number	Unit Entitlement	Lot Number	Unit Entitlement	Lot Number	Unit Entitlement
1	11	5	12	9	11				
2	10	6	12	CP10	ımon Prop				
3	10	7	12	CP11	ımon Prop				
4	10	8	12						

Sum of the unit entitlements of all lots in the strata titles scheme: 100

CERTIFICATE OF LICENSED VALUER

I, Raymond Codalonga, being a Licensed Valuer under the *Land Valuers Licensing Act 1978* certify that the proportion that the unit entitlement of a lot as stated in the Schedule of Unit Entitlements above bears to the sum of the unit entitlements of all lots in the strata titles scheme is not greater than 5% more or 5% less than the proportion that the value (as that term is defined in section 37(3) of the *Strata Titles Act 1985*) of that lot bears to the sum of the value of all the lots in the strata titles scheme.

Complete for staged subdivision only:

I have determined that in the Schedule of Unit Entitlements above there ☐ **is** / ☐ **is not**[1] a significant variation of the kind described in Regulation 49(1)(a) of the *Strata Titles (General) Regulations 2019* to the proposed Schedule of Unit Entitlements in stage _____ of _____ as outlined in the staged subdivision by-laws number(s) ____________________ registered on ______________.

21-Jun-2022
Date

R.Codalonga AAPI
Licenced Valuer
No.44028
Digitally signed by R.Codalonga AAPI Licenced Valuer No.44028
Date: 2022.06.21 16:35:37 +08'00'
Licensed Valuer Signature

[1] Select one

ANNEXURE B - PRECONTRACTUAL DISCLOSURE STATEMENT TO THE BUYER
Attachment 5 – Statement concerning Strata Disclosure Matters

Reason for no minutes or statement of accounts

The Strata Scheme has not yet been registered. For this reason:

1. there has been no annual general meetings or extraordinary general meetings and are therefore no minutes for any such meetings; and
2. no statement of accounts has been prepared for the Strata Company, only the Strata Company Draft Budget.

ANNEXURE B
Attachment 6 – Indicative Strata Company Levies/Contributions

Witchcliffe Ecovillage Cluster 4D, Indicative Strata Company Levies/Contributions

Lot Details		Quarterly					Annual				
No	UE	Admin	ECL Levy	Energy Supply Charge	Reserve	Total	Admin	ECL Levy	Energy Supply Charge	Reserve	Total
1	11	$ 152.24	$ 25.00	$ 60.50	$ 13.75	$ 251.49	$ 608.97	$ 100.00	$ 242.00	$ 55.00	$ 1,005.97
2	10	$ 138.40	$ 25.00	$ 60.50	$ 12.50	$ 236.40	$ 553.61	$ 100.00	$ 242.00	$ 50.00	$ 945.61
3	10	$ 138.40	$ 25.00	$ 60.50	$ 12.50	$ 236.40	$ 553.61	$ 100.00	$ 242.00	$ 50.00	$ 945.61
4	10	$ 138.40	$ 25.00	$ 60.50	$ 12.50	$ 236.40	$ 553.61	$ 100.00	$ 242.00	$ 50.00	$ 945.61
5	12	$ 166.08	$ 25.00	$ 60.50	$ 15.00	$ 266.58	$ 664.33	$ 100.00	$ 242.00	$ 60.00	$ 1,066.33
6	12	$ 166.08	$ 25.00	$ 60.50	$ 15.00	$ 266.58	$ 664.33	$ 100.00	$ 242.00	$ 60.00	$ 1,066.33
7	12	$ 166.08	$ 25.00	$ 60.50	$ 15.00	$ 266.58	$ 664.33	$ 100.00	$ 242.00	$ 60.00	$ 1,066.33
8	12	$ 166.08	$ 25.00	$ 60.50	$ 15.00	$ 266.58	$ 664.33	$ 100.00	$ 242.00	$ 60.00	$ 1,066.33
9	11	$ 152.24	$ 25.00	$ 60.50	$ 13.75	$ 251.49	$ 608.97	$ 100.00	$ 242.00	$ 55.00	$ 1,005.97
Total	100	$ 1,384.02	$ 225.00	$ 544.50	$ 125.00	$ 2,278.52	$ 5,536.08	$ 900.00	$ 2,178.00	$ 500.00	$ 9,114.08

ANNEXURE B

Attachment 7 – Statement of Estimated Income and Expenditure (Strata Company Draft Budget)

Strata Cluster 4D	Proposed Budget 2023	
9 lots		**Total**
Income	**Notes**	**Total**
Operational fund levies		$ 2,486.00
Reserve fund levies		$ 500.00
Depreciation levies		$ 3,050.08
- Ecovillage Commons Fee	$100/Lot/Pa	$ 900.00
- Energy Supply Charge	$242 per lot	$ 2,178.00
Total Income		**$ 9,114.08**
Expenditure		
Admin		
- Accounting	Volunteer	$ -
- Audit	No requirement	$ -
- Bank Fees	Nil	$ -
- Insurance	Public liability $20m + $120,000 asset	$ (1,136.00)
- Strata management fees	Optional	$ -
Utilities		
- Ecovillage Commons Fee	$100/Lot/Pa	$ (900.00)
- Delorean Energy Supply Charge	31/12/22 - 31/01/23 @ $5.50 per day	$ (170.50)
- Delorean Energy Supply Charge	01/02/23 - 31/01/24 @ $5.50 per day	$ (2,007.50)
Maintenance		
- Electrical	Microgrid	$ (150.00)
- Grounds	Fertiliser,mulch, tools, etc	$ (1,200.00)
Depreciation		
- Fixed assets	Microgrid, etc.	$ (3,050.08)
Total Expenditure		**$ (8,614.08)**
Strata Cluster 4D		

ANNEXURE B
Attachment 8 – Details of Proposed Contracts for the Provision of Amenity or Service

1. Ecovillage Common land maintenance agreement

Ecovillage Commons Ltd (ECL) will provide:

(a) a management service to maintain land and infrastructure on the land comprising the Ecovillage Commons, with particular regard to Shire fire risk management requirements.

The Land Management Agreement term will have no end date, with the Shire requiring ECL to provide irrigation water to the Strata Company in perpetuity as a condition of the Development.

ECL will:

(a) manage bushfire risks concerning the Ecovillage Commons to Shire requirements; and

(b) operate and maintain the dams, pumps and irrigation mains.

2. Supply of renewable energy

Each Cluster of the Ecovillage is large enough to be considered a 'Contestable' connection to the Western Power grid, and, as such, the Strata Company will be able to make supply and export agreements with private energy retailers other than Synergy. A connection to the grid via a retailer allows the strata and its lot owners to maximise the return on the energy generated by household PV systems.

The Seller has negotiated favourable energy service agreements for the Witchcliffe Ecovillage Stage 1 and 2 Clusters and will enter into similar 12-month contracts with Delorean Corporation (formerly CleanTech Energy), Power Ledger and SwitchDin on the strata companies' behalf once the microgrid is energised to provide the cluster with:

(a) 100% renewable energy from the grid when required;

(b) peer-to-peer trading within the strata;

(c) smart metering;

(d) billing services.

Delorean Corporation will be the strata's energy retailer and provide 100% renewable energy from the grid when required and purchase excess renewable energy from the strata. Delorean's supply cost is $5.50/day/strata plus 22.8c/kWh for 100% renewable energy, which compares very well to Synergy's current A1 rate of 29.33c/kWh for non-renewable (mix of coal/gas/wind/solar) supply, or green energy supply at 33.21c/kWh.

Power Ledger provides a unique block chain energy trading software that enables the trading of renewable energy between residents within in each Cluster. It will enable each home to see how much energy they're generating and consuming, and what they are sending to their battery and the grid.

SwitchDin will provide an integrated data platform to supply data from each lot's NMI meters to the Power Ledger blockchain platform.

The combination of these three service providers enables a level of internal micro-grid management, trading and analysis that isn't available via energy retailers alone and will enable analysis and management that will significantly increase each household's ability to earn as much as possible from its excess renewable energy.

The estimated total daily costs of the combined services per home will be as follows (based on average 23 homes per Cluster and 2022 negotiated terms):

- Delorean supply charge : 23.9c
- SwitchDin rate : TBC
- Power Ledger : 24.3c
- Total : TBC

(Compared to Synergy's A1 supply charge of $1.05/day.)

The estimated cost of energy consumed from the grid will be as follows:

- Delorean: 22.8c/kWh
- Power Ledger: 0.15c/kWh
- Total: 22.95c/kWh

(Compared to Synergy's current A1 rate of 29.33c/kWh for non-renewable (mix of coal/gas/wind/solar) supply, or green energy supply at 33.21c/kWh.)

The estimated income streams from excess solar energy will be as follows:

- Sale of energy to Delorean: 3.5 c/kWh
- Sale direct to neighbours: 20.00c/kWh

ANNEXURE C – GENERAL CONDITIONS

2018 General Conditions

JOINT FORM OF GENERAL CONDITIONS FOR THE SALE OF LAND

The Law Society of Western Australia

REIWA

Table of contents

CLAUSE PAGE

For defined terms see clause 26

Contents

1 Deposit

1.1 Payment

Subject to clause 1.3, the Buyer must pay the Deposit to:

(a) the Seller Agent; or
(b) the Seller Representative; or
(c) if the Seller has not appointed a Seller Agent or a Seller Representative, the Seller.

1.2 Deposit Holder - Stakeholder

(a) Subject to this clause 1.2, if the Deposit is paid to a Deposit Holder, the Deposit Holder must hold the Deposit as stakeholder.
(b) If a Party contends that:
(1) the Contract has been terminated; and
(2) that Party is entitled to payment of the Deposit, the following provisions of this clause 1.2 apply.
(c) The Deposit Claimant must:
(1) serve on the Deposit Holder and the Deposit Respondent the Deposit Holder Notice; and
(2) provide proof to the Deposit Holder of the service of the Deposit Holder Notice on the Deposit Respondent.
(d) Unless the Deposit Respondent serves a Notice on the Deposit Holder in accordance with subclause (e), the Deposit Holder must after:
(1) the expiry of 8 Business Days after the last to occur of service of the Deposit Holder Notice on the Deposit Respondent and the Deposit Holder; and
(2) the Deposit Holder has received proof as required by subclause (c) that the Deposit Holder Notice has been served on the Deposit Respondent,
pay the Deposit to the Deposit Claimant.
(e) The Deposit Respondent may, within 5 Business Days after service on the Deposit Respondent of the Deposit Holder Notice, serve a Notice on the Deposit Holder and the Deposit Claimant:
(1) stating that the Deposit Respondent disputes that the Deposit Claimant is entitled to receive the Deposit; and
(2) specifying the reasons why the Deposit Respondent contends that the Deposit Claimant is not entitled to receive the Deposit.
(f) If the Deposit Respondent serves a Notice on the Deposit Holder and the Deposit Claimant under subclause (e), the Deposit Holder may:
(1) obtain legal advice as to the action to be taken by the Deposit Holder;
(2) institute interpleader proceedings in a court; and
(3) deduct from the Deposit the legal cost and expense incurred by the Deposit Holder in connection with obtaining that legal advice and those interpleader proceedings.
(g) Each Party:
(1) directs the Deposit Holder to comply; and
(2) releases the Deposit Holder from liability for complying,
with this clause 1.2.
(h) Payment by the Deposit Holder of the Deposit in accordance with:
(1) subclause (d); or
(2) interpleader proceedings referred to in subclause (f)(2)
discharges the Deposit Holder from any further liability in respect to the Deposit.
(i) The failure by a Party to serve a Deposit Holder Notice or a Notice under subclause (e):
(1) does not affect; and
(2) is not treated as a waiver of,
any right as between the Parties.
(j) In this clause 1.2, a reference to the Deposit includes:
(1) any money in addition to the Deposit, paid to the Deposit Holder by the Buyer in accordance with the Contract; and
(2) interest earned on the Deposit or on any other money specified in subclause (j)(1) invested by the Deposit Holder with a Deposit Financial Institution.

1.3 Deposit - Strata Lot

(a) Subject to clause 1.4, if the Contract relates to the sale of a Proposed Strata Lot in a proposed Strata Scheme, the Deposit must be paid to and held by a Legal Practitioner, Real Estate Agent or Settlement Agent in accordance with the Strata Titles Act until registration of the Strata Plan.
(b) Subject to clause 1.4, on the registration of the Strata Plan in respect to the proposed Strata Lot, the Deposit is treated as being held in accordance with clause 1.2.

1.4 Deposit - Future Lot Contract

If the Contract is a Future Lot Contract:

(a) clause 1.1(c) does not apply;
(b) clauses 1.2 and 1.3 do not apply until the condition in clause 13.9(a)(1) has been satisfied;
(c) the Deposit or other amount payable by the Buyer under the Contract must be:
(1) paid by the Seller to a Deposit Holder specified in the Contract within 2 Business Days after receipt of the payment from the Buyer; and
(2) held by the Deposit Holder on trust for the person entitled to receive it under the Contract or the Sale of Land Act; and
(d) the Deposit Holder must comply with the Sale of Land Act.

1.5 Notice of non-payment

If the Buyer:

(a) does not pay the Deposit in full as required by the Contract; or
(b) pays the Deposit by cheque and that cheque is dishonoured on presentation,

the Seller may give the Buyer a Notice requiring the Deposit to be paid or the cheque to be honoured within 48 hours of service of the Notice.

1.6 Termination for non-payment

(a) If a Notice under clause 1.5 is not complied with:
(1) the Buyer is in default; and
(2) the Seller may terminate the Contract by giving notice of termination to the Buyer.
(b) Clause 23.1 does not apply if clause 1.5 and this clause 1.6 apply.

1.7 Terms Contract and other right

Clauses 1.5 and 1.6 do not:

(a) apply if the Contract is a Terms Contract; or
(b) limit any other right of the Seller.

1.8 Direction to Deposit Holder

Subject to clause 1.11, and unless each Party otherwise agrees in writing, a Party is not entitled to direct the Deposit Holder to pay the Deposit to any person before the Possession Date.

1.9 Investment of Deposit

If requested by the Buyer and permitted by law, the Deposit Holder may pay the Deposit into an interest bearing trust account with a Deposit Financial Institution in the name of the Deposit Holder.

1.10 Interest on Deposit

(a) Subject to clause 24.8, if the Deposit is invested by the Deposit Holder in an interest bearing account with a Deposit Financial Institution in accordance with clause 1.9, the Buyer is entitled to the interest, less:
(1) any fees or charges payable to the Financial Institution in respect to the lodgment and withdrawal of the Deposit; and
(2) any other amount required to be deducted by the Financial Institution under the Income Tax Act.
(b) If the Buyer is entitled to interest on the Deposit, the Buyer is not entitled to be paid any interest until Settlement unless otherwise specified in the Contract.

1.11 Payment of Deposit on Settlement

Subject to clause 24, the Strata Titles Act and the Sale of Land Act, each Party authorises the Deposit Holder to pay the Deposit to:

(a) the Seller at Settlement; or
(b) the Seller Representative before Settlement, but only for the purpose of enabling Settlement to occur.

1.12 Deduction from Deposit

The Seller irrevocably authorises the Deposit Holder to deduct from the Deposit before it is paid to the Seller or the Seller Representative:

(a) the selling fee payable to the Seller Agent; and
(b) all proper expenses payable by the Seller to the Seller Agent in connection with the sale of the Property.

2 Encumbrance

2.1 Noted Encumbrance

The Seller sells the Property free of any Encumbrance except for:

(a) a Specified Encumbrance; and
(b) if the Land is a Strata Lot, the interests and notifications specified in clause 10.8.

2.2 Benefit of right over Land

If the Land is entitled to the benefit of a right over other land:

(a) that benefit is not an Encumbrance; and
(b) the Land is sold and transferred with that benefit.

2.3 Rate Encumbrance - Unpaid Rate Outgoing

(a) Subject to subclause (b), if at Settlement the Land is subject to a Rate Encumbrance which arises from an Unpaid Rate Outgoing:
(1) if the Rate Encumbrance is registered on the Certificate of Title for the Land, the Seller must provide to the Buyer at Settlement any discharge, withdrawal or other document required to remove the Rate Encumbrance from the Certificate of Title for the Land;
(2) the Seller must arrange for the Unpaid Rate Outgoing to be paid at Settlement; and
(3) the Unpaid Rate Outgoing must be apportioned in accordance with clause 7.

(b) If at Settlement the Land is subject to a Rate Encumbrance which arises from an Unpaid Rate Outgoing but the Rate Encumbrance is not registered on the Certificate of Title for the Land, then the Seller is not required to arrange for the Unpaid Rate Outgoing to be paid at Settlement if:
(1) the Seller Representative has, not later than 3 Business Days before the Settlement Date, provided a written undertaking to the Buyer Representative to:
(A) deduct from the settlement proceeds due to the Seller or otherwise hold in trust an amount equal to the amount required to pay that Unpaid Rate Outgoing; and
(B) pay that amount to the relevant Authority immediately following Settlement; or
(2) the Buyer Representative has, not later than 3 Business Days before the Settlement Date, provided a written undertaking to the Seller Representative to:
(A) hold money in trust from the Buyer at Settlement equal to the amount which is required to pay that Unpaid Rate Outgoing; and
(B) pay to the relevant Authority immediately following Settlement, that Unpaid Rate Outgoing.
(c) If subclause (b)(1) applies, the Seller is treated as having given an irrevocable authority and direction to the Seller Representative:
(1) if applicable, to withhold the amount specified in subclause (b)(1) at Settlement; and
(2) to pay the Unpaid Rate Outgoing to the relevant Authority immediately after Settlement.
(d) If subclause (b)(2) applies, the Buyer is treated as having given an irrevocable authority and direction to the Buyer Representative to pay the Unpaid Rate Outgoing to the relevant Authority immediately after Settlement.

2.4 Land sold subject to easement or restrictive covenant

If on the Contract Date:
(a) the Land is subject to an easement or a restrictive covenant which is not a Specified Encumbrance;
(b) the Land is not vacant land; and
(c) the Land:
(1) includes a residence or other principal building which was used for a purpose before the Contract Date which use the Buyer would reasonably be expected to continue after Settlement; or
(2) was being used on the Contract Date for a purpose which the Buyer would reasonably be expected to continue after Settlement; and
(d) the easement or restrictive covenant does not unreasonably affect the use specified in subclause (c)(1) or (c)(2),
the Land is treated as being sold subject to the easement or restrictive covenant and the Buyer has no right to terminate the Contract or to defer or delay Settlement as a result of the easement or restrictive covenant.

2.5 Land sold subject to Title Restriction

(a) If:
(1) the Land is subject to a Title Restriction, which is not a Specified Encumbrance;
(2) the Land is vacant land; and
(3) the Buyer:
(A) was aware; or
(B) should reasonably have been aware,
of the Title Restriction or the effect of the Title Restriction, before the Contract Date; and
(4) the Title Restriction does not:
(A) unreasonably affect the proposed use of the Property by the Buyer; or
(B) materially affect the value of the Property,
the Buyer is treated as having agreed to buy the Property subject to the Title Restriction and the Buyer has no right to terminate the Contract or defer or delay Settlement as a result of the Title Restriction.
(b) If:
(1) the Land is subject to a Title Restriction, which is not a Specified Encumbrance;
(2) the Land is not vacant land; and
(3) the Land:
(A) includes a residence or other principal building which was used for a purpose before the Contract Date, which use the Buyer would reasonably be expected to continue after Settlement; or
(B) was being used on the Contract Date for a purpose which the Buyer would reasonably be expected to continue after Settlement; and
(4) the Buyer:
(A) was aware; or
(B) reasonably should have been aware,
of the Title Restriction or the effect of the Title Restriction before the Contract Date; and
(5) the Title Restriction does not unreasonably affect the use specified in subclause (b)(3),
the Land is treated as having been sold subject to the Title Restriction and the Buyer has no right to terminate the Contract or defer or delay Settlement as a result of the Title Restriction.

2.6 Land sold subject to Remediated Site Memorial

(a) If:
(1) the Land is a Remediated Site;
(2) a Remediated Site Memorial has been lodged against the Certificate of Title for the Land; and
(3) the Remediated Site Memorial is not a Specified Encumbrance,
subclauses (b) and (c) apply.
(b) If:
(1) the Land is vacant land; and
(2) the Restricted Use related to the Remediated Site Memorial does not:
(A) unreasonably affect the proposed use of the Property by the Buyer; or
(B) materially affect the value of the Property,
the Buyer is treated as having agreed to buy the Property subject to the Remediated Site Memorial and the Buyer has no right to terminate the Contract or defer or delay Settlement as a result of the Restricted Use or the Remediated Site Memorial.
(c) If:
(1) the Land is not vacant land; and
(2) the Land:
(A) includes a residence or other principal building which was used for a purpose before the Contract Date which use the Buyer would reasonably be expected to continue after Settlement; or
(B) was being used on the Contract Date for a purpose which the Buyer would reasonably be expected to continue after Settlement; and
(3) the Restricted Use related to the Remediated Site Memorial does not unreasonably affect the use specified in subclause (c)(2),
the Land is treated as having been sold subject to the Remediated Site Memorial and the Buyer has no right to terminate the Contract or defer or delay Settlement as a result of the Restricted Use or the Remediated Site Memorial.

2.7 Buyer right to terminate

(a) If:
(1) the Land is subject to an easement, a restrictive covenant, a Remediated Site Memorial or a Title Restriction which is not a Specified Encumbrance; and
(2) the Land is not treated as being sold subject to the easement, restrictive covenant, Remediated Site Memorial or Title Restriction in accordance with clauses 2.4 to 2.6,
the Buyer is entitled at any time up to 3 Business Days before the Settlement Date to terminate the Contract by giving Notice to the Seller.
(b) If the Buyer fails to exercise the right to terminate within 3 Business Days before the Settlement Date in accordance with subclause (a), the Buyer loses the right to terminate under the Contract and at general law.
(c) If the Buyer terminates the Contract in accordance with subclause (a):
(1) the Deposit and any other money paid by the Buyer under the Contract must be promptly repaid to the Buyer;
(2) if the Deposit has been invested by the Deposit Holder in accordance with clause 1.9, the Buyer is entitled to the interest on the Deposit;
(3) if any other money has been paid to the Deposit Holder by the Buyer, and invested by the Deposit Holder with a Deposit Financial Institution, the Buyer is entitled to the interest on that other money; and
(4) subject to subclauses (c)(1) to (c)(3), no Party has any claim or right of action against the other arising from the termination, except in respect to any matter which arose before the termination.

2.8 Security Interest

(a) If requested by the Buyer in writing, the Seller must give to the Buyer a reasonable time before Settlement, all information including accurate copies of source documents contemplated by Schedule 1 Part 1 of the PPS Regs sufficient for the Buyer to determine whether the Property Chattels are subject to a security interest to which the PPSA applies.
(b) The Buyer must keep any information and supporting documents provided by the Seller in accordance with clause 2.8(a) secure and confidential (to the extent the information is not publically available) and only use that information to search the PPSR.
(c) If any of the Property Chattels are:
(1) subject to a security interest to which the PPSA applies; and
(2) not property free of the security interest pursuant to Chapter 2 Part 2.5 of the PPSA,
the Seller must:
(3) remove the security interest from the PPSR on or before the Settlement Date; or
(4) provide the Buyer a release of the security interest in a form acceptable to the Buyer (acting reasonably) on or before the Settlement Date; or
(5) otherwise deal with the security interest by written agreement with the Buyer.

3 Settlement

3.1 Preparation of Transfer

The Buyer must arrange for the Transfer to be prepared.

3.2 Delivery to Seller

The Buyer must:

(a) sign the Transfer; and

(b) deliver the Transfer to the Seller or the Seller Representative a reasonable time before the Settlement Date.

3.3 Duty

(a) The Buyer must arrange for:

(1) Duty to be paid on the Contract; and

(2) the Transfer to be Duty Endorsed at Settlement or, if the Duty has been assessed through Revenue Online, a Certificate of Duty to be given at Settlement.

(b) Following the delivery of the Transfer to the Seller or the Seller Representative in accordance with clause 3.2(b), the Seller must within a reasonable time sign the Transfer pending Settlement.

(c) The Buyer must, on request by the Seller in writing, made not later than 20 Business Days after Settlement, provide to the Seller:

(1) an original of the Contract Duty Endorsed; or

(2) a photocopy of the Contract showing an endorsement as specified in subclause (c)(1),

to enable the Seller to arrange for a duplicate of the Contract held by the Seller to be Duty Endorsed.

(d) If the Buyer:

(1) provides to the Seller an original copy of the Contract Duty Endorsed; and

(2) requests the return of the Contract specified in subclause (d)(1),

the Seller must, immediately after a duplicate of the Contract held by the Seller has been Duty Endorsed, return the copy of the Contract to the Buyer.

(e) Subject to subclauses (g) to (i), the Buyer may make a request in writing to the Seller that:

(1) the Seller sign the Transfer; and

(2) the Seller Representative return the Transfer to the Buyer Representative,

without payment by the Buyer of Duty on the Contract, and without the Transfer being Duty Endorsed, to be held by the Buyer Representative solely for:

(3) payment by the Buyer of Duty on the Contract before Settlement; and

(4) the Transfer being Duty Endorsed before and for the purpose of Settlement.

(f) If Duty has been assessed and will be paid through Revenue Online:

(1) the Buyer may make a request in writing to the Seller that the Seller sign the Transfer; and

(2) if that request is made, the Seller must provide a copy of the Transfer signed by the Seller to the Buyer before the Settlement Date.

(g) If the Seller provides the Transfer to the Buyer Representative in accordance with subclause (e) or (f):

(1) the Seller must provide the Transfer signed by the Seller to the Buyer Representative; and

(2) the Buyer is treated as having given unconditional undertakings to the Seller that the Buyer Representative must:

(A) hold the Transfer solely for the purpose of payment of Duty on the Contract, and for the Transfer to be Duty Endorsed for the purposes of Settlement; and

(B) promptly following a direction in writing by the Seller or the Seller Representative, deliver the Transfer to the Seller or the Seller Representative whether or not the Transfer has been Duty Endorsed.

(h) If the Seller or the Seller Representative has provided the Transfer to the Buyer Representative in accordance with subclauses (e) and (g), the provision of the Transfer to the Buyer Representative is without prejudice to any right of the Seller arising from:

(1) any claim the Seller has or may have against the Buyer under clause 4 arising from a delay in Settlement; or

(2) without affecting subclause (h)(1), any default by the Buyer under the Contract.

(i) If the Buyer Representative:

(1) is registered for Revenue Online; and

(2) has elected to have Duty on the Contract assessed and paid through Revenue Online,

then:

(3) the Buyer must advise the Seller or the Seller Representative that the Buyer Representative has elected to have Duty on the Contract assessed and paid through Revenue Online;

(4) the Buyer must, within 5 Business Days after the Transaction Summary is generated, provide a copy of the Transaction Summary to the Seller or the Seller Representative; and

(5) on Settlement the Buyer must provide to the Seller or the Seller Representative a copy of the Certificate of Duty.

3.4 Place for Settlement

(a) If the Contract specifies the time and place for Settlement, Settlement must take place at the time and place specified.

(b) If the Contract does not specify the time for Settlement, the Buyer must specify the time for Settlement which must be during normal business hours on a Business Day.

(c) If the Contract does not specify the place for Settlement, the Buyer must specify the place for Settlement which must be in the Perth CBD.

3.5 Completion of Settlement

Each Party must complete Settlement on:

(a) the date for Settlement specified in the Contract; or

(b) if no date for Settlement is specified in the Contract, the later of:

(1) the Business Day which is 25 Business Days after the Contract Date; and

(2) if the Contract is subject to a condition which, if not satisfied, will result in:

(A) termination of the Contract; or

(B) a Party being entitled to terminate the Contract,

the Business Day which is 15 Business Days after the date on which the last condition is satisfied.

3.6 Balance of purchase price

(a) The Buyer must on Settlement pay:

(1) to the Seller; or

(2) to any other person as the Seller or the Seller Representative has directed in writing not later than 2 Business Days before the Settlement Date,

by 1 or more bank cheques:

(3) the balance of the Purchase Price; and

(4) any other money payable by the Buyer to the Seller at Settlement,

less any deductions allowed under the Contract.

(b) If there is a registered mortgage on the Land, the Seller must pay, or must request the Buyer to pay from the balance of the Purchase Price, the Landgate fee to register a discharge of the mortgage at Settlement.

3.7 Foreign Resident Withholding

(a) This clause 3.7 applies (despite any other provision of the Contract) if:

(1) the market value of the Land is the Threshold Amount or more and the Seller does not provide a Clearance Certificate to the Buyer at least 2 Business Days before Settlement; or

(2) for any other reason the Buyer is obliged to pay a Withholding Amount to the Commissioner.

(b) If this clause 3.7 applies:

(1) the Buyer must deduct the Withholding Amount from the Purchase Price and pay the Withholding Amount to the Commissioner by no later than Settlement; or

(2) if the Buyer provides to the Seller at Settlement:

(A) evidence from the Commissioner or the Australian Taxation Office that the Withholding Amount has been paid to the Commissioner; or

(B) a written undertaking from the Buyer Representative to pay the Withholding Amount to the Commissioner immediately following Settlement; or

(C) any other evidence relating to the payment of the Withholding Amount that is acceptable to the Seller,

the Buyer is not required to pay that part of the Purchase Price to the Seller.

(c) If subclause (b)(2)(B) applies, the Buyer is treated as having given an irrevocable authority and direction to the Buyer Representative to pay the Withholding Amount to the Commissioner immediately following Settlement.

(d) Any Variation Notice not provided to the Buyer at least 2 Business Days before Settlement is to be disregarded for the purposes of determining the Withholding Amount.

3.8 More than 3 Bank Cheques

If the Seller requires the Buyer to provide more than 3 Bank Cheques at Settlement, the Seller must pay to the Buyer at Settlement the additional bank fees incurred by the Buyer in order to obtain more than 3 Bank Cheques.

3.9 Settlement Cheque dishonoured

If a cheque provided by the Buyer at Settlement is dishonoured on presentation, the Buyer:

(a) is in default; and

(b) remains liable to pay to the Seller the amount of the cheque, together with interest on that amount at the Prescribed Rate:

(1) from and including the Settlement Date;

(2) to but excluding the date on which the Buyer pays that amount with interest to the Seller.

3.10 Seller obligation on Settlement

(a) The Seller must at Settlement give the Buyer:

(1) subject to clause 3.11, the Duplicate Certificate of Title for the Land;

(2) the Transfer signed by the Seller;

(3) each other document, including:

(A) any transfer executed by a third party;

(B) every application, declaration and other document,

necessary to enable the Buyer to become the registered proprietor of the Land free of any Encumbrance, other than:

(i) an Encumbrance specified in clauses 2.1(a) and 2.1(b); and

(ii) if applicable, an Encumbrance subject to which the Land is transferred in accordance with clause 2;

(4) all other documentation required to be delivered on Settlement including:

(A) any discharge or withdrawal of an Encumbrance which is required to be withdrawn or discharged on Settlement; and

(B) subject to subclause (b), the documentation specified in clause 6.10 and 11.2;

(b) If:

(1) possession of the Property has been given to the Buyer before Settlement; and

(2) the Seller has delivered the documentation specified in clause 6.10 to the Buyer on or after possession and before Settlement,

the Seller has no obligation to deliver the documentation specified in clause 6.10 to the Buyer at Settlement.

(c) If the Seller is required to deliver to the Buyer on Settlement a document as specified in subclause (3)(A), (3)(B) or (4)(B), the Seller must deliver to the Buyer a true copy of that document not later than 3 Business Days before the Settlement Date.

(d) If the Seller is unable to transfer the Land to the Buyer free of Encumbrances, other than an Encumbrance specified in clause 2:

(1) the Seller is treated as being in default; and

(2) subject to clauses 23 and 24, the Buyer is entitled to exercise every right of the Buyer arising from that default.

3.11 No duplicate Certificate of Title

If a Duplicate Certificate of Title for the Land has not issued in accordance with Section 48B(1)(a) of the Transfer of Land Act, the Seller is not obliged to give the Duplicate Certificate of Title for the Land to the Buyer on Settlement under clause 3.10.

3.12 Electronic conveyancing

(a) This clause 3.12 applies if:

(1) Landgate requires that the Contract is completed by an Electronic Settlement;

(2) the Contract specifies that there will be an Electronic Settlement; or

(3) the Parties agree to an Electronic Settlement.

(b) Acceptance of an invitation to a Workspace by a Party is taken to be agreement for the purposes of subclause (a)(3).

(c) If this clause 3.12 applies:

(1) it has priority over any other provision of the Contract to the extent of any inconsistency; and

(2) without limiting subclause (c)(1), any provision of the Contract requiring the physical preparation, signing, delivery or payment of anything that is dealt with digitally or electronically within or using the Workspace is amended accordingly.

(d) Each Party must:

(1) be, or engage a Representative who is, a Subscriber;

(2) ensure that each other person for whom that Party is responsible and who is associated with the transaction is, or engages, a Subscriber;

(3) authorise their Representative to act on their behalf in the manner required by the ECNL; and

(4) conduct the transaction in accordance with the ECNL.

(e) Unless Landgate requires that Settlement must be completed by an Electronic Settlement, and subject to subclause (g), a Party may elect not to proceed with an Electronic Settlement by giving written Notice to the other Party.

(f) If a Withdrawal Notice is given, this clause 3.12 ceases to apply and Settlement is to be effected in accordance with the Contract otherwise than as an Electronic Settlement.

(g) A Withdrawal Notice may not be given later than 5 Business Days before the Settlement Date unless Settlement cannot proceed as an Electronic Settlement. If a Withdrawal Notice is given less than 5 Business Days before the Settlement Date:

(1) the Withdrawal Notice must specify why Settlement cannot proceed as an Electronic Settlement; and

(2) at the written request of either Party, the Settlement Date may be extended to a date being not more than 5 Business Days after the date the Withdrawal Notice is given.

(h) The Buyer or the Buyer Representative must:

(1) create a Workspace as soon as reasonably practicable;

(2) invite the Seller or the Seller Representative and any Financial Institution involved in the transaction to join the Workspace; and

(3) set the time for Settlement on the Settlement Date.

(i) If the Buyer or the Buyer Representative fails to comply with subclause (h) within 10 Business Days before the Settlement Date, the Seller or the Seller Representative may:

(1) create a Workspace;

(2) invite the Buyer or the Buyer Representative and the relevant Financial Institutions to join the Workspace; and

(3) set the time for Settlement on the Settlement Date.

(j) The Parties consent to written communications for the purposes of preparing for and facilitating Electronic Settlement being given and received electronically within the Workspace but not to any Notice being given in that manner.

(k) Settlement occurs when the Workspace records that the exchange of funds or value (if any) between the Financial Institutions in accordance with the instructions of the Parties has occurred and the definition of "Settlement" in clause 26.1 is amended accordingly.

(l) Each Party must do everything reasonably necessary to:

(1) progress the transaction in the Workspace to Electronic Settlement on the Settlement Date at the time specified in the Workspace; and

(2) assist the other Party to trace and identify the recipient of any mistaken payment made under the Electronic Settlement and to recover the mistaken payment.

(m) If Settlement in accordance with subclause (k) has not occurred by the Closing Time, the Parties must do everything reasonably necessary to effect Settlement:

(1) as an Electronic Settlement; or

(2) at the option of either Party, exercised by giving Notice to the other Party to that effect, otherwise than as an Electronic Settlement,

on the next Business Day and time remains of the essence.

(n) A Party is not in default under the Contract if:

(1) that Party is prevented from complying with an obligation because the other Party or the other Party's Financial Institution has not done something in the Workspace; or

(2) Electronic Settlement fails and does not occur by the Closing Time because a computer system of Landgate, the Office of State Revenue, the ELNO or the Reserve Bank of Australia is inoperative for any reason,

but that Party must comply with that Party's obligations as soon as the event referred to in subclause (n)(1) or (n)(2) ceases to apply.

(o) No Party may exercise any rights under the Contract or at law to terminate the Contract during the time that the Workspace is locked for Electronic Settlement.

(p) Subject to subclause (m), nothing in this clause 3.12 affects the rights of a Party under the Contract if Settlement does not occur on or before the Settlement Date due to the delay or default by the other Party.

(q) Each Party must pay that Party's own fees and charges for using the ELNO for Electronic Settlement.

(r) In this clause 3.12:

(1) **Business Day** means any day except:

(A) a Saturday, Sunday or public holiday in Western Australia; or

(B) a public holiday on the same day in both of Victoria and New South Wales.

(2) **ECNL** means the Electronic Conveyancing National Law as adopted in Western Australia by the *Electronic Conveyancing Act 2014 (WA)*;

(3) **Electronic Settlement** means Settlement and the lodgment of the documents necessary to record the Buyer as registered proprietor of the Land facilitated by the ELNO;

(4) **ELNO** has the meaning set out in the ECNL;

(5) **Closing Time** means the time the ELNO usually closes for settlement transactions in Western Australia on the Settlement Date;

(6) **Subscriber** means a subscriber under the ECNL;

(7) **Withdrawal Notice** means a Notice given under clause 3.12(e);

(8) **Workspace** means an 'Electronic Workspace' as defined in the participation rules made under the ECNL for the transaction within the ELNO.

4 Delay in Settlement

4.1 Buyer delay

(a) If for any reason not attributable to the Seller, Settlement is not completed within 3 Business Days after the Settlement Date, the Buyer must pay to the Seller at Settlement interest on:

(1) the balance of the Purchase Price; and

(2) any other money payable at Settlement.

(b) The right of the Seller to interest under this clause 4.1 is in addition to the entitlement of the Seller to Rent under clause 6.7.

4.2 Seller delay

If for any reason attributable to the Seller, Settlement is not completed within 3 Business Days after the Settlement Date, the Seller must allow to the Buyer at Settlement, as a deduction from the Purchase Price, compensation equal to interest on:

(a) the balance of the Purchase Price; and

(b) any other money payable at Settlement.

4.3 Interest or compensation

Interest payable under clause 4.1 and compensation allowable under clause 4.2 is to be calculated:

(a) at the Prescribed Rate; and
(b) from and including the Settlement Date to but excluding the date on which Settlement occurs,

and is treated as being in full satisfaction of any claim the Party claiming interest or compensation has against the other Party as a result of the delay in Settlement.

4.4 Seller ready, willing and able

(a) If the Seller is not ready, willing and able to complete Settlement on the Settlement Date, the Seller is not entitled to interest under clause 4.1 until the Seller:
 (1) is ready, willing and able to complete Settlement; and
 (2) has given Notice of that fact to the Buyer.
(b) If a Notice is given in accordance with subclause (a) within 3 Business Days after the Settlement Date, interest is calculated and payable from and including the Settlement Date to but excluding the date on which Settlement occurs.
(c) If a Notice is given in accordance with subclause (a), later than 3 Business Days after the Settlement Date, interest is calculated and payable from and including the day on which the Notice is given up to but excluding the date on which Settlement occurs.

4.5 Buyer ready, willing and able

(a) If the Buyer is not ready, willing and able to complete Settlement on the Settlement Date, the Buyer is not entitled to compensation under clause 4.2 until the Buyer:
 (1) is ready, willing and able to complete Settlement; and
 (2) has given Notice of that fact to the Seller.
(b) If a Notice is given in accordance with subclause (a) within 3 Business Days after the Settlement Date, compensation is calculated and payable from and including the Settlement Date to but excluding the date on which Settlement occurs.
(c) If a Notice is given in accordance with subclause (a) later than 3 Business Days after the Settlement Date, compensation is calculated from and including the day on which the Notice is given up to but excluding the date on which Settlement occurs.

4.6 Dispute – interest or compensation

(a) If:
 (1) the Interest Party claims that the Interest Default Party is liable to pay interest or compensation under clauses 4.1 to 4.5; and
 (2) the Interest Default Party disputes the entitlement of the Interest Party to the interest or compensation,

 this clause 4.6 will apply.
(b) Subject to subclause (h), and if the Interest Party requires the Interest Default Party to pay interest or compensation under clauses 4.1 to 4.5 at Settlement, the Interest Party must not later than 2 Business Days before Settlement serve an Interest Notice on the Interest Default Party setting out:
 (1) the basis on which the claim for interest or compensation is made; and
 (2) the amount claimed, which may include an amount to be calculated on a daily basis.
(c) The Interest Default Party must pay the Interest Amount on Settlement to:
 (1) the Representative of the Interest Party; or
 (2) if the Interest Party has not appointed a Representative, then to the Representative of the Interest Default Party; or
 (3) if subclauses (c)(1) and (c)(2) do not apply, then to the Interest Party,

 to be held by the Representative or the Interest Party subject to and for the purposes specified in this clause.
(d) On the day which is 20 Business Days after Settlement, unless:
 (1) the dispute has been resolved between the Parties; or
 (2) court proceedings are instituted by a Party to determine the dispute,

 the Representative who holds the Interest Amount must pay the Interest Amount to the Interest Party or, if applicable, the Interest Party may retain the Interest Amount.
(e) If:
 (1) court proceedings are instituted by a Party as specified in subclause (d); or
 (2) an agreement is reached between the Interest Party and the Interest Default Party with regard to the dispute,

 the Representative who holds the Interest Amount or, if applicable, the Interest Party must pay the Interest Amount, as applicable:
 (3) as determined in accordance with the court proceedings; or
 (4) in accordance with the agreement between the Parties.
(f) If the Interest Default Party disputes the entitlement of the Interest Party to interest or compensation under clauses 4.1 to 4.5:
 (1) that dispute does not affect the obligations of the Parties to proceed to Settlement; and
 (2) subject to the obligation of the Interest Default Party to pay the Interest Amount on Settlement in accordance with this clause, the Parties must proceed to Settlement.
(g) Each Party authorises a Representative who holds the Interest Amount under this clause to:
 (1) pay; and
 (2) otherwise deal with,

 the Interest Amount as specified in this clause.
(h) This clause 4.6 does not affect the right of the Interest Party after Settlement to claim and, if appropriate, institute proceedings against the Buyer to recover, an amount of interest or compensation as specified in clauses 4.1 to 4.5.

4.7 Restriction on right in case of court proceeding

(a) The right of a Party under this clause 4 to interest or compensation ceases from and including the date on which court proceedings are instituted by a Party for:
 (1) specific performance of the Contract; or
 (2) a declaration that the Contract:
  (A) has been terminated; or
  (B) remains valid and enforceable; or
 (3) any other order or declaration to the same or similar effect to an order or declaration as specified in subclause (a)(1) or (a)(2); or
 (4) other relief based on the Contract having been terminated.
(b) It is the intention of the Parties that if there is a delay in respect to Settlement, interest or compensation payable under this clause 4 represents the best estimate as to the damages sustained arising from the delay.
(c) If court proceedings are instituted by a Party in accordance with subclause (a), nothing in the Contract:
 (1) restricts, limits or prejudices the entitlement of a Party to claim interest under an Act or by way of damages or compensation; or
 (2) limits or otherwise affects the discretion of the court.

4.8 Right not affected

The rights of a Party under this clause 4 do not affect the rights of a Party under clause 24.

5 Inspection

5.1 Right to inspect

(a) Subject to clause 5.2 and subclause (b):
 (1) the Buyer is entitled to inspect the Property to check that the Seller has complied with the Seller's obligations under the Contract; and
 (2) the Seller must grant access to the Property to enable the Buyer to inspect the Property for that purpose,

 on 1 occasion within 5 Business Days before the Possession Date.
(b) If following an inspection under subclause (a) the Buyer identifies items that require rectification by the Seller under the Contract, the Buyer may give Notice of those items to the Seller following which:
 (1) the Buyer is entitled to inspect the Property to check that the Seller has rectified those items; and
 (2) the Seller must grant access to the Property to enable the Buyer to inspect the Property for that purpose,

 on 1 further occasion before the Possession Date.
(c) The Buyer may be accompanied by 2 persons on an inspection.
(d) If the Buyer is a corporation, the reference in this clause 5.1 and in clause 5.2 to the Buyer means a reference to a director, secretary or officer of the corporation or any other person nominated by the corporation.

5.2 Time for inspection

(a) Subject to subclause (b), if the Buyer wishes to inspect the Property as specified in clause 5.1, the Buyer and the Seller must endeavour to agree the date and time for the inspection.
(b) If the Buyer and the Seller do not reach agreement by 5 Business Days before the Settlement Date, the Buyer may by not less than 1 Business Day's Notice to the Seller or the Seller Agent specify the date and time for the inspection.
(c) The inspection must be:
 (1) on a Business Day; and
 (2) at a time between 9.00am and 4.00pm.
(d) Where the Buyer serves Notice under subclause (b) which complies with subclause (c), the Seller must permit the Buyer to inspect the Property at the time and on the date specified in that Notice.
(e) This clause 5.2 applies in respect of each inspection to which the Buyer is entitled under clause 5.1.

6 Possession and Rent

6.1 Entitlement to possession

(a) Subject to clauses 6.2 and 6.3, the Buyer is entitled to possession of the Property on the earlier of:
 (1) the date for possession (if any) specified in the Contract; and
 (2) Settlement.
(b) Subject to clause 6.3, and without affecting the rights of the Buyer on possession, if the Property is not sold subject to a Lease:
 (1) the Buyer is entitled to vacant possession of the Property; and
 (2) the Seller must remove from the Property before the Possession Date, all vehicles, rubbish and chattels, other than the Property Chattels.

6.2 Early possession

If the Buyer is given possession of the Property before Settlement:

(a) for a period of less than one month, then clauses 14.6 to 14.9 apply until Settlement; or

(b) for a period of one month or longer, then:

(1) clauses 14.6 to 14.9 apply until Settlement subject to the Residential Tenancies Act; and

(2) the Parties must comply with the Residential Tenancies Act.

6.3 Principal residence – limited occupation right

(a) If immediately before Settlement, the Seller occupies the Property as the Seller's principal place of residence, the Seller may, subject to clause 6.4, remain in occupation of the Property until 12 noon on the day immediately following Settlement.

(b) If subclause (a) applies and the Seller remains in occupation of the Property in accordance with subclause (a):

(1) the Seller must entirely vacate the Property by 12 noon on the day immediately following Settlement; and

(2) the Buyer is entitled to possession, and the Seller must give to the Buyer possession, of the Property at 12 noon on the day immediately following Settlement.

6.4 Damage to Property

If clause 6.3 applies:

(a) the Seller is responsible to the Buyer for damage caused to the Property between:

(1) Settlement; and

(2) possession of the Property being given to the Buyer under clause 6.3; and

(b) if damage is caused to the Property between Settlement and possession, the Seller must pay to the Buyer the cost of repairing the damage immediately on request by the Buyer.

6.5 Keys and security devices

(a) Subject to subclauses (b) to (d), the Seller must deliver the Access Device to the Buyer on the Possession Date.

(b) If clause 6.3 applies, the Seller must, at the time of giving possession of the Property to the Buyer, deliver to the Buyer the Access Device.

(c) If agreed by the Buyer, the Access Device may be delivered to, and be held by, the Seller Agent for delivery to the Buyer following Settlement.

(d) If subclause (c) applies, the Seller:

(1) must deliver the Access Device to the Seller Agent at a time sufficient to enable the Seller Agent to comply with subclause (c); and

(2) is treated as having authorised and directed the Seller Agent to deliver the Access Device to the Buyer in accordance with subclause (c).

6.6 Lease Provisions apply

Clauses 6.7 to 6.10 inclusive apply if the Contract provides that the Property is sold subject to the Lease.

6.7 Rent

(a) The Seller is entitled to all Rent up to and including the Possession Date.

(b) The Buyer is entitled to all Rent from and including the day after the Possession Date.

6.8 Rent paid before Settlement

(a) The Seller must pay to the Buyer at Settlement any Rent:

(1) to which the Buyer is entitled under clause 6.7; and

(2) which was paid to the Seller before the Possession Date.

(b) The Seller is not obliged to pay to the Buyer on Settlement any Rent which was payable by a Tenant under a Lease but is unpaid on the Possession Date.

6.9 Rent received after Settlement

If after Settlement either Party is paid Rent to which the other Party is entitled, the Party receiving the money must pay the money to the Party entitled to it as soon as reasonably possible.

6.10 General provisions where property leased

If the Property is on the Possession Date subject to a Lease:

(a) the Seller must deliver to the Buyer on the Possession Date:

(1) if the Lease is in writing, an original or true copy of the Lease showing signing by the Parties; and

(2) if the Lease is liable to be assessed for Duty, the original or a true copy of the Lease delivered by the Seller to the Buyer under subclause (a)(1), showing that the Lease has been Duty Endorsed; and

(3) if the Lease is an oral lease or tenancy agreement, a written memorandum setting out all relevant details applicable to the Lease which are applicable on the Possession Date; and

(4) a statement which shows:

(A) the Rent payable for the Rent Period during which the Possession Date occurs; and

(B) the amount paid by the Tenant before the Possession Date in respect to the Rent Period specified in subclause (a)(4)(A); and

(5) any Property Condition Report that has been prepared in respect to the premises the subject of the Lease; and

(6) if the Tenant has provided a Tenant Bond under the Lease, the Tenant Bond and any interest which has accrued on the Tenant Bond:

(A) by payment of a Bank Cheque in favour of the Buyer for the amount of the Tenant Bond; or

(B) by the provision of documentation which will effect the transfer of or the Seller's rights in respect to the Tenant Bond to the Buyer; and

(7) a Notice signed by the Seller or the Seller Representative, addressed to each Tenant, in a form reasonably determined by the Seller:

(A) in which the Seller notifies the Tenant of the sale of the Property to the Buyer; and

(B) which directs the Tenant to pay all Rent as from the Possession Date to the Buyer or as otherwise directed by the Buyer in writing.

(b) Subject to clause 6.9, if, on the Possession Date, Rent was due to the Seller and has not been paid by the Tenant:

(1) the Buyer assigns to the Seller the unpaid Rent;

(2) the Buyer must immediately on request by the Seller sign:

(A) a deed of assignment of that unpaid Rent in favour of the Seller; and

(B) a notice to the Tenant of the assignment,

which deed and notice of assignment must be prepared by the Seller at the expense of the Seller; and

(3) the Seller may institute proceedings against the Tenant for the unpaid Rent.

(c) If a person has:

(1) guaranteed the obligations of the Tenant under the Lease; and

(2) executed the Lease as a guarantor,

the Seller is, unless the guarantee specifies otherwise, treated as having assigned to the Buyer the benefit of that guarantee.

(d) If a person has:

(1) guaranteed the obligations of the Tenant under the Lease; and

(2) executed a guarantee document which is not included in the Lease,

the Seller must deliver that guarantee document to the Buyer at the time specified in subclause (a) and, unless the guarantee document otherwise specifies, the Seller is treated as having assigned the benefit of the guarantee to the Buyer.

(e) If subclause (d) applies and the guarantee document is liable to be assessed for Duty, the original or a true copy of the guarantee document delivered by the Seller to the Buyer under subclause (d) must show that the guarantee document has been Duty Endorsed.

(f) If a guarantee as incorporated in a Lease or guarantee document provides that the guarantee is not capable of assignment, except with the approval of the guarantor, the Seller must on request by the Buyer cooperate with the Buyer in requesting the guarantor to grant approval for the assignment of the guarantee to the Buyer.

(g) Any fee payable to a guarantor in relation to an assignment referred to in subclause (f) must be paid by the Buyer.

7 Outgoing

7.1 Seller and Buyer obligation

Subject to this clause 7:

(a) the Seller must pay each Outgoing payable up to and including the Possession Date; and

(b) the Buyer must pay each Outgoing payable from and including the day after the Possession Date.

7.2 Apportionment

Subject to this clause 7 an Outgoing must be apportioned under clause 7.1 and any amount payable by one Party to the other must be paid:

(a) at Settlement; or

(b) if the Contract is a Terms Contract, on the Possession Date; or

(c) at a later time agreed by the Parties in writing.

7.3 Buyer not liable for Land Tax

The Buyer is not liable to pay any amount on account of Land Tax if the Property is at the Possession Date a residence which is capable of being used as a residence and for no other purpose.

7.4 Settlement Date 30 June

(a) If:

(1) the Settlement Date is before or on 30 June; and

(2) Settlement does not occur before 5 pm on 30 June for a reason attributable to the Buyer,

the Buyer must pay to the Seller any Land Tax assessed in respect to the Land as at midnight on 30 June calculated as if the Land is the only land owned by the Seller.

(b) If:

(1) the Settlement Date is before or on 30 June;

(2) a separate Certificate of Title for the Land has been issued before 1 June;

(3) the Seller has given a Notice to the Buyer not later than 15 Business Days before the Settlement Date, that:

(A) the Seller is the registered proprietor of land other than the Land; and

(B) the Land and that other land are liable to Land Tax; and

(4) Settlement does not occur before 5:00pm on 30 June for a reason attributable to the Buyer,

the Buyer must pay to the Seller at Settlement the Land Tax assessed in respect to the Land for the Financial Year which commences on 1 July following the date specified in subclause (b)(1).

(c) Subject to subclause (d):

(1) the Notice as specified in subclause (b)(3) may, subject to the Contract Date being before 1 June, be incorporated in the Contract; and

(2) if the Notice is incorporated in the Contract in accordance with subclause (c)(1), that Notice is treated as having been given in accordance with subclause (b)(3).

(d) Subclause (c) does not apply unless before 1 June:

(1) a separate Certificate of Title for the Land has issued; and

(2) the Buyer has been given Notice by the Seller of the issue of that separate Certificate of Title for the Land.

7.5 Land Tax - Subdivided Land

(a) If on the Possession Date:

(1) the Property is not a residence as described in clause 7.3; and

(2) the Land is the subject of a subdivision after the commencement of the Financial Year in which the Possession Date occurs,

Land Tax will be apportioned as specified in subclause (b).

(b) If subclause (a) applies, Land Tax is apportioned and payable as an Outgoing in accordance with clauses 7.1 and 7.2 on the basis that the Land Tax payable in respect to the Land is:

(1) the same proportion as the area of the Land bears to the total area of the Subdivision Land; and

(2) the Subdivision Land is the only land owned by the Seller.

7.6 Land Tax general

(a) If clause 7.3 applies, the Seller must pay all Land Tax assessed in respect to the Property.

(b) Except as provided in clause 7.3, and subject to clauses 7.4 and 7.5, Land Tax must be apportioned:

(1) as an Outgoing and paid as provided in clauses 7.1 and 7.2; and

(2) otherwise on the basis that the Land is the only land owned by the Seller.

7.7 Future Rate Outgoing

(a) If at Settlement the Land will be subject to a Future Rate Outgoing:

(1) the Seller must procure the Seller Representative to, not later than 3 Business Days before the Settlement Date, provide a written undertaking to the Buyer Representative that at Settlement, the Seller Representative will:

(A) hold in trust an amount, which must be specified in that undertaking, sufficient to pay the proportion of the Future Rate Outgoing which is payable by the Seller; and

(B) immediately after the assessment of the Future Rate Outgoing, pay the Seller's proportion of the Future Rate Outgoing to the relevant Authority; and

(2) the Buyer must procure the Buyer Representative to, not later than 3 Business Days before the Settlement Date, provide a written undertaking to the Seller Representative that at Settlement, the Buyer Representative will:

(A) hold in trust an amount specified by the Buyer Representative in that undertaking, which is sufficient to pay the proportion of the Future Rate Assessment payable by the Buyer; and

(B) immediately after the assessment of the Future Rate Outgoing, pay the Buyer's proportion of the Future Rate Outgoing to the relevant Authority.

(b) If there is a dispute as to the amount to be held by the Seller Representative and the Buyer Representative in accordance with subclause (a), that dispute must be determined by the Seller Agent.

(c) If there is no Seller Agent, the amount to be held by the Seller Representative and the Buyer Representative must be determined by a Real Estate Agent appointed by the Buyer.

(d) If the dispute is determined by the Seller Agent or a Real Estate Agent:

(1) the Seller Agent or the Real Estate Agent must act as an expert and not as an arbitrator;

(2) the determination of the Seller Agent or the Real Estate Agent is final and binding on the Seller and the Buyer; and

(3) if any cost is payable to the Seller Agent or a Real Estate Agent for determining a dispute, as specified in subclause (b) and (c), that cost must be paid by the Buyer and the Seller in equal shares.

(e) If subclause (a)(1) applies, the Seller is treated as having given to the Seller Representative an irrevocable authority and direction to hold and apply the relevant money in the manner specified in subclause (a)(1).

(f) If subclause (a)(2) applies, the Buyer is treated as having given to the Buyer Representative an irrevocable authority and direction to hold and apply the relevant money in the manner specified in subclause (a)(2).

8 Risk

8.1 Passing of risk

Despite any rule of law or equity to the contrary, risk relating to the Property passes from the Seller to the Buyer at the time when the:

(a) Purchase Price is paid in full; or

(b) Settlement occurs, or

(c) Buyer is given possession of the Property,

whichever first occurs.

8.2 Damage or destruction

(a) If the Property includes a building or other improvement which is:

(1) destroyed; or

(2) partially damaged,

before Settlement, subclause (b) applies.

(b) If:

(1) the building is a residence and is made substantially uninhabitable; or

(2) in any other case, a building or other improvement is made substantially unusable for the current use as at the Contract Date;

clauses 8.3 to 8.7 apply.

8.3 Notice of damage or destruction

The Seller must, immediately following the damage or destruction referred to in clause 8.2, give Notice to the Buyer specifying:

(a) full particulars of the damage or destruction;

(b) that the Buyer may, within 15 Business Days of service of the Notice, terminate the Contract; and

(c) that it is desirable for the Buyer to obtain legal advice following service of the Notice.

8.4 Right of Buyer to terminate

The Buyer may, within 15 Business Days of the service of Notice under clause 8.3, give Notice to the Seller that the Buyer has elected to terminate the Contract.

8.5 Right of Seller to terminate

If:

(a) clause 8.2 applies;

(b) the Seller has insured the building or improvement specified in clause 8.2 against damage or destruction;

(c) the Seller within 5 Business Days after the damage or destruction specified in clause 8.2, notifies the insurer of a claim for the loss arising from the damage or destruction;

(d) the Seller in notifying the claim in accordance with subclause (c), makes a request to the insurer that the insurer make a cash payment to the Seller in respect to the loss; and

(e) the insurer has not within 10 Business Days after notification or the lodgment of the claim by the Seller, whichever is the later, agreed in writing to provide a cash payment to the Seller to compensate the Seller for the loss,

the Seller may within 15 Business Days of the service of the Notice in accordance with clause 8.3, by Notice to the Buyer or the Buyer Representative, terminate the Contract.

8.6 Termination

If:

(a) the Buyer gives a Notice to the Seller in accordance with clause 8.4; or

(b) the Seller gives a Notice to the Buyer in accordance with clause 8.5,

then

(c) subject to subclauses (d) to (g), the Contract is terminated as from and including the date of service of that Notice;

(d) the Deposit, and any other money paid by the Buyer under the Contract, must be promptly repaid to the Buyer;

(e) if the Deposit has been invested by the Deposit Holder in accordance with clause 1.9, the Buyer is entitled to the interest on the Deposit;

(f) if any other money has been paid to the Deposit Holder by the Buyer, and invested by the Deposit Holder with a Deposit Financial Institution, the Buyer is entitled to the interest on that other money; and

(g) subject to subclauses (d) to (f), no Party has any claim or right of action against the other arising from the termination, except in respect to any matter which arose before the termination.

8.7 Right of Buyer to proceed

If the Buyer, within 15 Business Days of the service of Notice under clause 8.3:

(a) gives Notice to the Seller that the Buyer intends to proceed with the Contract; or

(b) does not give a Notice under subclause (a) or clause 8.4,

the Contract will, unless the Seller has given a Notice to the Buyer in accordance with clause 8.5, remain valid and enforceable, but clause 8.8 and 8.9 apply.

8.8 Reduction of Purchase Price

If clause 8.7 applies:

(a) the Purchase Price is reduced by the amount of the reduction in value of the Property following the damage or destruction;

(b) the amount of the reduction of the Purchase Price is, subject to this clause 8.8, the amount which is agreed in writing between the Seller and the Buyer within 30 Business Days of the date of service of the Notice under clause 8.3;

(c) if the reduction of the Purchase Price is not agreed in writing between the Seller and the Buyer, the amount of the reduction of the Purchase Price must, subject to subclause (d), be determined by arbitration in accordance with clause 25.1; and

(d) even if:

(1) the period specified in subclause (b) has expired; and

(2) arbitration proceedings have commenced under subclause (c),

the Buyer and the Seller may at any time agree in writing the amount of the reduction of the Purchase Price.

8.9 Variation of Settlement Date

If the Contract proceeds in accordance with clause 8.7 the Settlement Date is the date which is 10 Business Days after the amount of the reduction of the Purchase Price has been:If the Property is on the Possession Date subject to a Lease:

(a) agreed between the Buyer and the Seller; or

(b) determined by arbitration.

9 Seller Representation and Warranty

9.1 As at Contract Date and Possession Date

Except to the extent disclosed in writing by the Seller to the Buyer before the Contract Date, or as otherwise specified in the Contract, the Seller represents and warrants to the Buyer on the Contract Date (and is taken to repeat those representations and warranties at the Possession Date) that:

(a) the Seller does not know of:

(1) any demand, order, requisition or requirement relating to the Property which:

(A) has been made by an Authority and remains current; or

(B) which an Authority proposes to make;

(2) any proposal by an Authority:

(A) for the realignment, widening or alteration of the level of any road adjoining the Land; and

(B) which would be likely to materially affect the Land or the use of it;

(3) any obligation to pay money to an Authority in respect of:

(A) work performed or to be performed; or

(B) expenses incurred or to be incurred, by an Authority in relation to the Land;

(4) except in relation to a Strata Lot, any sewer, drain, pipe, cable or other installation passing through the Land to provide services to other land;

(5) any obligation to:

(A) construct or repair; or

(B) contribute towards the cost of construction or repair of,

a dividing fence between the Land and any adjoining land whether arising under the *Dividing Fences Act 1961* or otherwise; or

(6) any encroachment on the Land by a building or other structure on adjoining land;

(b) no building or other structure on the Land encroaches on adjoining land;

(c) as far as the Seller is aware, each dividing fence and wall is on the boundary of the Land;

(d) the Seller:

(1) has good title to the Property Chattels; and

(2) is, or will be the sole owner of the Property Chattels;

(e) except as otherwise specified in the Contract, the Property Chattels will be free of any Encumbrance;

(f) subject to clause 6.1(b), the Property will be in the same state and condition it was in immediately before the Contract Date; and

(g) as far as the Seller is aware:

(1) no person has any right arising from adverse possession;

(2) no public right of way or easement has been acquired by enjoyment or use; and

(3) no mining lease or licence has been issued under any Act, in respect to the Land.

9.2 Contract Date

Except as otherwise disclosed in writing by the Seller to the Buyer before the Contract Date, the Seller represents and warrants to the Buyer on the Contract Date that:

(a) the Seller:

(1) has not received a notice of resumption of; and

(2) does not know of any intention to resume, the Land by an Authority; and

(b) the use of the Property is lawful.

9.3 Breach or non-satisfaction of warranty

(a) If the Seller is in breach of a warranty in clause 9.1, 9.2 or 10.2, unless the Parties otherwise agree, the Buyer has no right to terminate the Contract or defer or delay Settlement or withhold any part of the Purchase Price, unless the breach unreasonably affects the proposed use of the Property by the Buyer or materially affects the value of the Property.

(b) Subclause (a) does not limit any rights of a Party arising at law, including any rights referred to in clause 10.3(b).

10 Strata title

10.1 When this clause applies

This clause 10 applies if the Land is a Strata Lot.

10.2 Representation and Warranty

Except to the extent disclosed in writing by the Seller to the Buyer before the Contract Date, or as otherwise specified in the Contract, the Seller represents and warrants to the Buyer on the Contract Date (and is taken to repeat those representations and warranties at the Possession Date) that:

(a) the Seller has paid:

(1) each Strata Contribution levied by the Strata Company in respect of the Strata Lot except for any Strata Contribution which is to be apportioned under clause 7.2 or 10.6;

(2) all other money due to the Strata Company in consideration of any right or privilege granted by the Strata Company in respect of the Strata Lot;

(3) all money due to the Strata Company for:

(A) work carried out by the Strata Company in relation to the Strata Lot; or

(B) the provision by the Strata Company of an amenity or service to the Strata Lot or to the proprietor or occupier of the Strata Lot;

(4) any other money due by the Seller to the Strata Company; and

(5) all interest due to the Strata Company on the money specified in subclauses (a)(1), (a)(2), (a)(3) and (a)(4);

(b) no administrator of the Strata Company has been appointed;

(c) except for anything:

(1) apparent on an inspection of the Strata Lot and the parcel of which it forms part; or

(2) registered or recorded on the Strata Plan; or

(3) specified in the Strata Company by-laws,

the Seller does not know of anything which will materially affect the Buyer's use or enjoyment of the Strata Lot or of the common property comprised in the Strata Scheme;

(d) the Seller does not know of any proposal or application to terminate the Strata Scheme;

(e) the Seller does not know of any current, proposed or pending proceeding or application in relation to the:

(1) Strata Scheme;

(2) Strata Company; or

(3) Strata Lot,

in a court or tribunal;

(f) the Seller does not know of any judgment or order of the State Administrative Tribunal, a court, or the Strata Title Referee in respect to the:

(1) Strata Company;

(2) Strata Scheme; or

(3) Strata Lot,

which has not been satisfied or complied with;

(g) other than changes recorded on the Strata Plan, no change to the Strata Company by-laws has been:

(1) voted on by the Strata Company; or

(2) ordered by a court or tribunal;

(h) no money is owing to the Strata Company for work carried out by the Strata Company in relation to the Strata Lot;

(i) the Seller does not know of any change which:

(1) has been made; or

(2) is proposed,

to the by-laws of the Strata Company other than changes recorded on the Strata Plan;

(j) the Seller does not know of any action taken or any proposal to:

(1) vary the schedule of unit entitlement recorded on the Strata Plan;

(2) grant, vary or surrender any easement or restrictive covenant affecting the Strata Lot or any other part of the parcel;

(3) transfer, lease, licence or resume any part of the Strata Lot or the common property;

(4) take a lease of land outside the parcel;

(5) obtain, vary or surrender a lease of land outside the parcel; or

(6) obtain an expenditure approval under section 47(3) of the Strata Titles Act;

(k) the Seller does not know of any proposal by the Strata Company to pass any resolution which will:

(1) adversely affect the use and enjoyment by the Buyer of the Strata Lot or of the common property; or

(2) increase any Outgoing in respect to the Strata Lot;

(l) the information disclosed in the Strata Regulations Form 28 provided to the Buyer by or on behalf of the Seller is correct; and

(m) the Seller does not know of any fact or circumstance which may result in:

(1) proceedings in the State Administrative Tribunal; or

(2) proceedings before a court,

being instituted against the registered proprietor of the Strata Lot in respect to any matter relating to:

(3) the common property;
(4) the Strata Lot; or
(5) any action or liability arising under, or referred to in, section 33 of the Strata Titles Act.

10.3 Indemnity by Seller and right of Buyer

(a) Except for a matter in respect to which the Buyer has agreed in writing to be bound, the Seller indemnifies and agrees to indemnify the Buyer against any Loss the Buyer may suffer or incur as a result of a breach by the Seller of a representation or warranty in clause 10.2:
(1) as the registered proprietor of the Strata Lot; and
(2) which arises from a fact or circumstance which occurs before the Possession Date.
(b) The right of the Buyer to terminate the Contract under Part V of the Strata Titles Act:
(1) does not affect; and
(2) is in addition to,
every other right of the Buyer arising from the default of the Seller under the Contract.

10.4 Voting

On and from the Contract Date until the Buyer becomes registered as the proprietor of the Strata Lot:
(a) the Seller must:
(1) immediately notify the Buyer if the Seller becomes aware of any proposal for members of the Strata Company to vote on a resolution in respect to the Strata Company; and
(2) provide a copy of the proposed resolution to the Buyer;
(b) the Seller must, if required by the Buyer by Notice, vote in the manner directed by the Buyer in respect to any resolution proposed to be passed by the members of the Strata Company;
(c) if a section 47(3) Strata Notice is given to each proprietor in the Strata Scheme:
(1) the Seller must immediately give Notice to the Buyer of:
(A) the Section 47(3) Strata Notice;
(B) the date of service of the Section 47(3) Strata Notice; and attach to the Notice from the Seller a copy of the Section 47(3) Strata Notice;
(2) the Buyer may, following the service of the Notice under subclause (c)(1), serve a Notice on the Seller directing the Seller to notify the council of the Strata Company that the Seller objects to the expenditure specified in the Section 47(3) Strata Notice, and
(3) if the Buyer gives a Notice to the Seller in accordance with subclause (c)(2), the Seller must immediately notify the council of the Strata Company that the Seller objects to the expenditure specified in the Section 47(3) Strata Notice;
(d) the Seller must not, and must ensure that any mortgagee of the Strata Lot does not, without the prior approval in writing of the Buyer:
(1) propose; or
(2) vote in favour of,
any resolution of the Strata Company; and
(e) the Seller must ensure that any mortgagee of the Strata Lot does not, without the prior approval in writing of the Buyer, vote in favour of any proposed expenditure referred to in a Section 47(3) Strata Notice.

10.5 Strata company application

(a) Subject to subclause (b), the Seller authorises the Buyer and the Representative of the Buyer to make application to the Strata Company in respect to the:
(1) information;
(2) documents to be inspected; and
(3) certificates,
specified in Section 43 of the Strata Titles Act.
(b) Subject to the Strata Company requiring payment, the Buyer must pay to the Strata Company the fee prescribed by the Strata Regulations in connection with any application made in accordance with subclause (a).

10.6 Apportionment of Strata Special Contribution

(a) This clause 10.6 applies if, on or before the Settlement Date, the Strata Company has levied a Strata Special Contribution in respect to the Strata Lot.
(b) If an instalment of a Strata Special Contribution is payable in a Financial Year before the Financial Year in which the Settlement Date occurs, the Seller must pay that instalment.
(c) If:
(1) the whole of the Strata Special Contribution; or
(2) an instalment of the Strata Special Contribution, is payable in the Financial Year in which the Settlement Date occurs,
the whole of the Strata Special Contribution or that instalment of the Strata Special Contribution will be apportioned between the Seller and the Buyer as if the Strata Special Contribution is an Outgoing for the purposes of clauses 7.1 and 7.2.
(d) If any instalment of the Strata Special Contribution is payable in a Financial Year after the Financial Year in which the Settlement Date occurs, the Buyer must pay that instalment; and
(e) if after the Settlement Date and in a Financial Year in which the Settlement Date occurs, a Strata Special Contribution is levied:
(1) there will be no adjustment of that Strata Special Contribution; and
(2) the Buyer must pay the Special Strata Contribution applicable to the Strata Lot.

10.7 Property included

(a) The Property includes:
(1) the share of the Seller in the common property comprised in the Strata Plan; and
(2) the benefit of any lease, licence, right or special privilege in respect to the common property and which is granted to the proprietor of the Strata Lot and which attaches to the Strata Lot.
(b) The Property is sold subject to every lease, licence, right or special privilege granted to a third party in respect of the common property.

10.8 Interests notified

Without affecting any other provision of this clause 10, the Seller sells the Land subject to the interests registered and notifications recorded on the Strata Plan on the Contract Date.

11 Electricity/Underground Power

11.1 Land not connected to electricity supply

If before the Contract Date the Land has not been connected to the electricity supply the Buyer is responsible at the Buyer's expense for the connection of the Land to the electricity supply.

11.2 Electricity Scheme Agreement

(a) This clause 11.2 applies if, on the Contract Date:
(1) the Property has been connected to the electricity supply under the Electricity Extension Scheme; and
(2) the Seller is a party to the Electricity Scheme Agreement in relation to the Property.
(b) The Seller must, a reasonable time before the Settlement Date, arrange for Western Power to prepare and deliver to the Buyer the standard form Western Power documentation under which:
(1) the Seller is released from obligation under the Electricity Scheme Agreement; and
(2) the Buyer becomes liable for all obligations under the Electricity Scheme Agreement.
(c) The documentation specified in subclause (b) must be executed as appropriate by the Seller and the Buyer not later than 3 Business Days before the Settlement Date.
(d) The Seller must, before Settlement, pay to Western Power each:
(1) capital contribution; and
(2) electricity supply and other charge,
payable to Western Power under the Electricity Scheme Agreement up to the Settlement Date and provide evidence to the Buyer at Settlement of compliance with this subclause (d).
(e) The Seller, if entitled to a refund of part or all of the capital contributions paid under the Electricity Scheme Agreement waives absolutely all right to receive a refund of any capital contribution which may become payable by Western Power in the future.
(f) If there is any refund of any capital contribution paid to Western Power under the Electricity Scheme Agreement that refund of capital contribution belongs absolutely to the Buyer.
(g) The Seller must deliver the documentation specified in subclauses (b) and (c) to the Buyer on Settlement.
(h) Immediately following Settlement the Buyer must lodge the documentation specified in subclauses (b) and (c) with Western Power.

11.3 Cost of Electricity Scheme Agreement documentation

The Seller must pay all legal and other costs incurred in preparing the documentation specified in clause 11.2.

11.4 Underground power

If before the Contract Date an Authority has determined that underground power will be installed or, underground power has been installed:
(a) in the area within which the Land is situated; and
(b) the Land is required to be, or has been connected to the underground power supply,
clauses 11.5 and 11.6 apply.

11.5 Underground power rate payable by Buyer

If:
(a) clause 11.4 applies; and
(b) the Authority has not before the Contract Date prescribed:
(1) an Underground Power Rate; and
(2) the manner in which the Underground Power Rate must be paid, the Buyer must pay the Underground Power Rate.

11.6 Underground power rate payable by Seller

If:
(a) clause 11.4 applies, and
(b) the Authority has before the Contract Date prescribed:
(1) an Underground Power Rate; and

(2) the manner of payment of the Underground Power Rate,

the Seller must:

(3) before Settlement pay the Underground Power Rate to the Authority and provide proof of payment before or at Settlement; or

(4) on Settlement:

(A) pay the Underground Power Rate to the Buyer on the basis that the Buyer must pay the Underground Power Rate to the Authority; or

(B) secure payment of the Underground Power Rate in a manner acceptable to the Buyer.

12 Sewer/Septic Tank

12.1 Property connected

(a) If on the Contract Date:

(1) the Land is connected to a Water Corporation sewer; but

(2) any amount remains unpaid or becomes payable after Settlement for that connection (whether under a Water Corporation loan agreement or otherwise),

the Seller must pay that amount:

(3) to the Water Corporation before Settlement and provide evidence of payment to the Buyer at Settlement; or

(4) to the Buyer at Settlement.

(b) If the amount as specified in subclause (a) is paid to the Buyer at Settlement, the Buyer must pay that amount to the Water Corporation immediately following Settlement.

(c) If the amount as specified in subclause (a) is paid to the Buyer Representative at Settlement:

(1) the Buyer Representative must pay that amount to the Water Corporation immediately following Settlement; and

(2) the Buyer irrevocably authorises and directs the Buyer Representative to pay the relevant amount to the Water Corporation in accordance with subclause (c)(1).

12.2 Land not connected

If on the Contract Date:

(a) the Land is not connected to a Water Corporation sewer; and

(b) whether or not the Water Corporation has issued a notice requiring the Land to be connected to a Water Corporation sewer,

the Buyer is solely responsible for the connection of the Land to a Water Corporation sewer.

12.3 Decommissioning of Septic Tank

If on the Contract Date:

(a) there is a septic tank on the Land; and

(b) the septic tank has not been decommissioned,

the Buyer is solely responsible for decommissioning the septic tank.

13 Subdivision

13.1 When this clause applies

(a) Subject to subclause (b), this clause 13 applies only if the Land is not a Lot on the Contract Date.

(b) If the Land is a Proposed Strata Lot only clauses 13.6, 13.7, 13.8 and 13.10 apply unless the Contract is also a Future Lot Contract, in which case clause 13.9 also applies.

13.2 Contract conditional

(a) The Contract is conditional on:

(1) an application for the subdivision of the Subdivision Lot from the Original Land being lodged with the Planning Commission within 3 months after the Contract Date; and

(2) the Planning Commission granting approval for the subdivision of the Subdivision Lot from the Original Land within 6 months after the Contract Date, or any longer period as specified in:

(A) the Contract;

(B) a subsequent agreement in writing between the Parties.

(b) Subject to clause 13.5, if the Planning Commission grants approval for subdivision subject to a condition, the Planning Commission will be treated as having granted approval for subdivision for the purposes of subclause (a)(2).

(c) If a condition specified in subclause (a) is not satisfied, the Contract terminates:

(1) at midnight on the date when the relevant period in subclause (a) expires; and

(2) without the requirement for either Party to give to the other a Notice of Termination.

13.3 Further condition for subdivision

(a) The Contract is also conditional on:

(1) the Planning Commission endorsing approval on a Subdivision Plan within 12 months after approval for subdivision by the Planning Commission; and

(2) the Subdivision Plan being in Order for Dealing within 3 months after the date of endorsement of approval by the Planning Commission in accordance with subclause (a)(1).

(b) Each period specified in subclause (a) is, if applicable, extended as specified in:

(1) the Contract; or

(2) a subsequent agreement in writing between the Parties.

(c) If the conditions specified in subclause (a) are not satisfied:

(1) either Party may at any time prior to the relevant condition being satisfied, elect by Notice to the other Party to terminate the Contract; and

(2) if Notice terminating the Contract has been given under subclause (c)(1), the Contract terminates on the date of service of the Notice.

13.4 Application and Subdivision Plan

(a) The Seller must, if the Seller has not already done so, lodge an application with the Planning Commission for the subdivision of the Subdivision Lot from the Original Land, within 15 Business Days after the Contract Date.

(b) Following the lodgment of the application in accordance with subclause (a), the Seller must use reasonable endeavours to:

(1) obtain the approval of the Planning Commission to the subdivision of the Subdivision Lot from the Original Land; and

(2) subject to the approval of the Planning Commission to the subdivision, arrange for preparation of a Subdivision Plan including the Subdivision Lot, and for the Subdivision Plan to be:

(A) lodged at Landgate; and

(B) endorsed as in Order for Dealing, as soon as practicable.

(c) Following the determination of the application for subdivision by the Planning Commission, the Seller must, within 10 Business Days after:

(1) the approval of the Planning Commission for subdivision; or

(2) the refusal of the Planning Commission to grant approval for subdivision,

give Notice to the Buyer of the determination of the Planning Commission and provide a copy of the determination of the Planning Commission to the Buyer.

(d) The Seller must also on request by the Buyer:

(1) advise the Buyer of progress relating to the application to the Planning Commission for subdivision; and

(2) provide to the Buyer a copy of the determination of the Planning Commission in respect to an application for subdivision unless the Seller has already done so.

13.5 Unacceptable condition or requirement imposed by Planning Commission

(a) If the Planning Commission grants approval for the subdivision of the Lot from the Original Land subject to a condition or requirement which either the Seller or the Buyer, acting reasonably:

(1) is unwilling to comply with; or

(2) considers to be prejudicial,

the Party who:

(A) would be bound to comply with the condition or requirement; or

(B) is prejudiced by the condition or requirement,

may within 15 Business Days of being notified of the condition or requirement, elect by Notice to the other Party to terminate the Contract.

(b) If Notice terminating the Contract has been given under subclause (a), the Contract terminates on the date of service of the Notice.

(c) The reference in subclause (a) to a condition or requirement of the Planning Commission includes a condition or requirement imposed by the Planning Commission that is subject to the satisfaction of a condition or requirement of an Authority other than the Planning Commission and:

(1) subclause (a) applies to the condition or requirement imposed by the other Authority;

(2) the Seller must use reasonable endeavours to obtain the approval of the other Authority; and

(3) if the other Authority imposes a condition or requirement, the Seller must within 10 Business Days of being notified of the condition or requirement:

(A) give Notice to the Buyer of the condition or requirement of the other Authority; and

(B) provide a copy of the condition or requirement to the Buyer.

(d) The Seller must on request by the Buyer:

(1) advise the Buyer of progress relating to the satisfaction of a condition or requirement imposed by the Planning Commission or the other Authority; and

(2) provide to the Buyer a copy of the condition or requirement of the Planning Commission or the other Authority unless the Seller has already done so.

13.6 Proposed Strata Lot

If the Subdivision Lot is a Proposed Strata Lot, the Seller must use best endeavours to arrange for the Subdivision Plan, being a Strata Plan, to be registered at Landgate within the period specified or referred to in Section 70(4) of the Strata Titles Act.

13.7 Strata Lot – obligation to construct development

If the Contract includes an obligation for the Seller to construct a building or other improvement in connection with the sale of a Proposed Strata Lot to the Buyer, the Seller must as soon as practicable:

(a) undertake the construction of the building or improvement:
(1) in a proper and workmanlike manner; and
(2) in accordance with any plans or specifications which are attached to, or incorporated in, the Contract; and
(b) if on the Contract Date construction has not commenced:
(1) commence construction after the Contract Date or on any date specified in the Contract; and
(2) following commencement of construction, cause:
(A) construction to proceed; and
(B) the construction of the building or other improvement to be completed.

13.8 Issue of title – Settlement Date

(a) As soon as practicable after the Subdivision Plan is in Order for Dealing, the Seller must:
(1) apply for, and arrange for the issue of, a separate Certificate of Title for the Subdivision Lot; and
(2) notify the Buyer in writing, as soon as practicable after a separate Certificate of Title has been issued for the Subdivision Lot.
(b) Unless otherwise provided in the Contract, the Settlement Date is the date which is:
(1) 15 Business Days after the Seller notifies the Buyer that a separate Certificate of Title has issued for the Subdivision Lot; or
(2) if:
(A) the Buyer is aware that a separate Certificate of Title has been issued for the Lot; and
(B) the Buyer has notified the Seller that the Buyer is aware that a separate Certificate of Title has issued for the Lot,
15 Business Days after the Buyer has so notified the Seller.

13.9 Future Lot Contract

(a) If the Contract is a Future Lot Contract:
(1) the Contract is conditional on the Seller being entitled to become the proprietor of the Subdivision Lot or Proposed Strata Lot within the period referred to in Section 13B of the Sale of Land Act; and
(2) the Seller must comply with the Sale of Land Act including:
(A) providing the required statutory warning (Section 13C of the Sale of Land Act);
(B) using reasonable endeavours to obtain approvals and lodge plans, and giving information to the Buyer (Section 13G of the Sale of Land Act); and
(C) notifying the Buyer within 10 Business Days of the condition in clause 13.9(a)(1) being satisfied (Section 13H of the Sale of Land Act).
(b) If the Contract is terminated by the Buyer as a result of the condition in clause 13.9(a)(1) not being satisfied or under the Sale of Land Act, clause 13.10 applies.
(c) This clause 13.9 and the Sale of Land Act have priority over any other provision of the Contract to the extent of any inconsistency.

13.10 Consequences of termination of Contract

If the Contract terminates:
(a) under clause 13.2(c);
(b) under clause 13.3(c);
(c) under clause 13.5(b);
(d) as a result of the a Strata Plan not being registered at Landgate in accordance with clause 13.6; or
(e) as a result of the condition in clause 13.9(a)(1) not being satisfied or under the Sale of Land Act,
then:
(f) the Deposit and any other money paid by the Buyer under the Contract, must be promptly repaid to the Buyer;
(g) if the Deposit has been invested by the Deposit Holder in accordance with clause 1.9, the Buyer is entitled to the interest on the Deposit;
(h) if any other money has been paid to the Deposit Holder by the Buyer, and invested by the Deposit Holder with a Deposit Financial Institution, the Buyer is entitled to the interest on that other money; and
(i) subject to subclauses (f) to (h), no Party has any claim or right of action against the other arising from the termination, except in respect to any matter which arose before the termination.

14 Terms contract

14.1 When this clause applies

This clause 14 applies if the Contract is a Terms Contract but clauses 14.6 to 14.10 only apply if the Buyer is given possession of the Property before Settlement.

14.2 Right to pay Purchase Price

Subject to the Buyer giving not less than 10 Business Days prior notice in writing to the Seller, the Buyer may pay the full balance of the Purchase Price at any time earlier than the time for payment specified in the Contract.

14.3 Right to pay instalment of Purchase Price

(a) Subject to subclauses (b) and (c), the Buyer may at any time pay to the Seller part of the Purchase Price outstanding.
(b) Unless a payment in accordance with subclause (a) is the whole of the balance of the Purchase Price outstanding, any payment made in accordance with subclause (a), must be in the sum of $1,000, or a multiple of $1,000.
(c) Any payment made in accordance with subclause (a) will:
(1) be treated as payment of the last instalment or instalments of the Purchase Price due under the Contract; and
(2) not affect the obligation of the Buyer to pay the next instalment of the Purchase Price on the due date for payment.

14.4 Obligation to pay balance of Purchase Price

(a) If the Buyer fails:
(1) to pay any instalment of the Purchase Price due under the Contract, on the due date for payment; and
(2) to pay the instalment specified in subclause (a)(1), within the time specified in a Notice served on the Buyer under subclause (b),
the whole of the balance of the Purchase Price, and all other money due under the Contract, is immediately due and payable by the Buyer to the Seller.
(b) If the Buyer has failed to pay an instalment of the Purchase Price on the due date the Seller may serve Notice on the Buyer. The Notice must:
(1) specify particulars of the instalment of the Purchase Price which has not been paid on the due date; and
(2) require the Buyer to pay the instalment specified in subclause (b)(1) within the time specified in the Notice being not less than 10 Business Days after the service of the Notice.

14.5 Right to pay mortgagee

If the Land is subject to a mortgage:
(a) subject to subclause (b), the Buyer may pay any instalment of the Purchase Price due under the Contract, to the mortgagee under the mortgage, in reduction of the amount owed under the mortgage;
(b) the Buyer must give Notice to the Seller of any payment made by the Buyer in accordance with subclause (a);
(c) an amount paid by the Buyer under subclause (a) is treated as payment of the instalment of the Purchase Price next due to be paid by the Buyer under the Contract;
(d) the Seller authorises the Buyer to:
(1) obtain information from the mortgagee as to the amount owed under the mortgage; and
(2) pay any amount to the mortgagee, in reduction of the amount owing under the mortgage; and
(e) the Seller authorises the mortgagee to:
(1) provide any information requested by the Buyer; and
(2) accept any amount paid by the Buyer in reduction of the account owing under the mortgage.

14.6 Insurance

(a) The Buyer must from and including the Possession Date take out and maintain with an insurer authorised to operate under the Insurance Act in the names of:
(1) the Buyer;
(2) the Seller; and
(3) any mortgagee of the Land,
for their respective rights and interests, the insurance specified in subclause (b).
(b) The insurance required to be taken out and maintained under subclause (a) is:
(1) insurance in respect to each building and other improvement on the Land for full replacement value against damage or destruction by fire, storm, tempest, earthquake and any other risk as reasonably determined by the Seller of which Notice is given to the Buyer; and
(2) public liability insurance in respect to:
(A) the death or injury of a natural person; or
(B) damage to or destruction of property of other persons, in respect of any one incident, in the sum of $20 million or any greater amount reasonably required by the Seller.
(c) The Buyer must:
(1) provide to the Seller a copy of each policy of insurance taken out in accordance with subclauses (a) and (b);
(2) not alter or vary the insurance taken out under subclauses (a) and (b), without prior written notification to the Seller and in the event of the substitution or variation of any insurance taken out, comply with subclauses (a), (b) and (c)(1); and
(3) provide proof to the Seller that the insurance is current.
(d) If the Buyer fails to:
(1) take out insurance as required under subclauses (a) and (b); or
(2) provide proof to the Seller that the insurance is current,
the Seller may, without notice to the Buyer, and without being obliged to do so, take out and maintain the insurance required in accordance with subclauses (a) and (b).
(e) If the Seller takes out and maintains insurance in accordance with subclause (d) the Buyer must pay to the Seller on demand:
(1) all cost incurred by the Seller in taking out and maintaining the insurance; and

(2) interest, on that amount at the Prescribed Rate, from the date each cost was incurred, up to and including the date on which each cost, together with interest, is repaid to the Seller.

(f) The rights of the Seller under subclause (d) do not affect the rights of the Seller arising on default, and in particular, under clause 24.

14.7 Insurance – Strata Lot

(a) Clause 14.6 does not apply if:
(1) the Property is a Strata Lot; and
(2) the Buyer provides proof to the Seller that as at the Possession Date, the Strata Company has taken out and is maintaining insurance in respect to each risk and for the liability specified in clause 14.6(b).

(b) If subclause (a) applies, the Buyer must:
(1) if required by the Seller, immediately provide to the Seller a copy of each policy of insurance taken out by the Strata Company;
(2) if the insurance taken out by the Strata Company is altered or varied, provide to the Seller details of the altered or varied insurance immediately the Buyer becomes aware of the alteration or variation, and in particular, provide details of any substitute insurance taken out by the Strata Company; and
(3) provide proof to the Seller that the Strata Company insurance is current.

(c) The Seller may, by Notice to the Buyer, require that the Buyer take out insurance which:
(1) is additional to the insurance taken out by the Strata Company;
(2) is specified in the Notice from the Seller to the Buyer; and
(3) provides additional insurance in respect to each risk and the liability specified in clause 14.6(b).

(d) If the Seller gives notice to the Buyer under subclause (c):
(1) the Buyer must take out and maintain the additional insurance; and
(2) clause 14.6 applies to the additional insurance.

14.8 Application of insurance proceeds

(a) If, arising from an incident, money becomes payable under the insurance taken out and maintained under this clause 14, subclauses (b) and (c) will apply.

(b) The Buyer must:
(1) subject to any requirement of a mortgagee, if a mortgage is registered over the Land; and
(2) at the option of the Seller,
apply insurance proceeds arising from damage or destruction of a building or improvement on the Land in:
(A) repair, reinstatement or replacement of that building or improvement; or
(B) as a payment towards, or in full payment of the Purchase Price then outstanding.

(c) The Buyer must apply any proceeds of a claim arising from public risk insurance as required by:
(1) the Insurer; or
(2) the Seller, acting reasonably.

(d) If the Property is a Strata Lot:
(1) insurance in respect to the Property is covered by insurance taken out by the Strata Company; and
(2) arising from an incident money becomes payable under insurance taken out and maintained by the Strata Company,
the insurance proceeds must be applied as required by the Strata Company or otherwise in accordance with the Strata Titles Act.

14.9 General obligation - Property and Land

From and including the Possession Date, the Buyer must:

(a) not:
(1) demolish, alter or add to any building or improvement which forms part of the Property; or
(2) remove from or add any soil or other material to the Land,
except with the prior written approval of the Seller, which approval must not be unreasonably withheld;

(b) keep the Property in good repair, having regard to the condition of the Property at the Possession Date;

(c) promptly pay all Outgoings;

(d) comply with the requirements of all laws, and with:
(1) any lease or licence of the Land from the State; and
(2) in the case of a Strata Lot – any lease, licence or agreement, and every by-law applicable to that Strata Lot; and

(e) if the Property is, or includes, a farm or cultivated Land:
(1) maintain the farm; and
(2) cultivate that Land,
in accordance with the best practice usually followed in the district in which the Land is situated.

14.10 Default – Seller may remedy

If the Buyer is in default of an obligation under clause 14.9:

(a) subject to subclause (b), the Seller may, without:
(1) being obliged to do so; and
(2) any obligation to give any further notice to the Buyer,
remedy that default;

(b) except in the case of an emergency when this subclause (b) will not apply, the Seller may not exercise a right under subclause (a) unless:
(1) the Seller has served Notice on the Buyer:
(A) specifying the default of the Buyer; and
(B) requiring the Buyer to remedy the default within the reasonable time specified in the notice being not less than 10 Business Days after the service of the notice; and
(2) the Buyer fails to remedy the default within the time specified in the Notice;

(c) for the purpose of exercising the right of the Seller under subclause (a), the Seller may enter on the Land:
(1) at a reasonable time except in the case of an emergency when the Seller may enter at any time; and
(2) with or without contractors and other persons, to undertake any relevant or necessary work;

(d) the Buyer must pay to the Seller on demand each cost incurred by the Seller to remedy a default of the Buyer together with interest on each cost at the Prescribed Rate:
(1) from and including the date on which payment is made by the Seller; and
(2) up to but excluding the date on which the relevant amount, together with interest, is paid to the Seller; and

(e) the rights of the Seller under subclause (a):
(1) do not affect any other right of the Seller arising from the default of the Buyer; and
(2) in particular, do not affect the rights of the Seller under clause 24.

14.11 Delivery of Transfer and title

(a) Subject to subclause (b) and clause 3.10, on payment by the Buyer of all money owing to the Seller under the Contract, including any interest, the Seller must deliver to the Buyer the documentation specified in clause 3.10(a):
(1) at the time specified in the Contract; or
(2) if no time is specified, on the day which is 15 Business Days after the Seller receives payment in full of the balance of the Purchase Price and other money due under the Contract.

(b) The documentation specified in subclause (a) must be delivered to the Buyer at:
(1) the place and time agreed between the Seller and the Buyer; and
(2) if not agreed in accordance with subclause (b)(1), then:
(A) on the day which is a Business Day; and
(B) at the time between 9.00am and 5.00pm; and
(C) at the place within the Perth CBD,
specified by Notice from the Buyer to the Seller given not less than 3 Business Days before the day specified in subclause (a).

15 Error or Misdescription

15.1 Meaning of error or misdescription

An error or misdescription of the Property means an error or misdescription in the Contract relating to:

(a) a physical structure or physical feature of the Property;
(b) a boundary of the Property; or
(c) the area of the Land.

15.2 No termination or delay in Settlement

Subject to this clause 15, an error or misdescription of the Property in the Contract does not:

(a) entitle the Buyer to terminate the Contract; or
(b) result in any right for the Buyer to delay Settlement.

15.3 Claim for compensation by Buyer

If the Buyer claims:

(a) there has been an error or misdescription of the Property in the Contract; and
(b) to be entitled to compensation,

the Buyer must give to the Seller a Notice which specifies the basis of the claim and compensation required by the Buyer not later than 10 Business Days after the Possession Date.

15.4 Claim for compensation lost

If the Buyer fails to give a Notice in accordance with clause 15.3, any right of the Buyer to claim compensation arising from an error or misdescription of the Property in the Contract ceases to apply.

15.5 Determination of claim and compensation

If the Buyer serves a Notice under clause 15.3, unless otherwise agreed in writing between the Seller and the Buyer within 15 Business Days of service of the Notice, any issue between the Seller and the Buyer as to:

(a) whether there is an error or misdescription of the Property in the Contract; or
(b) the amount of compensation payable by the Seller to the Buyer,

must be determined by arbitration under clause 25.1.

16 No requisition on title for freehold land

If the Land is freehold land:

(a) the Buyer is not entitled to give a requisition or objection to the Seller in respect to:
(1) the title of the Seller in respect to the Land; or
(2) the Property; and

(b) the Seller is not obliged to provide a response to a requisition or objection by the Buyer in respect to:
(1) the title of the Seller in respect to the Land; and
(2) the Property.

17 Cost and duty

17.1 Legal and other cost

The Parties must pay their own legal and any other cost and expense in connection with:
(a) the Contract; and
(b) Settlement.

17.2 Duty

The Buyer must pay Duty on the Contract and the Transfer.

17.3 Registration fee

The Buyer must pay the registration fee on the Transfer.

17.4 Default cost

(a) A Party in default under the Contract must pay to the other Party all cost and expense incurred by the other Party arising from the default.
(b) Cost and expense specified in subclause (a) which has been determined before Settlement must be paid on Settlement.
(c) If some or all of the cost and expense specified in subclause (a) is not paid on Settlement that cost and expense must be paid, after Settlement, on demand by the Party entitled to payment.
(d) A Party may not refuse to complete Settlement because:
(1) a Party liable; or
(2) alleged to be liable,
to pay cost and expense under this clause 17.4 does not pay that cost and expense at Settlement.

18 GST

18.1 Purchase Price does not include GST

Unless otherwise stated in the Contract, the Buyer is not required to pay to the Seller any amount in addition to the Purchase Price for GST.

18.2 Margin Scheme

Unless otherwise stated in the Contract, the Seller must not apply the Margin Scheme in respect to the sale of the Property.

18.3 GST to be paid on Purchase Price

If the Contract provides that GST must be paid in addition to the Purchase Price, at Settlement:
(a) the Buyer must, in addition to the Purchase Price, pay the GST on the Purchase Price and any other consideration payable under the Contract; and
(b) the Seller must provide a Tax Invoice to the Buyer.

18.4 GST on damages

(a) If:
(1) a Successful Party becomes entitled to damages as a result of default under the Contract; and
(2) the Successful Party is liable to pay GST on the damages,
the Payment Party must pay to the Successful Party the GST payable by the Successful Party on the damages at the same time as the Payment Party must pay the damages to the Successful Party.
(b) If subclause (a) applies, the Successful Party must, on payment of the damages, provide a Tax Invoice to the Payment Party.
(c) This clause 18.4 applies whether or not GST is payable on the Purchase Price.

19 Depreciation and Capital Works Deduction

19.1 Price of Depreciating Asset in Contract

If:
(a) a Depreciating Asset forms part of the Property; and
(b) the price of that Depreciating Asset has been specified in the Contract,
the price of the Depreciating Asset as specified in the Contract is the sale price of that Depreciating Asset for the purposes of the Income Tax Act.

19.2 Price of Depreciating Asset not specified in Contract

If:
(a) a Depreciating Asset forms part of the Property; and
(b) the price of the Depreciating Asset has not been specified in the Contract,
the sale price of that Depreciating Asset for the purposes of the Income Tax Act is the adjustable value of that Depreciating Asset for the purposes of the Income Tax Act as determined at Settlement.

19.3 Capital Works Deduction

(a) If the Property includes capital works which give rise to a Capital Works Deduction the Seller must give the Buyer a written notification within 20 Business Days after Settlement specifying the information necessary to enable the Buyer to claim any remaining Capital Works Deduction.
(b) The written notification under subclause (a) must comply with Section 262A (4AJA) of the Income Tax Act.

20 Registration of Transfer

20.1 Registration

No later than 3 Business Days after Settlement, the Buyer must lodge:
(a) the Transfer; and
(b) every other document required to enable the Transfer to be registered at Landgate,
and must then use best endeavours to ensure that the Transfer is registered as soon as possible.

20.2 Seller to cooperate

(a) The Seller must immediately do everything reasonably requested by the Buyer to enable the Transfer to be accepted and registered at Landgate.
(b) The Seller's obligation in subclause (a) survives Settlement.

20.3 Landgate requisition

(a) If a requisition notice is issued by Landgate relating to the registration of:
(1) the Transfer; or
(2) any other document which is lodged for registration with the Transfer,
the Seller and the Buyer must immediately do everything reasonably necessary to satisfy the requirements of the requisition notice.
(b) If a requisition notice is issued by Landgate in respect to a document prepared by or on behalf of the Seller, the Seller must, not later than 3 Business Days before the time for payment prescribed by Landgate:
(1) pay to the Buyer the fee required by Landgate in respect to that requisition notice; or
(2) pay direct to Landgate the fee required by Landgate in respect to that requisition notice and provide a copy of the receipt for the payment issued by Landgate to the Buyer.
(c) If the requisition notice issued by Landgate relates to a document prepared by or on behalf of the Buyer, the Buyer must pay to Landgate the fee required by Landgate in respect to the requisition notice issued in respect to that document by Landgate not later than 3 Business Days before the time for payment prescribed by Landgate.

21 Notice

21.1 Requirements for Notice

A notice to be given under the Contract must be:
(a) in writing; and
(b) in the English language; and
(c) signed by the Party giving it or that Party's Representative.

21.2 Service generally

Subject to clauses 21.3 to 21.6, a Notice is treated as having been duly given to a Party if served:
(a) on a Party which is not a company
(1) by delivering the Notice to the Party personally; or
(2) by posting the Notice to the Party at the Party's address specified in the Contract; and
(b) on a Party which is a company
(1) by delivering the Notice to the company at its registered office;
(2) by posting the Notice to the company at its address specified in the Contract or at its registered office; or
(3) in accordance with Section 109X of the Corporations Act.

21.3 Service - Representative

If a Representative acts for a Party:
(a) a Notice served on that Representative in accordance with this clause 21 is treated for all purposes as if the Notice had been served on that Party; and
(b) a Notice given by that Representative in accordance with this clause 21 is treated for all purposes as if the Notice had been given by that Party.

21.4 Service by facsimile or email

(a) If a facsimile number or email address is specified in the Contract or by a Party or a Representative as the facsimile number or email address of that Party or Representative:
(1) a Notice to the relevant Party or the Representative may be transmitted by facsimile to the specified facsimile number or sent by email to the specified email address;
(2) a Notice transmitted by facsimile is treated as served:
(A) on the day on which it is transmitted but if it is transmitted after 4.00pm or on a day which is not a Business Day it is treated as having been served on the next Business Day; and
(B) when the facsimile machine which transmits the Notice prints an acknowledgment that every page comprising that Notice has been transmitted to the specified facsimile number; and

(3) a Notice sent by email is treated as served when:
(A) it is sent unless the sender receives a return email to the effect that the email was not transmitted successfully; and
(B) on the day on which it is sent but if the email is sent by the sender on a day which is not a Business Day or after 5.00 pm (addressee's time), it is treated as having been given on the next Business Day,

and the Parties consent to a Notice being given by email.

(b) If:
(1) a Party has a Representative; and
(2) the Representative or Party includes in correspondence to the other Party or the Representative of the other Party, details of the facsimile number or email address of that Party or Representative,

then:
(3) the facsimile number or email address so specified is, subject to subclause (c), treated as the facsimile or email address for that Party or the Representative of that Party; and
(4) subclause (a) applies as if that facsimile number or email address is specified in the Contract, or has been specified by a Party or the Representative of that Party as the facsimile number or email address of that Party or Representative.

(c) Subclause (b) does not apply if a Party or Representative specified in subclause (b) gives Notice to the other Party or the Representative of that other Party that the facsimile number or email address specified in the correspondence is not the facsimile number or email address of the Party or Representative.

21.5 Service when Notice posted

A Notice which has been posted is treated as served on the third Business Day after the date on which the Notice is posted.

21.6 Change of address

(a) A Party may by Notice to each other Party change:
(1) the Representative of that Party;
(2) the address of that Party; or
(3) the address of that Party's Representative;
(4) a specified facsimile number; or
(5) a specified email address.

(b) If a Notice is given under subclause (a) each subsequent Notice to the Party concerned must be served as applicable:
(1) on the new Representative of the Party, and
(2) at any new address, new specified facsimile number or new specified email address.

22 Time of Essence

Subject to clause 23, time is of the essence in relation to the Contract.

23 Default Notice

23.1 Requirement for Default Notice

Neither Party may terminate the Contract as a result of the other Party's default nor may the Seller forfeit any money paid by the Buyer or retake possession of the Property because of the default of the Buyer, unless:
(a) the Non Default Party gives a Default Notice to the Default Party; and
(b) the Default Party fails to remedy the default within the time required under the Default Notice.

23.2 No limit on right to issue further Notice

The giving of a Default Notice under clause 23.1 does not prevent the Non Default Party from giving a further Default Notice.

23.3 No Default Notice required for repudiation

Clause 23.1 does not apply if the Default Party repudiates the Contract.

24 Default

24.1 Buyer Default

If the Buyer:
(a) is in default under the Contract and has failed to comply with a Default Notice; or
(b) repudiates the Contract,

the Seller has each right in clause 24.2, in addition to any other right or remedy of the Seller.

24.2 Seller right on default or repudiation

If clause 24.1 applies, the Seller may:
(a) affirm the Contract and sue the Buyer for damages for default;
(b) affirm the Contract and sue the Buyer for:
(1) specific performance of the Contract; and
(2) damages for default in addition to or instead of specific performance;
(c) subject to clause 23.1, retake possession of the Property;
(d) subject to clause 23.1, terminate the Contract by Notice to the Buyer, but only if the Default Notice given under clause 23.1 includes a statement that if the default is not remedied within the time specified in the Default Notice, the Contract may be terminated; or
(e) if the Buyer repudiates the Contract, terminate the Contract by Notice to the Buyer.

24.3 Further Seller right on termination

If the Seller terminates the Contract under clause 24.2(d) or 24.2(e), the Seller may, subject to the further provisions of this clause 24, elect to exercise any one or more of the following:
(a) forfeit the Deposit;
(b) sue the Buyer for damages for default;
(c) resell the Property.

24.4 Deposit exceeds 10% of Purchase Price

If the Deposit exceeds 10% of the Purchase Price:
(a) the Seller may under clause 24.3 forfeit only that part of the Deposit which does not exceed 10% of the Purchase Price; and
(b) any money paid by the Buyer in excess of 10% of the Purchase Price, is to be treated as a payment of an Instalment for the purposes of this clause 24 only.

24.5 Resale

If the Seller resells the Property in accordance with clause 24.3(c), the Seller:
(a) is not required to give notice of the resale to the Buyer; and
(b) has the discretion, acting reasonably, to determine the manner of resale and the terms and conditions applicable to the resale.

24.6 Resale within 12 months

If:
(a) Settlement of the resale of the Property occurs within 12 months after the Seller terminates the Contract; and
(b) after taking into account the costs and expenses of the resale and the amount of the Deposit which has been forfeited,

the amount held by the Seller:
(c) is less than the Purchase Price, the Buyer must pay to the Seller, as liquidated damages, the difference between the amount held by the Seller and the Purchase Price; or
(d) exceeds the Purchase Price, the excess belongs to the Seller.

24.7 Terms Contract

If:
(a) the Contract is a Terms Contract; and
(b) there is a surplus in accordance with clause 24.6(d); and
(c) the Buyer had possession of the Property for more than 12 months before the termination of the Contract,

the Seller must pay the surplus to the Buyer, without interest.

24.8 Interest to Seller

Whether or not Settlement of the resale occurs within 12 months after the Seller terminates the Contract, any interest:
(a) accrued on the Deposit; or
(b) on any Instalment paid by the Buyer, belongs to the Seller.

24.9 Instalment

If the Seller:
(a) terminates the Contract; and
(b) holds an Instalment,

the Seller may hold the Instalment pending:
(c) a resale of the Property; or
(d) determination of a claim for damages.

24.10 Sale within 12 months

If the Seller:
(a) holds an Instalment in accordance with clause 24.9; and
(b) resells the Property within 12 months of termination of the Contract, the Seller may apply the whole or part of the Instalment to liquidated damages determined in accordance with clause 24.6.

24.11 Payment after 12 months

Subject to clauses 24.10 and 24.12, the Seller must pay to the Buyer, without interest, any Instalment held by the Seller after 12 months following the termination of the Contract.

24.12 Finalisation of proceedings

If:
(a) the Seller has instituted proceedings against the Buyer for damages, following termination of the Contract; and
(b) the action for damages has not been finalised within 12 months following the termination of the Contract,

the Seller may hold any Instalment pending the final determination of the action for damages against the Buyer.

24.13 Payment after finalisation

After determination of the action for damages the Seller:
(a) may apply the whole or part of the Instalment towards any judgment for damages and costs awarded by the court; but
(b) must pay any surplus, after application of the Instalment towards the judgment and costs, to the Buyer, without interest.

24.14 Seller default

If the Seller:

(a) is in default under the Contract and has failed to comply with a Default Notice; or

(b) repudiates the Contract,

the Buyer has each right in clause 24.15, in addition to any other right and remedy of the Buyer.

24.15 Buyer right on default or repudiation

If clause 24.14 applies, the Buyer may:

(a) affirm the Contract and sue the Seller for damages for default;

(b) affirm the Contract and sue the Seller for:

(1) specific performance of the Contract; or

(2) damages for default in addition to or instead of specific performance;

(c) subject to clause 23.1, terminate the Contract by Notice to the Seller, but only if the Default Notice given under clause 23.1 includes a statement that if the Default is not remedied within the time specified in the Default Notice, the Contract may be terminated; or

(d) if the Seller repudiates the Contract, terminate the Contract by Notice to the Seller.

24.16 Further Buyer right on termination

If the Buyer terminates the Contract under clause 24.15(c) or 24.15(d):

(a) the Deposit, and any other money paid by the Buyer under the Contract, must be promptly repaid to the Buyer;

(b) if the Deposit and any other money paid under the Contract by the Buyer has been paid to the Seller, the Seller must promptly repay the Deposit and, if applicable, that other money to the Buyer;

(c) if the Deposit has been invested with a Deposit Financial Institution in accordance with clause 1.9, the Buyer is entitled to the interest earned on the Deposit;

(d) if any other money paid by the Buyer under the Contract to the Deposit Holder in addition to the Deposit has been invested by the Deposit Holder with a Deposit Financial Institution, the Buyer is entitled to the interest on that other money invested; and

(e) except for any money paid to the Deposit Holder by the Buyer under the Contract, the Seller must, on demand, pay to the Buyer interest on any money paid by the Buyer under the Contract at the Prescribed Rate, calculated:

(1) from and including the date of payment by the Buyer; and

(2) up to, but excluding the date on which the money is repaid to the Buyer.

24.17 Legal cost on termination

If the Termination Party terminates the Contract as a result of:

(a) the default of; or

(b) the repudiation by,

the Terminated Party, the Terminated Party must pay to the Termination Party all legal cost incurred by the Termination Party in respect to the termination of the Contract arising from that default or that repudiation.

24.18 Rule in Bain v Fothergill excluded

The rule of law known as the rule in Bain v Fothergill, which limits the damages recoverable from a Seller incapable of making good title, does not apply to the Contract.

25 General

25.1 Arbitration

If anything in relation to the Contract is to be determined by arbitration:

(a) the arbitrator is to be a person jointly appointed by the Parties, or, if they cannot agree, by the President of the Real Estate Institute of Western Australia (Inc) at the request of either Party;

(b) the *Commercial Arbitration Act 1985* (WA) applies; and

(c) a Party may be represented by a Legal Practitioner at any arbitration proceedings.

25.2 Contract takes priority

If there is a provision in the Contract which is inconsistent with a provision of this document, the provision in the Contract takes priority to the extent necessary to remove the inconsistency.

25.3 No merger

Insofar as any obligation under the Contract remains to be complied with after Settlement, that obligation and the relevant provisions relating to that obligation survive Settlement and continue to be enforceable despite Settlement having taken place.

26 Definitions and interpretation

26.1 Definitions

In this document, unless otherwise stated:

Access Device means:

(a) each key and security device; and

(b) written details of each code for any security system which enables access to the Property.

Act means an act of Parliament.

Assessment means an assessment issued by State Revenue of the amount of Duty payable on the Contract.

Authority means any governmental, statutory or other public body or authority including a local government.

Bank Cheque means a cheque drawn on itself by a Financial Institution.

Business Day means any day except a Saturday, Sunday or public holiday in Western Australia.

Buyer means each person so specified in the Contract.

Capital Works Deduction means a deduction allowed under Division 43 of the Income Tax Act.

Certificate of Duty means the State Revenue Certificate of payment of Duty generated through Revenue Online.

Certificate of Title means the Certificate of Title held by Landgate.

Clearance Certificate means a current certificate issued by the Commissioner of Taxation under section 14-220 of Schedule 1 to the Tax Administration Act that applies to the Seller (and if the Seller consists of more than one person, to each person who comprises the Seller) in respect of the sale of the Property.

Commissioner of State Revenue means the Commissioner of State Revenue specified in section 6 of the *Taxation Administration Act 2002* (WA).

Commissioner has the meaning given in the Tax Administration Act.

Contaminated Sites Act means the *Contaminated Sites Act 2003* (WA).

Contract means the contract between the Seller and the Buyer in which this document is incorporated and includes this document.

Contract Date means the date on which the last Party to sign the Contract signs it.

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

Crown Reservation means any of:

(a) a reservation as defined in Section 3(1) of the Land Administration Act;

(b) a covenant registered in accordance with Section 15 of the Land Administration Act;

(c) a limitation, interest, encumbrance or notification recorded on a transfer of crown land in fee simple in accordance with the Land Administration Act; and

(d) a reservation or clause contained in the Crown Grant of the Land.

Default Notice means a notice which:

(a) specifies the default of a Party under the Contract;

(b) requires the Party in default to remedy the default:

(1) within 10 Business Days after the date the notice is duly given or;

(2) within any longer period specified in the Notice; or

(3) if the Contract is a Terms Contract, within the time specified in Section 6(2) of the Sale of Land Act.

Default Party means a Party who the Non Default Party contends is in default under the Contract.

Deposit means money paid or payable under the Contract, as a deposit.

Deposit Claimant means a Party who issues a Deposit Holder Notice.

Deposit Financial Institution means a Financial Institution with which, if applicable:

(a) the Seller Agent is authorised to invest trust money in accordance with the Real Estate Act;

(b) the Seller Representative, being a Legal Practitioner, is authorised to invest trust money in accordance with the Legal Practitioners Act; and

(c) the Seller Representative, being a Settlement Agent, is authorised to invest trust money in accordance with the Settlement Agents Act.

Deposit Holder means as applicable:

(a) the Seller Agent or the Seller Representative to whom the Deposit is paid; and

(b) if clause 1.3(b) or 1.4 applies the Legal Practitioner, Real Estate Agent or Settlement Agent who holds the Deposit.

Deposit Holder Notice means a Notice from the Deposit Claimant that:

(a) specifies the Contract has been terminated;

(b) states the basis on which it is contended that the Contract has been terminated;

(c) states that the Deposit Holder is required to pay the Deposit to the Deposit Claimant; and

(d) if the Deposit Respondent disputes that:

(1) the Contract has been terminated; or

(2) the Deposit should be paid to the Deposit Claimant,

states that the Deposit Respondent must give Notice to the Deposit Claimant and the Deposit Holder within 5 Business Days of service of the Deposit Holder Notice as specified in clause 1.2.

Deposit Respondent means the party who is not the Deposit Claimant.

Depreciating Asset means an asset as defined in the Income Tax Act, except for an asset which attracts a Capital Works Deduction.

Depreciable Item means an item which is subject to depreciation under the Income Tax Act.

Dollars and **$** means Australian dollars.

Duplicate Certificate of Title means the duplicate of the Certificate of Title issued by Landgate.

Dutiable Value has the same meaning as dutiable value in section 9 of the Duties Act.

Duties Act means the *Duties Act 2008* (WA).

Duty means duty payable under the Duties Act.

Duty Endorsed means an endorsement that:
(a) Duty has been paid on the Contract or the Transfer; or
(b) if applicable, the Contract and the Transfer are exempt from Duty,
and in particular has the same meaning as duty endorsed as defined in the Duties Act.

Electricity Extension Scheme means the scheme established by Western Power known as the Contributory Extension Scheme under which Western Power agreed to construct an extension to the electricity supply to supply electricity to the Property.

Electricity Scheme Agreement means:
(a) the agreement entered into with Western Power under which electricity was provided to the Property under the Electricity Extension Scheme; and
(b) includes, if applicable, the agreement between the Seller and Western Power under which the Seller assumed the obligations of a former owner of the Property under an agreement as specified in subclause (a).

Encumbrance means a mortgage, easement, restrictive covenant, Title Restriction, caveat, Memorial and Rate Encumbrance and includes any right and interest which a person has in relation to the Property.

Financial Institution means a financial institution as defined in Section 3 of the *Cheques Act 1986* (Commonwealth).

Financial Year means each period commencing on 1 July in a year and ending on 30 June in the next succeeding year.

Future Lot Contract means a 'future lot contract' as defined in the Sale of Land Act.

Future Rate Outgoing means an Outgoing:
(a) in respect to the Land; and
(b) for which, as at Settlement an assessment has not been issued by an Authority in respect to the relevant Financial Year if the Outgoing is required to be adjusted at Settlement under the Contract.

GST means the goods and services tax payable under the GST Act.

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

In Order for Dealing means that the Subdivision Plan has been initialled by an Inspector:
(a) as being in order for dealing; and
(b) in particular, as in order to enable the issue of a separate Certificate of Title for the Lot.

Income Tax Act means:
(a) the *Income Tax Assessment Act 1936* (Commonwealth); and
(b) the *Income Tax Assessment Act 1997* (Commonwealth).

Inspector means an officer of Landgate authorised to sign a Subdivision Plan as being In Order for Dealing.

Instalment means any money paid by the Buyer under the Contract in excess of the Deposit.

Instituted means, in relation to court proceedings, that:
(a) a Party has commenced proceedings in a court; and
(b) the originating process which commences those proceedings, has been served on the other Party.

Insurance Act means the *Insurance Act 1973* (Commonwealth).

Interest Amount means the amount specified in the Interest Notice.

Interest Notice means a notice from the Interest Party to the Interest Default Party in which the Interest Party claims interest or compensation from the Interest Default Party under clause 4.6.

Interest Party means a party who claims to be entitled to interest or compensation under clause 4.1 to 4.5.

Interest Default Party means the party who the Interest Party claims is liable to pay interest or compensation under clause 4.1 to 4.5.

Land means the land which the Seller has agreed to sell to the Buyer as described in the Contract including all improvements and other fixed improvements on that land.

Land Administration Act means the *Land Administration Act 1997* (WA).

Landgate means the Western Australian Land Information Authority established under the *Land Information Authority Act 2006* (WA).

Land Tax means land tax payable under the Land Tax Act and includes, if applicable, Metropolitan Region Improvement Tax.

Land Tax Act means the *Land Tax Act 2002* (WA).

Lease means a lease or tenancy agreement in respect to the Property.

Legal Practitioner means an Australian legal practitioner as defined in the Legal Profession Act.

Legal Profession Act means the *Legal Profession Act 2008* (WA).

Loss includes a claim, judgment, order, financial loss, damages and costs.

Lot has the same meaning as the definition of lot in the Planning and Development Act.

Margin Scheme means the scheme described in Division 75 of the GST Act as the margin scheme.

Memorial means a Memorial lodged under an Act.

Metropolitan Region Improvement Tax means Metropolitan Region Improvement Tax as defined in the *Metropolitan Region Improvement Tax Act 1959* (WA).

Non Default Party means a Party who contends that another Party is in default under the Contract.

Notice means a notice as specified in clause 21.1.

Original Land means the land of which the Lot forms part.

Outgoing means:
(a) all rates, taxes, charges (including fixed charges) and other similar expenses payable in relation to the Property (whether periodically or not); and
(b) if the Land or any part is a Strata Lot:
 (1) each Strata Contribution; and
 (2) any money payable periodically under a lease, licence or other agreement referred to in clause 10.7,
but does not include a tax specified in the Income Tax Act, GST and Duty.

Party means, as the case requires, either the Seller or the Buyer, or both the Seller and the Buyer.

Payment Party means the Party who is liable to pay damages or other money to the Successful Party arising from default under the Contract.

Perth CBD means the area in or adjoining the City of Perth bounded by Riverside Drive, the Mitchell Freeway, Roe Street, Fitzgerald Street, Newcastle Street, Lord Street, Wellington Street and Plain Street, including both sides of each street or road.

Planning and Development Act means the *Planning and Development Act 2005* (WA).

Planning Commission means the Western Australian Planning Commission.

Possession Date means the date that is the earlier of:
(a) the date Settlement occurs; and
(b) the date on which the Buyer is given possession of the Property.

PPSA means the *Personal Property Security Act 2009* (Commonwealth).

PPSR PPSR means the register established and maintained pursuant to the PPSA and the PPS Regs.

PPS Regs means the *Personal Property Securities Regulations 2010* (Commonwealth).

Prescribed Rate means 9% per annum calculated daily.

Property means the Land and any Property Chattels.

Property Chattels means all items of property, except the Land and anything which forms part of the Land, which the Seller has agreed to sell to the Buyer under the Contract.

Property Condition Report means a report prepared by a Real Estate Agent or other person which records the condition of the premises the subject of a Lease:
(a) as at the date of commencement of that Lease; or
(b) at any time after the commencement of the Lease.

Proposed Strata Lot means a lot on a Strata Plan which on the Contract Date has not been registered at Landgate.

Purchase Price means the price payable for Property stipulated in the Contract.

Rate Encumbrance means a charge:
(a) created over the Land by an Act; and
(b) which arises from an Unpaid Rate Outgoing.

Real Estate Act means the *Real Estate and Business Agents Act 1978* (WA).

Real Estate Agent means a person who is:
(a) defined in the Real Estate Act as a real estate agent; and
(b) is licensed as a real estate agent under the Real Estate Act.

Remediated Site means the Land has been classified under the Contaminated Sites Act as 'remediated for restricted use' or 'contaminated – restricted use'.

Remediated Site Memorial means a Memorial lodged against the Land under the Contaminated Sites Act which classifies the Land under the Contaminated Sites Act as: 'remediated for restricted use' or 'contaminated – restricted use'.

Rent means rent and other money payable by a Tenant under a Lease.

Rent Period means each period under the Lease in respect to which the is required to pay Rent.

Representative means a person who is either a Legal Practitioner or a Settlement Agent and who has been appointed to act for a party in relation to the Contract or Settlement.

Residential Tenancies Act means the *Residential Tenancies Act 1987* (WA).

Restricted Use means the restriction on the use of the Land imposed under the Contaminated Sites Act.

Revenue Online also known as ROL means the system developed by State Revenue which enables Duty to be assessed and paid electronically.

Sale of Land Act means the *Sale of Land Act 1970* (WA).

Section 47(3) Strata Notice means a notice concerning the purpose of and the amount of expenditure proposed for the Strata Company as specified in Section 47(3) of the Strata Titles Act.

Seller means each person so specified in the Contract.

Seller Agent means a Real Estate Agent appointed to act on behalf of the Seller in respect to the sale of the Property.

Settlement means the completion of the sale and purchase of the Property in accordance with clause 3.

Settlement Agent means a person licensed as a settlement agent under the Settlement Agents Act.

Settlement Agents Act means the *Settlement Agents Act 1981* (WA).

Settlement Date means the date each Party must complete Settlement:
(a) under clause 3.5; and
(b) any other relevant provision of this document or of the Contract.

Specified Encumbrance means an Encumbrance specified in the Contract as subject to which the Property will be transferred.

State means the State of Western Australia.

State Administrative Tribunal means the Tribunal known as the State Administrative Tribunal established by the *State Administrative Tribunal Act 2004* (WA).

State Revenue means the office established by the Commissioner of State Revenue and known as the Office of State Revenue.

Strata Company means the strata company as defined in the Strata Titles Act which applies in respect to the Strata Lot.

Strata Contribution means:

(a) a Strata Regular Contribution; and

(b) a Strata Special Contribution.

Strata Lot means the lot (as defined in the Strata Titles Act) the subject of the Contract.

Strata Plan means a strata plan or survey-strata plan (as defined in the Strata Titles Act) if:

(a) in the case of a Strata Lot, the strata plan or survey-strata plan has been registered at Landgate; or

(b) in the case of a Proposed Strata Lot, the strata plan or survey-strata plan has not been registered at Landgate.

Strata Regular Contribution means the normal and regular contribution levied by the Strata Company under Section 36(1)(a) of the Strata Titles Act in respect to the registered proprietor in respect of the Strata Lot in relation to:

(a) the control and management of the common property;

(b) the payment of any premiums of insurance; and

(c) the discharge of any other obligation of the Strata Company.

Strata Regulations means the Strata Titles General Regulations 1996.

Strata Scheme means the strata scheme as defined in the Strata Titles Act which applies in respect to the lots and common property which form part of the Strata Plan.

Strata Special Contribution means a contribution levied by the Strata Company under Section 36(2) of the Strata Titles Act in respect to the registered proprietor of the Strata Lot for a reserve fund for the purpose of accumulating funds to meet:

(a) contingent expenses other than those of a routine nature; and

(b) other major expenses of the Strata Company likely to arise in the future.

Strata Title Referee means the referee as specified in the Strata Titles Act before the coming into operation of:

(a) the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* (WA); and

(b) the *State Administrative Tribunal Act 2004* (WA).

Strata Titles Act means the *Strata Titles Act 1985* (WA)

Subdivision Lot means the Land which is not a Lot or a Proposed Strata Lot and which is the subject of the Contract.

Subdivision Land means the land which at the commencement of the Financial Year in which the Possession Date occurs:

(a) includes the Land; and

(b) from which, following subdivision, the Land is created as a separate Lot.

Subdivision Plan means a deposited plan which includes the Lot including if applicable, a Strata Plan which includes the Proposed Strata Lot.

Successful Party means the party who is entitled to damages or other money from another party arising from default under the Contract.

Tax Administration Act means the *Tax Administration Act 1953* (Commonwealth).

Tax Invoice includes any document or record treated by the Commissioner of Taxation for GST purposes:

(a) as a tax invoice; or

(b) as a document entitling a recipient to an input tax credit.

Tenant means a person who is a tenant under a Lease.

Tenant Bond means:

(a) money paid by the Tenant as a bond in respect to each obligation of the Tenant under a Lease; and

(b) any other security provided by the Tenant under a Lease.

Terminated Party means the Seller or the Buyer who is not the Termination Party.

Termination Party means the Seller or the Buyer who has terminated the Contract as a result of the default of the Terminated Party under the Contract or the repudiation by the Terminated Party of the Contract.

Terms Contract means a terms contract as defined in the Sale of Land Act.

Threshold Amount means the amount which is set out in section 14-215(1)(a) of Schedule 1 to the Tax Administration Act for the purposes of an excluded transaction under that section.

Title Notification means

(a) any notification under Section 70A of the Transfer of Land Act; or

(b) any notification under Section 165 of the Planning and Development Act, and which applies in respect to the Land.

Title Restriction means a Crown Reservation and a Title Notification.

Transaction Summary means the summary generated through Revenue Online which specifies:

(a) the date the Contract was lodged on Revenue Online;

(b) the Dutiable Value;

(c) the date of assessment, and

(d) the Duty assessed.

Transfer means the instrument required to transfer the Land to the Buyer in a form acceptable for registration by Landgate, subject to signing by all Parties.

Transfer of Land Act means the *Transfer of Land Act 1893* (WA).

Underground Power Rate means the charge, rate or other payment required from the owner of the Property by an Authority in relation to the provision of underground power.

Unpaid Rate Outgoing means an Outgoing in respect to the Land which, as at Settlement, is:

(a) the subject of an assessment by an Authority; and

(b) unpaid,

and is required to be adjusted under the Contract in relation to the Financial Year in which Settlement takes place.

Variation Notice means a written notice issued by the Commissioner under section 14-235 of the Tax Administration Act to vary the amount otherwise payable by the Buyer under section 14-200 of the Tax Administration Act.

Water Corporation means the statutory body corporate established under the *Water Corporation Act 1995* (WA).

Western Power means the statutory body corporate known as Western Power established under the *Electricity Corporation Act 1994* (WA).

Withholding Amount means the amount which the Buyer is required by section 14-200 of Schedule 1 to the Tax Administration Act to pay to the Commissioner in respect of the purchase of the Property.

26.2 Strata Titles Act

Words which:

(a) are not defined in clause 26.1; but

(b) are defined in the Strata Titles Act;

have the meaning given in the Strata Titles Act.

26.3 GST Act

Words which:

(a) are not defined in clause 26.1; but

(b) are defined in the GST Act,

have the meaning given in the GST Act.

26.4 PPSA

Words which:

(a) are not defined in clause 26.1; but

(b) are defined in the PPSA,

have the meaning given in the PPSA.

26.5 Citation – 2018 General Conditions

This Joint Form of General Conditions for the Sale of Land 2018 Revision may be cited as the '2018 General Conditions'.

26.6 Interpretation

In this document and the Contract, unless the context otherwise requires:

(a) the Seller and the Buyer must:

  (1) comply with their respective obligations under the Contract; and

  (2) not assign or transfer the Contract or any right under the Contract to a third party without the prior written consent of the other;

(b) subject to subclause (a), each reference to the Seller and the Buyer includes as applicable:

  (1) the successors of a company or corporation; and

  (2) each legal personal representative of the Seller and the Buyer;

(c) reference to an Authority includes a reference to:

  (1) an officer of that Authority; and

  (2) any other Authority and any officer of that other Authority which performs the same or a similar function to the Authority;

(d) reference to a thing includes the whole and any part of that thing;

(e) reference to the singular includes the plural and vice versa;

(f) headings to clauses do not affect the interpretation of the Contract or this document;

(g) if the Buyer or the Seller and any other person who is a Party consists of more than one person, then each of the two or more persons are liable both jointly and severally;

(h) reference to a person includes reference to:

  (1) a natural person;

  (2) a company; and

  (3) a body corporate constituted under any Act;

(i) if something must be done by or on a day which is not a Business Day, the day by or on which that thing must be done is the next Business Day;

(j) if a period of time is required to be calculated from or after a specific day, or from or after a day on which a specific event occurs, that day must not be included in the period;

(k) if a period of time is expressed to expire on or continue until a specified date, that date is included in the period;

(l) all warranties and representations continue to have effect after Settlement;

(m) reference to being entitled to possession of the Property includes being entitled to Rent from the Property;

(n) reference to a document being signed or to a Party being obliged to sign a document, is treated as requiring that the document be:

  (1) executed by a company or body corporate; or

  (2) signed by a natural person.

in a manner which is:

(3) legally effective (including under the *Electronic Transactions Act 2011* (WA)); and

(4) if the document is required to be registered by Landgate, then in a manner acceptable for registration;

(o) reference to an Act includes:

(1) any change to that Act or, if the Act is repealed, the Act replacing it; and

(2) all subsidiary legislation under that Act;

(p) reference to a clause is a reference to a clause in this document; and

(q) reference to a subclause is a reference to a subclause in the clause in which the reference occurs.

ANNEXURE D – AMENDMENTS TO GENERAL CONDITIONS, CHANGES TO STRATA ACT

REIWA REAL ESTATE INSTITUTE OF WESTERN AUSTRALIA The Law Society OF WESTERN AUSTRALIA

ANNEXURE OF CHANGES TO THE 2018 GENERAL CONDITIONS CAUSED BY CHANGES TO THE STRATA TITLES ACT

THE PARTIES AGREE TO VARY THE 2018 GENERAL CONDITIONS IN THE FOLLOWING MANNER:

	CONDITION	CHANGES
1	I.3(a), 10.2(c), 10.2(d), 10.2(e), 10.2(f), 10.4(c)	Delete the words "Strata Scheme" and replace with "Strata Titles Scheme"
2	I.3(a), 1.3(b), 10.2(c)(2), 10.2(g), 10.2(i), 10.2(j), 10.7(a), 10.8, 13.6, 13.I0(d) and in the definitions of **"Strata Scheme"** and **"Subdivision Plan"** in condition 26.1	Delete the words "Strata Plan" and replace with "Scheme Plan"
3	10.2(j)(6)	Replace "47(3)" with "102(6)(b)"
4	10.2(1)	Replace "disclosed in the Strata Regulations Form 28" with "referred to in Section 156 of the Strata Titles Act and"
5	10.2(m)(5)	Replace "33" with "103"
6	10.3(b)	Replace "V" with "10"
7	10.4(c), 10.4(c)(I)(A), 10.4(c)(I)(B), 10.4(c)(2), 10.4(c)(3), 10.4(e)	Replace "47(3)" with "102(6)(b)"
8	10.5	Replace "43" with "107"
9	10.6 (a), 10.6(b), 10.6(c), 10.6(d) and 10.6(e)	Replace all instances of the words "Strata Special" with the words "Reserve Fund"
10	13.6	Replace "70(4)" with "163(3)(b)"
11	26.1 **Proposed Strata Lot**	Replace the words after **"Proposed Strata Lot"** with "means a Lot shown on a Scheme Plan which on the Contract Date has not been registered at Landgate, the subject of the Contract."
12	26.1 **Section 47(3) Strata Notice**	Replace **"47(3)"** with " **102(6)(b)**" and in the last line replace "47(3)" with "102(6)(b)"
13	26.1 **Strata Contribution**	Replace "(a) a Strata Regular Contribution; and (b) a Strata Special Contribution." with "(a) an Administrative Fund Contribution; and (b) a Reserve Fund Contribution."
14	26.1 **Strata Lot**	Replace "(as defined in the Strata Titles Act)" with "shown on a Scheme Plan"
15	26.1 **Strata Plan**	Change the words to **"Scheme Plan"** and delete the first 3 lines and replace with "means a strata plan or a survey- strata plan (as those terms are defined in the Strata Titles Act) if:"

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REIWA REAL ESTATE INSTITUTE OF WESTERN AUSTRALIA

The Law Society OF WESTERN AUSTRALIA

ANNEXURE OF CHANGES TO THE 2018 GENERAL CONDITIONS CAUSED BY CHANGES TO THE STRATA TITLES ACT

16	**26.1 Strata Regular Contribution**	"Strata "Strata Regular" replace with" Administrative Fund" and replace "36(1)(a)" with "100(1)"
17	**26.1 Strata Regulations**	Replace "Strata Titles General Regulations 1996" with "Strata Titles (General) Regulations 2019."
18	**26.1 Strata Scheme**	Replace the first line to be "Strata Titles Scheme means the strata titles scheme as"
19	**26.1 Strata Special Contribution**	Replace "Strata Special" with "Reserve Fund" and replace "36(2)" with "100(2)"

BUYER SIGNATURE

SELLER SIGNATURE

BUYER SIGNATURE

SELLER SIGNATURE

BUYER SIGNATURE

SELLER SIGNATURE

BUYER SIGNATURE

SELLER SIGNATURE

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ANNEXURE E – COVID 19 ANNEXURE

COVID-19

ANNEXURE E

This annexure forms part of the Contract for the Sale of Land or Strata Title for the Property at

Cluster 4D Witchcliffe Ecovillage

Annexure

1. The Seller and Buyer agree that, if prior to the Settlement Date, either party (including that party's company directors or secretary where the context permits):

   1.1 contracts or suffers the Covid-19 Virus;

   1.2 is placed in Quarantine or directed to Quarantine by an Authority;

   1.3 is placed in Self-Isolation or directed to Self-Isolate by an Authority;

   1.4 needs to care for an immediate member of their household or family who is directly affected by special conditions 1.1 to 1.3 above; or

   1.5 (in the case of the Seller) needs to remain on the Property for any reason related to special conditions 1.1 to 1.4 above;

(collectively and each being a "**Covid-19 Event**") and such Covid-19 Event impacts the Seller's or the Buyer's ability to settle under this Contract by the Settlement Date, then that party may, subject to compliance with the terms of special condition 2, extend the Settlement Date by a reasonable period equal to the delay caused (or expected to be caused) by the Covid-19 Event, but being not more than ten (10) Business Days, upon giving written notice to the other party.

2. The rights of the Seller and Buyer to extend the Settlement Date in accordance with special condition 1 are subject to the following conditions:

   2.1 the affected party must notify the other party by notice in writing as soon as reasonably practicable upon becoming aware of the Covid-19 Event, and in any event before the Settlement Date;

   2.2 the affected party must provide reasonable evidence of the Covid-19 Event to the other party.

Time Extensions

3. The Seller and Buyer agree that for so long as the Covid-19 Virus has known cases in West Australia, then any time/period set out in the 2018 General Conditions is doubled in length.

Defined Terms

4. In these Special Conditions:

   4.1 "**Covid-19 Virus**" means the strain of virus more fully described as coronavirus disease 2019 as declared by the World Health Organisation.

   4.2 "**Quarantine**" means the isolation of an individual from other members of the public due to or related to the restriction on the movement of people in order to stop or prevent the spread of Covid-19 Virus.

   4.3 "**Self-Isolate**" or "**Self-Isolation**" means the isolation of an individual from other members of the public due to:

      a) having a confirmed case of Covid-19 Virus;

      b) being in close contact with a person with a confirmed case of Covid-19 Virus; or

      c) arriving in Australia after midnight on 15 March 2020.

BUYER SIGNATURE	SELLER SIGNATURE
BUYER SIGNATURE	SELLER SIGNATURE
BUYER SIGNATURE	SELLER SIGNATURE
BUYER SIGNATURE	SELLER SIGNATURE

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