

LGN:33

18 July 2011

Ms Barbara Stone
Chair
Legal Affairs, Police, Corrective Services and
Emergency Services Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Ms Stone,

Inquiry into bills – call for submissions

We refer to your letter dated 4 July 2011 inviting the Real Estate Institute of Queensland Limited (the REIQ) to comment on the four bills which have been referred to the Emergency Services Committee.

General comments

The REIQ supports the split of the *Property Agents and Motor Dealers Act 2000* (PAMDA) into four separate Acts, as recommended by the Service Delivery and Performance Commission. The REIQ has long voiced its support for separate legislation governing the conduct of real estate agents.

The implementation of the National Occupational Licensing System (NOLS) for property agents is expected to commence on 1 July 2012. Meanwhile, the Ministerial Council on Consumer Affairs has established a working group to undertake harmonisation of conduct requirements in key areas relating to property agents. The split of PAMDA will complement the introduction of NOLS and the conduct harmonisation process and enable the transition to these models to be facilitated more easily.

Issues and matters for consideration

Whilst the REIQ welcomes this much needed reform and would like to see the PAMDA split effected as soon as practicable, there are some issues relating to the bills we would like to draw to your attention.

On 22 September 2010, Mr Dan Molloy, Chief Executive Officer, wrote to Mr Chris Irons, Director Fair Trading Policy, Department of Employment, Economic Development in relation to the PAMDA split (22 September letter).

Rather than reiterating the matters outlined in the 22 September letter, we have attached a copy of that correspondence to this letter.

T 07 3249 7347
F 07 3249 6211

21 Turbo Drive, Coorparoo
PO Box 1555, Coorparoo DC Qld 4151

ABN 49 009 661 287

The REIQ remains concerned about the issues and matters raised in the 22 September letter.

In respect of the matter under the heading 'Chattels Auctioneers' we are pleased to note an amendment has been made to the *Property Agents Bill 2010* which effectively permits a property agent licence holder to conduct the sale of chattels by way of auction if the sale is directly connected with a sale by auction of a place of residence or land performed by the property agent.

Commencement of Bills

It would be extremely beneficial to our organisation and the real estate profession generally, if the date proclaimed for the commencement of the *Property Agents Bill 2010* (PAB) was made known with sufficient time for the necessary transition to be effected. We consider that a notice period of at least two months is required to enable us to educate the profession, amend documentation and attend to other preparatory matters.

Form 30c

The PAB will also require a new version of the Form 30c to be adopted. Again, it would be of great assistance to the real estate profession if a transitional period of at least one month was provided in relation to the new version of the Form 30c. In this transitional period, the current Form 30c should be allowed to continue to be used. This is consistent with the transition period which was implemented in relation to the new version of the BCCM Form 14 *under the Body Corporate and Community Management Act 1997*.

Conclusion

We look forward to further communication about the progress and outcome of this inquiry.

We appreciate the opportunity to comment on this important matter.

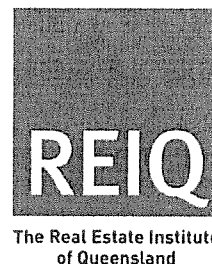
If you wish to discuss any aspect of this letter, please contact Ms Antonia Mercorella, Executive Manager Policy and Legal on (07) 3249 7325 or via email: execpolicy@reiq.com.au.

Yours faithfully,



Ian Murray
ACTING CHIEF EXECUTIVE OFFICER

Encl. Letter from Mr Dan Molloy to Mr Chris Irons dated September 2010.



LGN 33

22 September 2010

Mr Chris Irons
Director Fair Trading Policy
Department of Employment, Economic Development and Innovation
Level 1 Executive Annexe 100 George St Brisbane
PO Box 15168
CITY EAST QLD 4002

Email: [REDACTED]

cc [REDACTED]

Dear Sir

Split of Property Agents and Motor Dealers Act ("PAMDA")

The REIQ welcomes the implementation of the Service Delivery and Performance Commission's (SDPC) recommendation to split the legislation. This is a much needed reform and its timing will provide a much better foundation for the introduction of the national licensing framework in 2012 and the subsequent conduct harmonisation process.

This submission represents the REIQ's views on issues that we believe can be considered as part of the process of splitting the legislation. Previous submissions on a number of these points were provided to the SDPC and you have advised that you are aware of those. Consequently, synopses of those submissions are included in this letter.

In this response, references to sections are to the Property Agents Bill 2010 ("the Bill") unless otherwise indicated.

Licensing Issues

Auctioneering

The Bill provides for an unrestricted property agent licence to allow the conduct of auctions, and requires even those who do not wish to conduct auctions to study the unit of competency CPPDSM4004A Conduct Auction. While the REIQ supports the proposed licensing structure under the Property Agents Bill 2010, and does not oppose the grouping of property agents and property auctioneers under the same licence category, we have some concerns relating to the requirement for all property agent licence applicants to undertake the unit of competency CPPDSM4004A Conduct Auction.

The high level of presentation skills required to be demonstrated as part of this unit are not easily achievable nor necessary for all individuals who wish to operate as a property agent. The skill set required to conduct an auction is specialised, and therefore precludes some individuals from successfully being assessed as competent in this unit.

The REIQ proposes that the scope of work under the general property agent licence specifically excludes the conduct of auctions. Further, we propose that the authority to conduct auctions be treated as an endorsement to the property agent licence. This would mean that, in accordance with the intention of the Bill, those individuals who seek to conduct auctions would be required to hold a property agent licence, with an endorsement for conducting auctions. This, in effect, means that individuals wishing to conduct auctions would undertake the 19 units of competency in order to obtain their property agent licence, plus the unit of competency CPPDSM4004A Conduct Auction.

Chattels Auctioneers

We note that the licensing of chattels auctioneers has been included in the Motor Dealers and Chattels Auctioneers Bill. A significant number of real estate agents are also licensed auctioneers who will now be subject to regulation by two pieces of legislation and will be required to hold a separate licence.

Independent Contractors

The new legislation should provide clarity that independent contractor arrangements can only apply to licensed persons. There has been considerable attention in recent times relating to the employment arrangements within the industry for salespeople. The issue of independent contractors gained some prominence in 2004 when the OFT increased its compliance activities with respect to unlicensed contractors, i.e. those holding only a certificate of registration.

The provisions of the Bill relating to employment, supervision, accountability and control may not have been drafted with the current environment in mind.

Transactional Issues

Documentation

The Institute has long voiced its concerns regarding the inappropriate design of documentation required by real estate agents in the residential sector to both comply with the legislation yet meet practical industry needs. Forms currently approved for use under PAMDA do not meet the needs of industry to document additional information and agreements that may be entered into, and are directed primarily towards residential transactions. They have generally proved unsuitable for use in commercial, rural or business transactions.

It is appropriate that Government should prescribe what information is to be provided to consumers and at what point in the transaction cycle it is to be made available. Industry should be left to design documentation that ensures compliance with the legislative standards.

The approved forms of appointment for licensees only deal with the requirements under the relevant sections of the Act. The legislation imposes further obligations on practitioners through the Code of Conduct regulations for each licensee group. Using the Property Agents and Motor Dealers (Real Estate Agency Practice Code of Conduct) Regulation 2001 ("the Code") as an example, real estate agents have obligations to meet prior to accepting an appointment from a client including:

- Explaining issues about conjunctions policy
- Verifying ownership
- Verifying material facts
- Dealing with offers and expressions of interest

In order to assist agents comply with these requirements additional documentation is required. The REIQ has developed a number of annexures for the various approved forms to deal with these obligations. This has resulted in documents extending to up to ten pages for a typical appointment.

The ability to achieve some flexibility and economy in the documents is hamstrung because of the overly prescriptive requirements of PAMDA which are reflected in the Bill. Consumers (clients) find the process cumbersome, while agents using just the approved form are at risk of being unable to demonstrate compliance with the Code.

Cooling-off periods

Residential properties being sold at public auction should be exempt from cooling-off periods if sold by any means to a registered bidder at least on the day of the auction and preferably up to two business days after the auction.

As exists with PAMDA, the Bill allows a five business day cooling-off period for all residential sales except those sold "under the hammer" at auction. A successful bidder at an auction is not entitled to a cooling-off period but that same bidder is entitled to a cooling-off period if they are the highest bidder, the property on which they have been bidding is passed in, and they enter a contract to purchase following the auction.

There is no advantage to anyone in granting a cooling-off period to a buyer who was a registered bidder at the auction or is prepared to sign the auction document on the day of the auction.

Representations on Price

Sections 235-238 of the Bill should be simplified to provide certainty to property agents and consumers. Sections 235-238 of the Bill refer to the requirements and actions of property agents with respect to disclosing information when a property is auctioned. The Bill does not define what constitutes an auction or when the auction actually begins.

Prior to the auction, property agents are prevented from advising whether the property is to be offered subject to a reserve price. This cannot be logically or credibly explained by property agents to either buyers or sellers.

Clearly, an agent or auctioneer should not discuss the likely reserve price or the price at which the agent or auctioneer considers the property will sell at the auction.

The penalty provisions in these sections carry a maximum penalty of 540 penalty units (\$54,000). As identified by the SDPC, there is no more compelling example of where penalties outweigh any possible benefit to consumer protection.

Continuing Appointments

Section 74(4) of the Bill deals with the termination of continuing appointments. An end date for an appointment dealing with the sale of land or an interest in land is appropriate. Given that other continuing appointments are subject to the provisions of section 74(4)(b) by giving of 90 days notice or some lesser period not less than 30 days, there seems no need for an end date to be mandated.

With respect to section 74(4)(b), REIQ members report problems with this provision particularly where there is mutual agreement between an agent and client to terminate a relationship immediately. The minimum agreed period of 30 days should be removed.

Conjunctions

The Bill should provide certainty that a separate appointment of a conjunctive agency is not required.

In 2008 a view was held by some within Fair Trading that a conjunctive agent may require a direct appointment from the client pursuant to PAMDA. The REIQ sought legal advice in relation to this issue and formed a view that a conjunctive agent does not require a separate appointment from the client. The REIQ believes that the arrangement involving conjunctive agency is one between the primary (listing) agent and the conjunctive agent.

There is provision in PAMDA that an appointment of an agent that authorises a sale by auction does not require a separate appointment of an auctioneer under section 210. This could easily be adapted.

Trust Accounts

The REIQ submits that the requirements relating to special trust accounts be revised so that funds may be transferred from a general trust account and invested directly into the appropriate investment facility.

Section 13 of the Agents Financial Administration Bill 2010 ("AFAB") deals with the investment of funds in special trust accounts. This typically occurs when a substantial deposit is held on a sale that is to complete more than sixty days hence.

The licensee must pay the amount as required by the direction to a special trust account with a branch of a financial institution within the State operated for the investment of the amount. This requires a substantial investment in time and resources to have these accounts setup. Audit costs

to the agency are increased, with no scope for the agent to recover these increased burdens of conducting business.

The provisions in AFAB around the release of the deposit after the completion of a transaction are often the subject of dispute between agents and lawyers. Section 18(2)(b) states that when the transaction is finalised, a licensee may draw an amount from the transaction fund that is equal to the difference between the balance of the transaction fund and the total of the licensee's transaction fee and any outstanding transaction expense. That amount may then be paid to the person entitled to the amount or in accordance with the person's written direction.

In most transactions that person is the client seller. However, many agents are often instructed by buyers' lawyers not to release funds. This causes stress for agents and clients. Many agents adopt the practice of seeking confirmation as to the completion of a transaction from both parties.

This can further complicate the matter as there is often a need to devote time and energy to obtaining advice from either party to a sale. This has become more prevalent in the era of 'cut price' conveyancing.

REIQ recommends that the notices required under section 18(2) of AFAB be clarified.

Please contact the writer for further information or clarification on 3249 7322 or via email ceo@reiq.com.au

Yours faithfully

A handwritten signature in black ink, appearing to read 'Dan Molloy', with a large, stylized flourish at the end.

Dan Molloy
MANAGING DIRECTOR AND
CHIEF EXECUTIVE OFFICER

LGN.33

19 August 2011

Ms Barbara Stone MP
Chair, Legal Affairs, Police, Corrective
Services and Emergency Services Committee
Parliament House
George Street
BRISBANE QLD 4000

By email: lapcsesc@parliament.qld.gov.au
cc: Gail.Easton@parliament.qld.gov.au

Dear Ms Stone,

Inquiry into the *Property Agents Bill; Motor Dealers and Chattel Auctioneers Bill; Commercial Agents Bill; and Agents Financial Administration Bill* ("the Bills")

We refer to the public hearing relating to the inquiry by the Legal Affairs, Police, Corrective Services and Emergency Services Committee ("the Committee") into the Bills, held on 3 August 2011.

As you are aware, the writer was invited to attend the public hearing as a witness on behalf of The Real Estate Institute of Queensland Limited ("REIQ").

At the public hearing, considerable discussion was devoted to the current legislative requirement to attach the PAMD Form 30c Warning Statement to a proposed relevant contract (s368A(2)(a) of the *Property Agents and Motor Dealers Act 2000* ("PAMDA")). In connection with this matter, Mr Jarrod Bleijie MP, Member for Kawana, requested that the REIQ provide the Committee with a 'mock up' REIQ standard residential contract incorporating the PAMD Form 30c Warning Statement into the body of the contract itself.

We are pleased to provide a copy of the REIQ standard Houses and Residential Land Contract ("standard residential contract") incorporating a revised version of the existing PAMD Form 30c Warning Statement.

We draw your attention to the following matters in respect of the revised warning statement contained in the REIQ standard residential contract:

T 07 3249 7347

F 07 3249 6211

21 Turbo Drive, Coorparoo
PO Box 1555, Coorparoo DC Qld 4151

ABN 49 009 661 287


- The warning statement, although different in format and content to the existing PAMD Form 30c, satisfies the legislative criteria set out in section s368A(2)(a) of PAMDA and in the proposed section 168(1) of the *Property Agents Bill 2010* ("the Bill");
- The warning statement makes reference to the Bill as though it were legislation passed in 2011 and makes reference to the current sections in the Bill;
- The legislative requirement to direct a buyer's attention to the warning statement (as required under section 368(2)(c) (i) of PAMDA) has been effectively satisfied by way of the direction contained in the opening statement in the warning statement.

We would welcome an opportunity to discuss the attached documentation in further detail.

If you wish to discuss any aspect of the above matter, please contact Ms Antonia Mercorella, Executive Manager Policy and Legal on (07) 3249 7325 or on email: execpolicy@reiq.com.au.

We look forward to further advice on the outcome of your inquiry and the progress of the Bills.

Yours faithfully,



Dan Molloy
MANAGING DIRECTOR AND
CHIEF EXECUTIVE OFFICER



Contract

For Houses and Residential Land

Ninth Edition

Warning statement to Buyer

Section 168(1) of the *Property Agents Act 2011*

Before you sign this proposed contract, your attention is drawn to the following matters:

DO NOT sign this proposed contract until you have read and understood this Warning Statement. DO NOT sign if you feel pressured.

Cooling-off rights

This proposed contract is subject to a five (5) business day cooling-off period. The cooling-off period starts on the day you receive a copy of the completed "relevant contract" from the seller or seller's agent. This proposed contract becomes a "relevant contract" when you and the seller have both signed it.

If you receive a copy of the relevant contract on a day other than a "business day", the cooling-off period commences on the first business day after you receive a copy of it. A "business day" is a day other than a Saturday, Sunday or public holiday. Your cooling-off period ends at 5.00pm on the fifth "business day" after the cooling-off period started.

Termination during the cooling off period

You may terminate this contract during the cooling-off period. However, the seller may deduct a termination penalty of up to 0.25% of the purchase price from the deposit.

Independent legal advice and valuation of property

Before your cooling off rights expire it is recommended that you obtain:

- independent legal advice about this contract
- an independent valuation about the property that is the subject of this contract.

Claim fund and property developers

A claim fund exists which, in some cases, enables buyers to make a claim if they suffer financial loss because a real estate agent commits an offence. If you suffer loss while buying a property from a property developer you cannot make a claim for loss against the claim fund.

For further information about buying a property and your rights and obligations go to: www.fairtrading.qld.gov.au/buy-home.htm or call 13 74 68.

Buyer's acknowledgment

I/we acknowledge that I/we have read all sections of this Warning Statement BEFORE I/we signed this proposed relevant contract. I/we understand that signing this Warning Statement negates any termination right I/we may have had under section 175 of the *Property Agents Act 2011*.

Name

Name

Signature

Date / /
D D M M Y Y Y Y

Signature

Date / /
D D M M Y Y Y Y

The Seller and Buyer agree to sell and buy the Property under this contract

Reference Schedule

Contract Date :

Agent :

ABN:

Licence Number:

Address:

Telephone:

Facsimile:

Mobile:

Email:

Parties

Seller :

ABN:

Email:

Address:

Telephone:

Facsimile:

Mobile:

Seller's Solicitor :

[or any other solicitor notified to the Buyer]

ABN:

Ref:

Address:

Telephone:

Facsimile:

Mobile:

Email:

Buyer :

ABN:

Email:

Address:

Telephone:

Facsimile:

Mobile:

Buyer's Solicitor :

[or any other solicitor notified to the Seller]

ABN:

Ref:

Address:

Telephone:

Facsimile:

Mobile:

Email:

Property

Land: Address:

Built on

Description: Lot:

on:

County:

Parish:

Title Reference:

Area:

[more or less]

Land sold as: *Freehold*

Present Use :

Local Government :

Property - Excluded Fixtures :
Continued

Included Chattels :

Matters Affecting Property

Title Encumbrances :

[If the Property is sold free from Title Encumbrances insert "Nil"]
[If the Property is sold subject to Title Encumbrances, they must be described]

Tenancies :

Tenant's Name:
Term and Options:
Starting Date of Term:
Ending Date of Term:
Rent:

Bond:

[NOTE TO SELLER: You should disclose details of any unsatisfied judgment, order or writ affecting the Property (clause 7.4(1)(d)) and any current or threatened claims, notices or proceedings that may lead to a judgment, order or writ affecting the Property (clause 7.4(2)). Notices, applications and orders under the *Neighbourhood Disputes Resolution Act 2011* should be included.]

Managing Agent :

Address:
Telephone:
Mobile:
Email:

Facsimile:

Exceptions to statements in clauses 7.4(1)(d) and 7.4(2).

Annexe details of disclosure (if any)

Price

Deposit Holder :

[Unless otherwise specified in this contract, the Purchase Price includes any GST payable on the supply of the Property to the Buyer]

Purchase Price : \$

Deposit : \$
\$

Initial Deposit payable when Buyer signs this contract
Balance Deposit (if any) payable on:

Default Interest Rate :

% [If no figure is inserted, the Contract Rate published by the Queensland Law Society Inc will apply]

Finance

Finance Amount : \$

[Unless all of "Finance Amount", "Financier" and "Finance Date" are completed, this contract is not subject to finance and clause 3 does not apply]

Financier :

Finance Date :

Building and/or Pest Inspection Date

Inspection Date :

[If not completed, the contract is not subject to an inspection report and clause 4 does not apply]

Pool Safety

Q1. Is there a pool on the Land or on adjacent land used in association with the Land?

- Yes
- No Clause 4.7 of this contract does not apply

Q2. If the answer to Q1 is Yes, is there a Pool Safety Certificate for the pool at the time of contract?

- Yes Clause 5.3(1)(e) applies
- No Clause 4.7 applies (except where this contract is formed on a sale by auction)

If there is a pool on the Land and Q 2 is not completed then clause 4.7 applies.

Q3. If the answer to Q2 is No, has a Notice of no pool safety certificate been given prior to contract?

- Yes
- No

Note: this is an obligation of the Seller under Section 16 of the Building Regulation 2006

Pool Safety Inspection Date :

[WARNING TO SELLER: Failure to comply with the Pool Safety Requirements is an offence with substantial penalties.]

[WARNING TO BUYER; If the Buyer does not receive a Pool Safety Certificate at settlement, the Buyer becomes responsible at its cost to obtain a Pool Safety Certificate within 90 days after settlement. The Buyer can also become liable to pay any costs of rectification necessary to comply with the Pool Safety Requirements to obtain a pool safety certificate. The Buyer commits an offence and can be liable to substantial penalties if the Buyer fails to comply with this requirement.]

[Clause 4.7(2) applies except where this contract is formed on a sale by auction]

Electrical Safety Switch and Smoke Alarm

This section must be completed unless the Land is vacant

The Seller gives notice to the Buyer that an Approved Safety Switch for the General Purpose Socket Outlets is:

- *installed in the residence
 - *not installed in the residence
- * Mark whichever is applicable*

The Seller gives notice to the Buyer that a Compliant Smoke Alarm(s) is/are:

- *installed in the residence
 - *not installed in the residence
- * Mark whichever is applicable*

[WARNING: By giving false or misleading information in this section, the Seller may incur a penalty. The Seller should seek expert and qualified advice about completing this section and not rely on the Seller's Agent to complete this section]

[WARNING: Failure to install a Compliant Smoke Alarm is an offence under the Fire and Rescue Service Act 1990]

Special Conditions

Settlement

Settlement Date :

[or the next Business Day if that is not a Business Day in the Place for Settlement]

Place for Settlement :

[If Brisbane is inserted this is a reference to Brisbane CBD]

Signing

.....
Seller

.....
Witness

.....
Buyer

.....
Witness

.....
Deposit Holder

[Who acknowledges having received the Initial Deposit and agrees to hold that amount and any Balance Deposit when received as Deposit Holder for the parties as provided in the Contract]

Terms of Contract

For Houses and Residential Land

1. Definitions

1.1 In this contract:

- (1) terms in **bold** in the Reference Schedule have the meanings shown opposite them; and
- (2) unless the context otherwise indicates:
 - (a) **“Approved Safety Switch”** means a residual current device as defined in the *Electrical Safety Regulation 2002*;
 - (b) **“Balance Purchase Price”** means the Purchase Price, less the Deposit, adjusted under clauses 2.6(2) and 2.6(13);
 - (c) **“Bank”** means:
 - (i) a bank as defined by section 5 of the *Banking Act 1959* of the Commonwealth; or
 - (ii) a bank constituted under a law of a state;
 - (d) **“Bond”** means a bond under the *Residential Tenancies and Rooming Accommodation Act 2008*;
 - (e) **“Building Act”** means the *Building Act 1975* as amended.
 - (f) **“Business Day”** means a week day other than a public holiday in the Place for Settlement;
 - (g) **“Compliant Smoke Alarm”** means a smoke alarm complying with sections 104RB (2) or (4) of the *Fire and Rescue Service Act 1990*;
 - (h) **“Contract Date”** or **“Date of Contract”** means the date inserted in the Reference Schedule;
 - (i) **“Court”** includes any tribunal established under statute.
 - (j) **“Encumbrances”** includes unregistered and statutory encumbrances;
 - (k) **“Essential Term”** includes, in the case of breach by:
 - (i) the Buyer: clauses 2.2, 2.5(1), 5.1 and 6.1; and
 - (ii) the Seller: clauses 5.1, 5.3(1)(a)-(c), 5.3(1)(d)(ii) & (iii), 5.3(1)(e), 5.5 and 6.1;
 but nothing in this definition precludes a Court from finding other terms to be essential.
 - (l) **“Financial Institution”** means a Bank, building society or credit union;
 - (m) **“General Purpose Socket Outlet”** means an electrical socket outlet as defined in the *Electrical Safety Regulation 2002*;
 - (n) **“GST”** means the goods and services tax under the *GST Act*;
 - (o) **“GST Act”** means *A New Tax System (Goods and Services Tax) Act* and includes other GST related legislation;
 - (p) **“Improvements”** means fixed structures on the Land and includes all items fixed to them (such as stoves, hot water systems, fixed carpets, curtains, blinds and their fittings, clothes lines, fixed satellite dishes and television antennae, in-ground plants) but does not include the Reserved Items;
 - (q) **“Keys”** means keys, codes or devices in the Seller’s possession for all locks or security systems on the Property;
 - (r) **“Notice of no pool safety certificate”** means the Form 36 under the *Building Regulation 2006* to the effect that there is no Pool Safety Certificate issued for the Land;
 - (s) **“Outgoings”** means:
 - (i) rates or charges on the Land by any competent authority (for example, council rates, water rates, fire service levies); and
 - (ii) land tax;
 - (t) **“Pool Safety Requirements”** means the requirements for pool safety contained in the *Building Act 1975* and *Building Regulation 2006*;
 - (u) **“Pool Safety Certificate”** means either:
 - (i) a certificate of compliance; or
 - (ii) an exemption from compliance; issued in accordance with the Pool Safety Requirements;
 - (v) **“Pool Safety Inspection Date”** means the Pool Safety Inspection Date inserted in the Reference Schedule. If no date is inserted in the Reference Schedule, the Pool Safety Inspection Date is taken to be the earlier of the following:
 - (i) the Inspection Date for the Building and/or Pest Inspection; or
 - (ii) 2 Business Days before the Settlement Date;
 - (w) **“Pool Safety Inspector”** means a person licensed or authorised under the *Building Act 1975* and *Building Regulation 2006* to issue a Pool Safety Certificate;
 - (x) **“Property”** means:
 - (i) the Land;
 - (ii) the Improvements; and
 - (iii) the Included Chattels;
 - (y) **“Rent”** means any periodic amount payable under the Tenancies;
 - (z) **“Reserved Items”** means the Excluded Fixtures and all chattels on the Land other than the Included Chattels;
 - (aa) **“Transfer Documents”** means:
 - (i) the form of transfer under the *Land Title Act 1994* required to transfer title in the Land to the Buyer; and
 - (ii) any other document to be signed by the Seller necessary for stamping or registering the transfer; and
 - (bb) **“Transport Infrastructure”** has the meaning defined in the *Transport Infrastructure Act 1994*.

2. Purchase Price

2.1 GST

Unless otherwise specified in this contract, the Purchase Price includes any GST payable on the supply of the Property to the Buyer.

2.2 Deposit

- (1) The Buyer must pay the Deposit to the Deposit Holder at the times shown in the Reference Schedule. The Deposit Holder will hold the Deposit until a party becomes entitled to it.

- (2) The Buyer will be in default if it:
- does not pay the Deposit when required;
 - pays the Deposit by a post-dated cheque; or
 - pays the Deposit by cheque which is dishonoured on presentation.
- (3) The Seller may recover from the Buyer as a liquidated debt any part of the Deposit which is not paid when required.

2.3 Investment of Deposit

If:

- (1) the Deposit Holder is instructed by either the Seller or the Buyer; and

(2) it is lawful to do so;

the Deposit Holder must:

- (3) invest as much of the Deposit as has been paid with any Financial Institution in an interest-bearing account in the names of the parties; and
- (4) provide the parties' tax file numbers to the Financial Institution (if they have been supplied).

2.4 Entitlement to Deposit and Interest

- (1) The party entitled to receive the Deposit is:

- if this contract settles, the Seller;
- if this contract is terminated without default by the Buyer, the Buyer; and
- if this contract is terminated owing to the Buyer's default, the Seller.

- (2) The interest on the Deposit must be paid to the person who is entitled to the Deposit.

- (3) If this contract is terminated, the Buyer has no further claim once it receives the Deposit and interest, unless the termination is due to the Seller's default or breach of warranty.

- (4) The Deposit is invested at the risk of the party who is ultimately entitled to it.

2.5 Payment of Balance Purchase Price

- (1) On the Settlement Date, the Buyer must pay the Balance Purchase Price by Bank cheque as the Seller directs.
- (2) Despite any other provision of this contract, a reference to a "Bank cheque" in clause 2.5(1):
- includes a cheque drawn by a building society or credit union on itself;
 - does not include a cheque drawn by a building society or credit union on a Bank;

and the Seller is not obliged to accept a cheque referred to in clause 2.5(2)(b) on the Settlement Date.

2.6 Adjustments to Balance Purchase Price

- (1) The Seller is liable for Outgoings and is entitled to Rent up to and including the Settlement Date. The Buyer is liable for Outgoings and is entitled to Rent after the Settlement Date.
- (2) Subject to clauses 2.6(3), 2.6(4), 2.6(5) and 2.6(6), Outgoings for periods including the Settlement Date must be adjusted:
- for those paid, on the amount paid;
 - for those assessed but unpaid, on the amount payable (excluding any discount); and
 - for those not assessed:
 - on the amount the relevant authority advises will be assessed (excluding any discount);
 - or

- if no advice on the assessment to be made is available, on the amount of the latest assessment (excluding any discount).

- (3) If there is no separate assessment of rates for the Land at the Settlement Date and the Local Government informs the Buyer that it will not apportion rates between the Buyer and the Seller, then:

- the amount of rates to be adjusted is that proportion of the assessment equal to the ratio of the area of the Land to the area of the parcel in the assessment; and
- if an assessment of rates includes charges imposed on a "per lot" basis, then the portion of those charges to be adjusted is the amount assessed divided by the number of lots in that assessment.

- (4) Land tax must be adjusted:

- on the assessment that the Office of State Revenue would issue for the land tax year current at the Settlement Date if the Seller was one natural person resident in Queensland and the Land was the Seller's only land; or
- based on the assumptions in clause 2.6(4)(a), if there is no separate unimproved value for the Land, on a notional unimproved value equal to:

Unimproved value of
the parcel that includes the Land
under *Valuation of
Land Act 1944* x $\frac{\text{Area of Land}}{\text{Area of the parcel}}$

- (5) If land tax is unpaid at the Settlement Date and the Office of State Revenue advises that it will issue a final clearance for the Land on payment of a specified amount, then the Buyer may deduct the specified amount from the Balance Purchase Price at settlement and must pay it promptly to the Office of State Revenue. If an amount is deducted under this clause, then land tax will be treated as paid at the Settlement Date for the purposes of clause 2.6(2).
- (6) Any Outgoings assessable on the amount of water used must be adjusted on the charges that would be assessed on the total water usage for the assessment period, determined by assuming that the actual rate of usage shown by the meter reading made before settlement continues throughout the assessment period. The Buyer must obtain and pay for the meter reading.
- (7) If any Outgoings are assessed but unpaid at the Settlement Date, then the Buyer may deduct the amount payable from the Balance Purchase Price at settlement and pay it promptly to the relevant authority. If an amount is deducted under this clause, the relevant Outgoing will be treated as paid at the Settlement Date for the purposes of clause 2.6(2).
- (8) Arrears of Rent for any rental period ending on or before the Settlement Date belong to the Seller and are not adjusted at settlement.
- (9) Unpaid Rent for the rental period including both the Settlement Date and the following day ("**Current Period**") is not adjusted until it is paid.

- (10) Rent already paid for the Current Period or beyond must be adjusted at settlement.
- (11) If Rent payments are reassessed after the Settlement Date for periods including the Settlement Date, any additional Rent payment from a Tenant or refund due to a Tenant must be apportioned under clauses 2.6(8), 2.6(9) and 2.6(10).
- (12) Payments under clause 2.6(11) must be made within 14 days after notification by one party to the other but only after any additional payment from a Tenant has been received.
- (13) The cost of Bank cheques payable at settlement:
 - (a) to the Seller or its mortgagee are the responsibility of the Buyer; and
 - (b) to parties other than the Seller or its mortgagee are the responsibility of the Seller.

3. Finance

- 3.1** This contract is conditional on the Buyer obtaining approval of a loan for the Finance Amount from the Financier by the Finance Date on terms satisfactory to the Buyer. The Buyer must take all reasonable steps to obtain approval.
- 3.2** The Buyer must give notice to the Seller that:
- (1) approval has not been obtained by the Finance Date and the Buyer terminates this contract; or
 - (2) the finance condition has been either satisfied or waived by the Buyer.
- 3.3** The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 3.2 by 5pm on the Finance Date. This is the Seller's only remedy for the Buyer's failure to give notice.
- 3.4** The Seller's right under clause 3.3 is subject to the Buyer's continuing right to terminate this contract under clause 3.2(1) or waive the benefit of this clause 3 by giving written notice to the Seller of the waiver.

4. Building and Pest Inspection Reports and Pool Safety

4.1 Building and Pest Inspection

This contract is conditional upon the Buyer obtaining a written building report from a building inspector and a written pest report from a pest inspector (which may be a single report) on the Property by the Inspection Date on terms satisfactory to the Buyer. The Buyer must take all reasonable steps to obtain the reports (subject to the right of the Buyer to elect to obtain only one of the reports).

4.2 The Buyer must give notice to the Seller that:

- (1) a satisfactory inspector's report under clause 4.1 has not been obtained by the Inspection Date and the Buyer terminates this contract. The Buyer must act reasonably; or
- (2) clause 4.1 has been either satisfied or waived by the Buyer.

4.3 If the Buyer terminates this contract and the Seller asks the Buyer for a copy of the building and pest reports, the Buyer must give a copy of each report to the Seller without delay.

4.4 The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 4.2 by 5pm on the Inspection Date. This is the Seller's only remedy for the Buyer's failure to give notice.

4.5 The Seller's right under clause 4.4 is subject to the Buyer's continuing right to terminate this contract under clause 4.2(1) or waive the benefit of this clause 4 by giving written notice to the Seller of the waiver.

4.6 If required under the *Queensland Building Services Authority Act 1991*, an inspector referred to in clause 4.1 must hold a current licence under that Act.

4.7 Pool Safety

- (1) This clause 4.7 applies if:
 - (a) there is a pool on the Land and the answer to Q2 of the Reference Schedule is No or Q2 is not completed; and
 - (b) this contract was not formed on a sale by auction.
- (2) This contract is conditional upon the Buyer obtaining from a Pool Safety Inspector by the Pool Safety Inspection Date:
 - (a) confirmation that the Pool Safety Requirements have been met and the issue of a Pool Safety Certificate; or
 - (b) confirmation of the works required before a Pool Safety Certificate can be issued.
- (3) The Buyer must give notice to the Seller on or before the Pool Safety Inspection Date that:
 - (a) a Pool Safety Inspector has issued a Pool Safety Certificate in which case neither the Buyer nor the Seller have any further rights under this clause 4.7; or
 - (b) a Pool Safety Inspector has not issued a Pool Safety Certificate and the Buyer terminates this contract. The Buyer must act reasonably; or
 - (c) the Buyer waives the benefit of this clause 4.7 and elects to proceed to settlement notwithstanding that there is no Pool Safety Certificate.
- (4) The Buyer's right to terminate this contract or waive the benefit of this clause 4.7 ends on the earlier of:
 - (a) a Pool Safety Certificate being issued; or
 - (b) settlement occurring.
- (5) The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 4.7(3) by 5pm on the Pool Safety Inspection Date. This is the Seller's only remedy for the Buyer's failure to give notice.
- (6) The Seller's right under clause 4.7(5) is subject to the Buyer's continuing right to terminate this contract or waive the benefit of this clause 4.7 by giving written notice to the Seller of the waiver.
- (7) If the Buyer terminates this contract in accordance with clause 4.7(3)(b), and the Seller asks the Buyer for a copy of the pool safety inspection report, the Buyer must give a copy of the report to the Seller without delay.
- (8) For the purpose of this clause 4.7, "**formed on a sale by auction**" means formed on sale by auction—
 - (a) directly on the fall of the hammer, by outcry; or
 - (b) directly at the end of another similar type of competition for purchase.

5. Settlement

5.1 Time and Date

- (1) Settlement must occur between 9am and 5pm on the Settlement Date.
- (2) If the parties do not agree on where settlement is to occur, it must take place in the Place for Settlement at the office of a solicitor or Financial Institution nominated by the Seller, or, if the Seller does not make a nomination, at the land registry office in or nearest to the Place for Settlement.

5.2 Transfer Documents

- (1) The Transfer Documents must be prepared by the Buyer's Solicitor and delivered to the Seller a reasonable time before the Settlement Date.
- (2) If the Buyer pays the Seller's reasonable expenses, it may require the Seller to produce the Transfer Documents at the Office of State Revenue nearest the Place for Settlement for stamping before settlement.

5.3 Documents and Keys at Settlement

- (1) In exchange for payment of the Balance Purchase Price, the Seller must deliver to the Buyer at settlement:
 - (a) any instrument of title for the Land required to register the transfer to the Buyer; and
 - (b) unstamped Transfer Documents capable of immediate registration after stamping; and
 - (c) if requested, the Keys in the Seller's or the Seller's Agent's possession or control for all locks and security systems on the Property; and
 - (d) if there are Tenancies:
 - (i) the Seller's copy of any Tenancy agreements;
 - (ii) a notice to each tenant advising of the sale in the form required by law; and
 - (iii) any notice required by law to transfer to the Buyer the Seller's interest in any Bond; and
 - (e) if the answer to Q2 in the Reference Schedule is Yes, a copy of a current Pool Safety Certificate, if not already provided to the Buyer.
- (2) If the instrument of title for the Land also relates to other land, the Seller need not deliver it to the Buyer, but the Seller must make arrangements satisfactory to the Buyer to produce it for registration of the transfer.
- (3) If the Keys are not delivered at Settlement under clause 5.3(1)(c), the Seller must deliver the Keys to the Buyer. The Seller may discharge its obligation under this provision by authorising the Seller's Agent to release the Keys to the Buyer.

5.4 Assignment of Covenants and Warranties

At settlement, the Seller assigns to the Buyer the benefit of all:

- (1) covenants by the tenants under the Tenancies;
- (2) guarantees and Bonds (subject to the requirements of the *Residential Tenancies and Rooming Accommodation Act 2008*) supporting the Tenancies;
- (3) manufacturers' warranties regarding the Included Chattels; and
- (4) builders' warranties on the Improvements; to the extent they are assignable. However, the right to recover arrears of Rent is not assigned to the Buyer and section 117 of the *Property Law Act 1974* does not apply.

5.5 Possession of Property and Title to Included Chattels

On the Settlement Date, in exchange for the Balance Purchase Price, the Seller must give the Buyer vacant possession of the Land and the Improvements except for the Tenancies. Title to the Included Chattels passes at settlement.

5.6 Reservations

- (1) The Seller must remove the Reserved Items from the Property before the Settlement Date.

- (2) The Seller must repair at its expense any damage done to the Property in removing the Reserved Items. If the Seller fails to do so, the Buyer may repair that damage.
- (3) Any Reserved Items not removed before settlement will be considered abandoned and the Buyer may, without limiting its other rights, complete this contract and appropriate those Reserved Items or dispose of them in any way.
- (4) The Seller indemnifies the Buyer against any damages and expenses resulting from the Buyer's actions under clauses 5.6(2) or 5.6(3).

5.7 Consent to Transfer

- (1) If the Land sold is leasehold, this contract is subject to any necessary consent to the transfer of the lease to the Buyer being obtained by the Settlement Date.
- (2) The Seller must apply for the consent required as soon as possible.
- (3) The Buyer must do everything reasonably required to help obtain this consent.

6. Time

6.1 Time is of the essence of this contract, except regarding any agreement between the parties on a time of day for settlement.

7. Matters Affecting the Property

7.1 Title

The Land is sold subject to:

- (1) any reservations or conditions on the title or the original Deed of Grant (if freehold); or
- (2) the Conditions of the Crown Lease (if leasehold).

7.2 Encumbrances

The Property is sold free of all Encumbrances other than the Title Encumbrances and Tenancies.

7.3 Requisitions

The Buyer may not deliver any requisitions or enquiries on title.

7.4 Seller's Warranties

- (1) The Seller warrants that, except as disclosed in this contract, at settlement:
 - (a) if the Land is freehold: it will be the registered owner of an estate in fee simple in the Land and will own the rest of the Property;
 - (b) if the Land is leasehold: it will be the registered lessee, the lease is not liable to forfeiture because of default under the lease, and it will own the rest of the Property;
 - (c) it will be capable of completing this contract (unless the Seller dies or becomes mentally incapable after the Contract Date); and
 - (d) there will be no unsatisfied judgment, order (except for an order referred to in clause 7.6(1)(b)) or writ affecting the Property.
- (2) The Seller warrants that, except as disclosed in this contract, at the Contract Date and at settlement there are no current or threatened claims, notices or proceedings that may lead to a judgment, order or writ affecting the Property.
- (3) (a) The Seller warrants that, except as disclosed in this contract or a notice given by the Seller to the Buyer under the *Environmental Protection Act 1994* ("EPA"), at the Contract Date:

- (i) there is no outstanding obligation on the Seller to give notice to the administering authority under EPA of notifiable activity being conducted on the Land; and
 - (ii) the Seller is not aware of any facts or circumstances that may lead to the Land being classified as contaminated land within the meaning of EPA.
- (b) If the Seller breaches a warranty in clause 7.4(3)(a), the Buyer may:
- (i) terminate this contract by notice in writing to the Seller given within 2 Business Days before the Settlement Date; or
 - (ii) complete this contract and claim compensation, but only if the Buyer claims it in writing before the Settlement Date.
- (4) If the Seller breaches a warranty in clause 7.4(1) or clause 7.4(2) the Buyer may terminate this contract by notice to the Seller.
- (5) The Seller does not warrant that the Present Use is lawful.

7.5 Survey and Mistake

- (1) The Buyer may survey the Land.
- (2) If there is:
- (a) an error in the boundaries or area of the Land;
 - (b) an encroachment by structures onto or from the Land; or
 - (c) a mistake or omission in describing the Property or the Seller's title to it;
- which is:
- (d) immaterial; or
 - (e) material, but the Buyer elects to complete this contract; the Buyer's only remedy against the Seller is for compensation, but only if claimed by the Buyer in writing on or before settlement.
- (3) The Buyer may not delay settlement or withhold any part of the Balance Purchase Price because of any compensation claim under clause 7.5(2).
- (4) If there is a material error, encroachment or mistake, the Buyer may terminate this contract before settlement.

7.6 Requirements of Authorities

- (1) Subject to clause 7.6(5), any valid notice or order by any competent authority or Court requiring work to be done or money spent in relation to the Property ("**Work or Expenditure**") must be fully complied with:
- (a) if issued before the Contract Date, by the Seller before the Settlement Date;
 - (b) if issued on or after the Contract Date, by the Buyer.
- (2) If any Work or Expenditure that is the Seller's responsibility under clause 7.6(1)(a) is not done before the Settlement Date, the Buyer is entitled to claim the reasonable cost of work done by the Buyer in accordance with the notice or order referred to in clause 7.6(1) from the Seller after settlement as a debt.

- (3) Any Work or Expenditure that is the Buyer's responsibility under clause 7.6(1)(b), which is required to be done before the Settlement Date, must be done by the Seller unless the Buyer directs the Seller not to and indemnifies the Seller against any liability for not carrying out the work. If the Seller does the work, or spends the money, the reasonable cost of that Work or Expenditure must be added to the Balance Purchase Price.
- (4) The Buyer may terminate this contract by notice to the Seller if there is an outstanding notice at the Contract Date under sections 246AG, 247 or 248 of the *Building Act 1975* or sections 588 or 590 of the *Sustainable Planning Act 2009* that affects the Property.
- (5) To the extent there is any inconsistency between clause 7.6(1) and the *Neighbourhood Disputes Resolution Act 2011* (the NDRA), the NDRA shall apply.

7.7 Property Adversely Affected

- (1) If at the Contract Date:
- (a) the Present Use is not lawful under the relevant town planning scheme;
 - (b) the Land is affected by a proposal of any competent authority to alter the dimensions of any Transport Infrastructure or locate Transport Infrastructure on the Land;
 - (c) access or any service to the Land passes unlawfully through other land;
 - (d) any competent authority has issued a current notice to treat, or notice of intention to resume, regarding any part of the Land;
 - (e) the Property is affected by the *Queensland Heritage Act 1992* or is included in the World Heritage List; or
 - (f) the Property is declared acquisition land under the *Queensland Reconstruction Authority Act 2011*.
- and that has not been disclosed in this contract, the Buyer may terminate this contract by notice to the Seller given no later than 2 Business Days before the Settlement Date.
- (2) If no notice is given under clause 7.7(1), the Buyer will be treated as having accepted the Property subject to all of the matters referred to in that clause.
- (3) The Seller authorises the Buyer to inspect records held by any authority relating to the Property.

7.8 Dividing Fences

The Seller need not contribute to the cost of building any dividing fence between the Land and any adjoining land owned by it. The Buyer waives any right to claim contribution from the Seller.

8. Rights and Obligations Until Settlement

8.1 Risk

The Property is at the Buyer's risk from 5pm on the first Business Day after the Contract Date.

8.2 Access

After reasonable notice to the Seller, the Buyer and its consultants may enter the Property:

- (1) once to read any meter;
- (2) for inspections under clause 4;
- (3) once to inspect the Property before settlement; and
- (4) once to value the Property before settlement.

8.3 Seller's Use of Property

The Seller must use the Property reasonably until

8.4 Information Regarding the Property

Before settlement, the Seller must give the Buyer:

- (1) copies of all documents relating to any unregistered interests in the Property;
- (2) full details of the Tenancies to allow the Buyer to properly manage the Property after settlement; and
- (3) further copies or details if those previously given cease to be complete and accurate.

8.5 Possession Before Settlement

If possession is given before settlement:

- (1) the Buyer must maintain the Property in substantially its condition at the date of possession, fair wear and tear excepted;
- (2) entry into possession is under a licence personal to the Buyer revocable at any time and does not:
 - (a) create a relationship of landlord and tenant; or
 - (b) waive the Buyer's rights under this contract;
- (3) the Buyer must insure the Property to the Seller's satisfaction; and
- (4) the Buyer indemnifies the Seller against any expense or damages incurred by the Seller as a result of the Buyer's possession of the Property.

8.6 Seller's Obligations After Contract Date

- (1) After the Contract Date, the Seller must promptly upon receiving any notice, proceeding or order that affects the Property or requires work on the Property, give a copy to the Buyer.
- (2) After the Contract Date, the Seller must not without the prior written consent of the Buyer, give any notice, seek or consent to any order or make an agreement that affects the Property.

9. Parties' Default

9.1 Seller and Buyer May Affirm or Terminate

Without limiting any other right or remedy of the parties including those under this contract or any right at common law, if the Seller or Buyer, as the case may be, fails to comply with an Essential Term, or makes a fundamental breach of an intermediate term, the Seller (in the case of the Buyer's default) or the Buyer (in the case of the Seller's default) may affirm or terminate this contract.

9.2 If Seller Affirms

If the Seller affirms this contract under clause 9.1, it may sue the Buyer for:

- (1) damages;
- (2) specific performance; or
- (3) damages and specific performance.

9.3 If Buyer Affirms

If the Buyer affirms this contract under clause 9.1, it may sue the Seller for:

- (1) damages;
- (2) specific performance; or
- (3) damages and specific performance.

9.4 If Seller Terminates

If the Seller terminates this contract under clause 9.1, it may do all or any of the following:

- (1) resume possession of the Property;
- (2) forfeit the Deposit and any interest earned;
- (3) sue the Buyer for damages;
- (4) resell the Property.

9.5 If Buyer Terminates

If the Buyer terminates this contract under clause 9.1, it may do all or any of the following:

- (1) recover the Deposit and any interest earned;
- (2) sue the Seller for damages.

9.6 Seller's Resale

- (1) If the Seller terminates this contract and resells the Property, the Seller may recover from the Buyer as liquidated damages:
 - (a) any deficiency in price on a resale; and
 - (b) its expenses connected with any repossession, any failed attempt to resell, and the resale; provided the resale settles within 2 years of termination of this contract.
- (2) Any profit on a resale belongs to the Seller.

9.7 Seller's Damages

The Seller may claim damages for any loss it suffers as a result of the Buyer's default, including its legal costs on an indemnity basis and the cost of any Work or Expenditure under clause 7.6(3).

9.8 Buyer's Damages

The Buyer may claim damages for any loss it suffers as a result of the Seller's default, including its legal costs on an indemnity basis.

9.9 Interest on Late Payments

- (1) Without affecting the Seller's other rights, if any money payable by the Buyer under this contract is not paid when due, the Buyer must pay the Seller at settlement interest on that money calculated at the Default Interest Rate from the due date for payment until payment is made.
- (2) The Seller may recover that interest from the Buyer as liquidated damages.
- (3) Any judgment for money payable under this contract will bear interest from the date of judgment to the date of payment and the provisions of this clause 9.9 apply to calculation of that interest.

10. General

10.1 Agent

The Agent is appointed as the Seller's Agent to introduce a Buyer.

10.2 Foreign Investment Review Board

The Buyer warrants that either:

- (1) the Treasurer has consented under the *Foreign Acquisitions and Takeovers Act* to the Buyer's purchase of the Property; or
- (2) the Treasurer's consent is not required to the Buyer's purchase of the Property.

10.3 Duty

The Buyer must pay all duty on this contract.

10.4 Notices

- (1) Notices under this contract must be in writing and may be given by a party's solicitor.
- (2) Notices are effectively given if:
 - (a) delivered or posted to the other party or its solicitor; or
 - (b) sent to the facsimile number of the other party or its solicitor.
- (3) Posted notices will be treated as given 2 Business Days after posting.

- (4) Notices sent by facsimile will be treated as given when the sender obtains a clear transmission report.
- (5) Notices given after 5pm will be treated as given on the next Business Day.
- (6) Notices or other written communications by a party's solicitor (for example, varying the Inspection Date, Finance Date or Settlement Date) will be treated as given with that party's authority.

10.5 Business Days

- (1) If anything is required to be done on a day that is not a Business Day, it must be done instead on the next Business Day.
- (2) If the Finance Date or Inspection Date fall on a day that is not a Business Day, then it falls on the next Business Day.

10.6 Rights After Settlement

Despite settlement and registration of the transfer, any term of this contract that can take effect after settlement or registration remains in force.

10.7 Further Acts

If requested by the other party, each party must, at its own expense, do everything reasonably necessary to give effect to this contract.

10.8 Severance

If any term or part of a term of this contract is or becomes legally ineffective, invalid or unenforceable in any jurisdiction it will be severed and the effectiveness, validity or enforceability of the remainder will not be affected.

10.9 Interpretation

(1) Plurals and Genders

Reference to:

- (a) the singular includes the plural and the plural includes the singular;
- (b) one gender includes each other gender;
- (c) a person includes a body corporate; and
- (d) a party includes the party's executors, administrators, successors and permitted assigns.

(2) Parties

- (a) If a party consists of more than one person, this contract binds them jointly and each of them individually.
- (b) A party that is a trustee is bound both personally and in its capacity as a trustee.

(3) Statutes and Regulations

Reference to statutes includes all statutes amending, consolidating or replacing them.

(4) Inconsistencies

If there is any inconsistency between any provision added to this contract and the printed provisions, the added provision prevails.

(5) Headings

Headings are for convenience only and do not form part of this contract or affect its interpretation.