

Buyers Confirmation

Contract for Sale of House and Land



ITEM

	Form(s) accompanying the Contract	Buyer or Buyer's Solicitors Confirmation
1		<input type="checkbox"/>
2		<input type="checkbox"/>
3		<input type="checkbox"/>
4		<input type="checkbox"/>
5		<input type="checkbox"/>
6		<input type="checkbox"/>

7 Special Notes:

The Buyer or the Buyer's Solicitor confirms the above form(s) are attached or presented with the Contract in the correct and legal manner, prior to the Buyer signing the Contract.

8 Signatures:

Issued By:

Confirmed By:

Agent

Buyer or Buyer's Solicitor

Print Name

Print Name

____/____/____

Dated

____/____/____

Dated

NOTICE TO AGENT

This Warning Statement must be:

- Y Attached to the **FRONT** of a contract for sale of residential property (vacant land or land and already existing house) and;
- Y Signed by the buyer **BEFORE** the attached contract is signed.

If this is not done, the buyer may terminate the contract.

PAMD Form 30c

This form is effective from 3 February 2003
The Contract attached to this warning is subject to a 5 day cooling-off period.

WARNING

Do NOT sign the attached contract without reading and understanding this warning. Do not sign if you feel pressured.

You should obtain:
Y Independent legal advice

and

Y An independent valuation of the property

Before signing or during the 5 day cooling-off period the Office of Fair Trading strongly recommends you:

- Y Contact the Queensland Law Society on (07) 3842 5842 or www.qls.com.au for advice on finding a solicitor.
- Y Contact the Australian Property Institute on (07) 3832 3139 or www.propertyinstitute.com.au or the Valuers Registration Board on (07) 3221 3892 to find a suitable valuer.
- Y Arrange a search for **the property's sales history** from your local Department of Natural Resources and Mines or (07) 3227 6626, or for a map of latest sales www.nrm.qld.gov.au/property/valuations/products_services.

House and Land Package Buyers: Is the building contract fairly valued? Seek quotes from several different builders (see note on page 2)

STOP!! Before signing this form or the contract have you read and understood the information about your rights?



BUYER(S):

I/we have read this Warning statement and the important information over the page.



Name(s): _____

Signature: _____

Date: / / _____



Queensland Government
Department **Tourism, Racing & Fair Trading**
incorporating **Liquor Licensing**

IMPORTANT INFORMATION YOU SHOULD READ BEFORE YOU SIGN THIS WARNING STATEMENT AND THE ATTACHED CONTRACT

Independent legal advice

Do you fully understand the legal consequences of signing this contract? Are you sure the advice you've been given is totally independent? Before signing the contract, the Office of Fair Trading strongly recommends you seek independent legal advice and clarify any queries or concerns you have about buying the property. Exercise extreme caution in accepting the advice of anyone referred to you by the seller or his/her agent.

If you engage *any* lawyer in relation to purchasing the property, they must give you a certificate about their independence from the seller or anyone else included in the sale, and about benefits the lawyer expects to receive from the sale.

Valuation of property

Are you sure the purchase price is fair? Before the cooling-off period expires seek independent advice from a registered valuer. Ask the valuer if they have Professional Indemnity Insurance, have a relationship with any person involved with the property you're buying, and about the valuation cost.

Further information on how to deal with valuers is available on www.fairtrading.qld.gov.au (search "valuations").

Building Contracts

For building contracts associated with the purchase of residential property.

- Y Domestic building contracts have a cooling-off period (Section 72 of the *Domestic Building Contracts Act 2000*. Please refer to the Building Services Authority of Queensland for further information on building contracts). Ensure that if you exercise your cooling-off right under the residential property contract that you also give written notice to terminate the building contract.
- Y Ensure that the building contract price is not over valued or inflated. Get a valuation or compare homes of similar value advertised or displayed by other home builders.

What is a cooling-off period?

You can change your mind about purchasing a property during a 5 day cooling-off period. Use this time to seek independent legal advice and an independent valuation of the property.

When does the cooling-off period start?

It begins on the day you are bound by the attached contract.

Both the buyer and the seller are bound by the contract as soon as the buyer or their agent, lawyer or personal representative receives a copy of the signed contract.

In any dispute concerning the commencement of the cooling-off period, it will be up to the seller to prove the buyer received a copy of the contract.

Note: If the buyer is bound by the contract on a day other than a business day, the cooling-off period commences on the first business day after the day the buyer is bound by the contract.

When does the cooling-off period end?

It ends at 5.00pm on the fifth business day after the cooling-off period started.

What is a business day?

It is a day other than a Saturday, Sunday or a public holiday.

Can I waive or shorten the cooling-off period?

You may, but only by obtaining a lawyer's certificate from your solicitor. If you waive the cooling-off period you will be bound by the contract from that time, subject to the terms of the contract.

How do I terminate the contract during the cooling-off period?

At any time before the end of the 5 day cooling-off period give a signed and dated notice to the seller or the seller's agent indicating that you wish to terminate the contract.

Will I lose my deposit if I terminate the contract during the cooling-off period?

The seller must refund your deposit within 14 days of termination of the contract but may deduct a termination penalty equal to 0.25% of the purchase price.

What happens after the cooling-off period ends?

You are legally bound to buy the property, subject to the terms in the contract. Make sure you're happy with all of the terms in the contract before you sign it and before the cooling-off period ends.

Claim fund

A Claim Fund exists which, in some cases, enables a buyer who suffers financial loss as a result of dealing with a real estate agent to make a claim. Strict guidelines apply. If you suffer financial loss because of buying directly from a Property Developer you CANNOT make a claim for compensation against the Fund. There are restrictions on claims made due to property marketeering.

How do I know if I'm dealing with a licensed real estate agent or property developer?

The Office of Fair Trading can help you to identify if the person you are dealing with is a licensed real estate agent, property developer or a registered salesperson of one.

Ask the person you are dealing with for proof of their licence or registration.

Further Information:

Contact www.fairtrading.qld.gov.au or your nearest Office of Fair Trading on 1300 658 030.

CONTRACT FOR SALE OF HOUSE AND LAND

(THIS CONTRACT CONSISTS OF PAGES 1 TO 8 AND ANY ATTACHMENTS)



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

Item Schedule

ITEM

1 DATE OF CONTRACT <i>Clause 1(9)</i>	THE _____ DAY OF _____ 20____ (Note: Seller/Seller's Agent must complete)
2 SELLER'S AGENT	Name: _____ Address: _____ ACN: _____ ABN: _____ Phone: () _____ Fax: () _____ Mobile: () _____ Email: _____ Notices*: <input type="checkbox"/> License Number: _____ Expiry Date: / /
3 SELLER <i>Note: If insufficient room list additional Names and Addresses in Item 21 (Special Conditions)</i> <i>Clauses 1(16), 10.1, 24 & 28.1</i>	Name: _____ Address: _____ ACN: _____ ABN: _____ Phone: () _____ Fax: () _____ Mobile: () _____ Email: _____ Notices*: <input type="checkbox"/> Solicitor / Self Acting _____ Address: _____ Phone: () _____ Fax: () _____ Mobile: () _____ Email: _____ Contact: _____ Notices*: <input type="checkbox"/>
4 BUYER'S AGENT <i>(If Applicable)</i>	Name: _____ Address: _____ ACN: _____ ABN: _____ Phone: () _____ Fax: () _____ Mobile: () _____ Email: _____ Notices*: <input type="checkbox"/>
5 BUYER <i>Note: If insufficient room list additional Names and Addresses in Item 21 (Special Conditions)</i> <i>Clause 1(8), 9, 10, 11 & 21</i>	Name: _____ Address: _____ ACN: _____ ABN: _____ Phone: () _____ Fax: () _____ Mobile: () _____ Email: _____ Notices*: <input type="checkbox"/> Solicitor / Self Acting _____ Address: _____ Phone: () _____ Fax: () _____ Mobile: () _____ Email: _____ Contact: _____ Notices*: <input type="checkbox"/>
6 PROPERTY	Address: _____ Lot No. _____ on Plan _____ Title Reference: _____ Area: _____ (Approx.) Freehold <input type="checkbox"/> Leasehold <input type="checkbox"/> (Complete as Applicable. If neither checked, it is assumed to be Freehold) Local Government: _____ <i>Clauses 1(14), 18, 19 & 20</i>

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

7 PURCHASE PRICE <i>Unless otherwise stated in Special Conditions the Purchase Price includes GST. (WARNING: Some property sales may attract GST and require a tax invoice to be issued separate to this Contract. Seek appropriate professional advice if unsure). Clause 1(15)</i>	Figures \$ Words: (optional)
8 DEPOSIT <i>Clause 3</i>	Initial Deposit: <div style="text-align: right;"><i>(Payable on signing of Contract, by Buyer)</i></div> Balance Deposit: Payable by a date no later than:
9 DEPOSIT HOLDER <i>Clauses 3.1 & 3.5</i>
10 FINANCE <i>Complete all details for Clause 5 to apply. Clauses 5, 27.2 & 29.2</i>	Finance Amount: Finance Date: Lender:
11 INSPECTIONS <i>Complete for Clause 4 to apply. Clauses 4, 15, 27 & 29.2</i>	Inspection Date: <div style="text-align: right;"><i>(Date to be completed by)</i></div> Acknowledged Defects/Exclusions:
12 SETTLEMENT DATE/PLACE <i>Clause 7</i>	On the day of 20 OR days from the Date of Contract Place: (City or Town)
13 ELECTRICITY SAFETY SWITCH	An electricity safety power switch <input type="checkbox"/> is <input type="checkbox"/> is not installed for general purpose socket outlets. <i>(From 1 September 2002 Electricity Amendment Regulation (No. 3) 2002 requires the transferor of land on which a domestic residence is constructed to give notice of whether a safety switch has been installed. If one is not installed, then within 90 days from the date of possession, the new owner of the land must install a safety switch.) A licensed Electrician can advise in relation to this requirement.</i>
14 EXCLUDED ITEMS <i>Clause 7.11</i>	Fixtures: Other:
15 INCLUDED ITEMS <i>Clauses 1(14) & 10.1(2)</i>	Chattels: <div style="text-align: right;"><i>(eg. Dishwashers, microwaves)</i></div> Other:
16 TENANCIES <i>Clauses 1(17), 6.1, 7.4(4), 10.1(8) & 13</i>	Term: Options: Rent: Tenant: Commencement Date: / / Completion Date: / / Bond: \$0.00
17 PRESENT USE <i>Clause 20</i>	Residential <input type="checkbox"/> Rural <input type="checkbox"/> Vacant Land <input type="checkbox"/> Rural Residential <input type="checkbox"/> Other:
18 ORDERS / NOTICES <i>Clauses 10.1(6) & 28</i>	1. Local Government / Statutory Authorities: Date: / / Date: / / 2. Dividing Fences: Date: / /

<p>19 ENCUMBRANCES (If Property is sold subject to Encumbrances details must be inserted)</p> <p><i>Clauses 1(10) & 13</i></p>	<p>Title: _____ (eg. Easement)</p> <p>Other: <div style="border: 1px solid black; height: 30px; width: 100%;"></div></p> <p style="text-align: right;">(eg. Statutory Dealings; Unregistered Dealings; Licenses)</p> <p><i>Ambiguous references similar to "searches will reveal" will not impose upon the Buyer an obligation to accept the Encumbrance.</i></p>
<p>20 INTEREST ON UNPAID MONIES</p> <p><i>Clauses 16 & 24</i></p>	<p>(a) Rate: _____ (Leave blank if 20(b) applicable)</p> <p>(b) Queensland Law Society Inc Contract Rate <input type="checkbox"/></p>
<p>21 SPECIAL CONDITIONS</p> <p><i>(If insufficient space attach separate sheet)</i></p> <p><i>Clause 25</i></p>	<div style="text-align: center; font-size: 48px; opacity: 0.2; transform: rotate(-30deg); pointer-events: none;"> Demonstration </div>
<p>22 SIGNING</p> <p><i>(The Buyer, in signing this Contract, acknowledges having read and signed PAMD Form 30c attached to this Contract as the first sheet, unless not applicable)</i></p>	<p>Seller(s): _____ Witness(es): _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Buyer(s): _____ Witness(es): _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Deposit Holder: _____ (To be signed on receipt of Initial Deposit)</p>

Contract for Sale of House and Land - Terms and Conditions

Definitions & Interpretation

1. Definitions

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

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

2. Interpretation

In this Contract, unless the contrary intention appears:

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

Events

3. Deposit

- 3.1 The Buyer must pay the Deposit to the Deposit Holder as Stakeholder in the amount and at the times required in Item (8).
- 3.2 Time is of the essence when making payment of the Deposit.
- 3.3 Failure to pay any monies on time or by cheque, which is not honoured on presentation, will be an act of default by the Buyer in which case the Seller may terminate this Contract.
- 3.4 The Buyer may pay the Deposit (in whole or in part) by Bank Bond in which case on receipt of the Bank Bond the Buyer's obligation to pay the Deposit shall have been satisfied to the extent of the Bank Bond.
- 3.5 Investment of Deposit:

If the Deposit is to be invested then (except in the case of Bank Bond):

 - (1) the Deposit Holder will invest the funds paid with a Bank, Building Society or Credit Union in an interest bearing account at the risk of the party who becomes entitled to the Deposit.
 - (2) the interest on the Deposit will be paid to the party who becomes, and is entitled, to the Deposit.
 - (3) the party who becomes entitled to the income from the invested Deposit will be solely responsible for any tax liabilities on such income. Tax in this context includes Income Tax and GST.
 - (4) all costs in relation to this investment will be borne by the party referred to in Clause 3.5(3).
- 3.6 The Deposit is payable to:
 - (a) the Seller:
 - (a) on Settlement; or
 - (b) in case of the Buyer's Default on default; or
 - (b) should this Contract be properly terminated by the Buyer, the Deposit will be refunded to the Buyer in which case the Buyer shall have no further claim under this Contract unless there has been a breach of the provisions of this Contract by the Seller, giving rise to a claim for damages.

4. Property Inspections

- 4.1 The Contract is subject to and conditional upon the Buyer obtaining, by the Inspection Date, a building and/or pest report, as outlined in Item (11), satisfactory to the Buyer, excluding Acknowledged Defects/Exclusions.
- 4.2 If any inspection report specified in Clause 4.1 is not satisfactory to the Buyer, the Buyer may by notice to the Seller by 5.00 p.m. on the Inspection Date or as specified in Clause 29.2, terminate this Contract.
- 4.3 Should the Buyer not notify the Seller in accordance with the provisions of Clause 4.2 the Buyer will be deemed to be satisfied with the Inspections.
- 4.4 This Contract is not terminated until notice is given.
- 4.5 The Buyer must at all times act reasonably.
- 4.6 The Buyer will, if required by the Seller, promptly provide copies of the relevant sections of any inspection reports relied upon to terminate this Contract.
- 4.7 If the Buyer refuses to comply with a request in accordance with Clause 4.6 the Buyer will be deemed to be not acting reasonably.
- 4.8 All monies paid by way of Deposit will be forthwith refunded to the Buyer once this Contract is terminated in respect to this clause.
- 4.9 In respect of white-ants, risk in itself will not constitute a reason for termination of this Contract.

5. Finance

- 5.1 This Contract is subject to and conditional upon the Lender approving a loan to the Buyer in the Finance Amount, on terms and conditions satisfactory to the Buyer, for the purchase of the Property by the Finance Date (or such extended date as may be agreed). See Item (10).
- 5.2 In compliance with this Clause the Buyer will promptly, after the signing of this Contract by the Seller, make application to the Lender for the Loan and take all reasonable steps to obtain the Finance approval by the Finance Date.
- 5.3 The Buyer must give notice to the Seller immediately upon approval/rejection of Finance in accordance with Clause 29 (Notice).
- 5.4 If the Buyer has not obtained the Finance approval by the Finance Date then the Buyer may by notice to the Seller:
 - (a) terminate this Contract; or
 - (b) waive the benefit of this condition.
- 5.5 Should the Buyer not give notice to the Seller in accordance with Clause 5.4 (a) or (b) by 5.00 p.m. on the Finance Date or as specified in Clause 29.2, the Seller may, by notice, terminate this Contract.
- 5.6 This Contract is not terminated until notice is given.
- 5.7 All monies paid by way of Deposit will be forthwith refunded to the Buyer once this Contract is terminated in accordance with this Clause.

6. Adjustments

- 6.1 The Seller is entitled to the rents and profits and is liable for all Outgoings on the Property up to and including the Adjustment Date and after that date the Buyer shall be entitled to the rents and profits and be liable for all Outgoings.
- 6.2 No Adjustment will be made at Settlement for unpaid rent.
- 6.3 All Outgoings under Clause 6.1 must be apportioned on the Adjustment Date.
- 6.4 Land tax will be apportioned as if the Property were the Seller's only land in Queensland and the Seller is a natural person resident in Queensland.
- 6.5
 - (1) Where Outgoings have not been assessed at the Adjustment Date any apportionment will be based on the sum advised by the relevant authority or where no such information is available, on the latest assessment.
 - (2) Outgoings on a "per lot" basis shall be adjusted by dividing the total assessment by the number of lots included in the assessment.
- 6.6 Any amount adjustable under this provision which relates to land other than that included in the Property shall be (where no specific assessment is issued) adjusted proportionately based on the area of the whole of the land relative to the area of the Land included in the Property.
- 6.7 Should the Seller be entitled to any discount on Outgoings then, for the purpose of this Clause, the discount shall not be taken into account, unless already paid.
- 6.8 Adjustments with respect to water usage will be based on the average daily usage for the most recently assessed period before the Adjustment Date.
- 6.9 The Seller may direct the Buyer to provide on Settlement a cheque payable to the relevant authority for Outgoings assessed but unpaid at the Adjustment Date. It shall be the Buyer's responsibility to forward such cheque to the relevant assessing authority forthwith. This will be an adjustment for purposes of Clause 6.1.
- 6.10 It shall be the Buyer's responsibility to obtain at its own cost all outgoing details from relevant government and local government authorities.

7. Settlement

- 7.1 Settlement shall take place (Subject to Clause 7.3) on the Settlement Date specified in Item (12) (or if the Settlement Date is not a Business Day on the next Business Day following) between 10.00 am and 5.00 pm:
 - (a) at a venue agreed upon by the parties; or Failing agreement:
 - (b) at the office of the Seller's mortgagee or solicitor; or
 - (c) at the nearest office, to the nominated place for Settlement, at which land title documents may be lodged for registration.
- 7.2 The Buyer will have delivered to the Seller, at a reasonable time before Settlement for execution by the Seller, Transfer Documents for the Land and any assignment or other document necessary for Settlement of this Contract.
- 7.3 The Seller will have provided to the Buyer no later than 3:00pm on the day prior to the Settlement Date, details of all cheques required for payment of the Balance Purchase Price. Should such details not have been provided in that time the Buyer has the right upon request, given no later than 5:00pm on that day, to a 24-hour extension of the Settlement Date.
- 7.4 On payment of the Balance Purchase Price, adjusted as provided in this Contract, by Bank Cheque/s as directed by the Seller and compliance by the Buyer with the conditions of this Contract the Seller must deliver to the Buyer:
 - (1) the instrument of title, if any, for the Land.
 - (2) Transfer Documents free of un-notified Encumbrances executed by the Seller in a form capable of immediate registration (save for stamping) in accordance with the *Land Titles Act*.
 - (3) all keys and other devices and codes for entry, exit and security.
 - (4) all documentation, including transfers of Bond, to give effect to and comply with the provisions of the *Residential Tenancies Act 1994*, provided however *Section 117 of The Property Law Act 1974* does not apply.
 - (5) such other assignment of the Property, including warranties, to which the Buyer may be reasonably entitled.
- 7.5 The Buyer shall be required to bear the cost of no more than four Bank Cheques in payment of the Balance Purchase Price.
- 7.6 Upon compliance by the Buyer with the provisions of this agreement and payment, by the Buyer, of the Seller's reasonable expenses the Seller will, upon request, produce the Transfer Documents (prior to Settlement or payment of the Balance Purchase Price) for the purposes of payment of transfer duty.
- 7.7 It is agreed to by the parties hereto that the Buyer shall be under no obligation to pay any production fee to the Seller pursuant to Clause 7.6 if the Seller is not represented by a solicitor.
- 7.8 If the Title document on Settlement relates to other land, the Seller must produce that document to enable registration of the Transfer.
- 7.9 Vacant possession of the Land (except if tenanted) and title to all the Property shall be given and passed to the Buyer on payment of the Balance Purchase Price.

- 7.10 The Seller will, prior to Settlement, remove all chattels and other property not included in the sale, and repair all or any damage, if any, caused by such removal. Should the Seller fail to carry out such repairs the Buyer may do so and recover the cost of such repairs as liquidated damages from the Seller notwithstanding Settlement may have taken place. Property not removed in accordance with Clause 7.10 shall be deemed abandoned and may be dealt with by the Buyer in any way the Buyer considers appropriate without obligation to account to the Seller. Any cost incurred by the Buyer in dealing with this property may be recovered from the Seller as liquidated damages notwithstanding Settlement may have taken place.
- 7.11

8. Handover

- The Seller must hand over the Property at Settlement without damage or loss to the condition, as at the Date of Contract (fair wear and tear excepted). Should there be damage or loss to the condition of the Property the Buyer may claim the reasonable costs of effecting rectification from the Seller as liquidated damages notwithstanding Settlement may have taken place.

Other Matters Affecting this Contract

9. Buyer's Default

- 9.1 If the Buyer does not complete the purchase under this Contract then, except in the case of failure arising because of the Seller's default, the Seller may without limiting other remedies, including action for damages and/or specific performance, terminate this Contract and:
 - (1) the Deposit will be forfeited to the Seller.
 - (2) resume possession and at the Seller's discretion resell the Property in the manner and on the terms the Seller chooses.
 - (3) claim the loss, if any, on resale as liquidated damages.
 - (4) the profit, if any, on resale shall belong to the Seller.
- 9.2 Damages will include professional fees and costs incurred to satisfy the terms of this Contract.

10. Buyer's Right to Rescind

- 10.1 The Seller warrants at the time of Settlement:
 - (1) the Seller will be the Registered Owner in the case of freehold land or the Lessee in the case of leasehold land.
 - (2) it is the owner of all the Property.
 - (3) there is no impediment to the Seller completing the sale.
 - (4) the Seller is not insolvent or bankrupt.
 - (5) there are no legal actions affecting or which may affect the Property or any part of it.
 - (6) there are no outstanding or unsatisfied Notices, Orders or demands at the Date of Contract with respect to any Act, Regulation or By-Law which has not been fully complied with or which may adversely affect the Land and Improvements, unless disclosed in Item (18).
 - (7) the Seller has complied with all relevant environmental legislation in respect to the Property.
 - (8) the Seller has complied with the requirements of the *Residential Tenancies Act 1994* with respect to the Tenancies as set out in Item (16) of the Item Schedule.
 - (9) any Improvements to the Property not excluded in Item (14) have not been removed by the Seller. Any claim by the Buyer to the contrary must be directed to the Seller.
 - (10) in the case of vacant land, the Buyer may terminate this Contract if the Property has not been provided with a separate sewerage connection, unless otherwise disclosed in Item (21) (Special Conditions). This clause shall not apply to Property where other disposal systems are required and permissible by the local authority or council.

- 10.2 It is acknowledged and agreed by the parties hereto that any building approval defect listed as a requisition in the local authority's building records does not constitute a Notice or an Order as contemplated by Clause 10.1 (6).

- 10.3 If a warranty set out in Clause 10.1 is incorrect the Buyer may, by notice to the Seller, rescind this Contract. { *Note: except in the case of matters disclosed in Item (19) with relation to Clause 10.1 (6) or otherwise in Item (21) .* }

11. Buyer's Warrants

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

12. Consent

- 12.1 If the Seller must obtain consent to transfer the Property, as is the case with Leasehold Property, the Seller shall at his own cost promptly take every reasonable action to obtain such consent.

- 12.2 The Buyer will, if required, do all things as may reasonably be necessary to assist in obtaining such consent.
- 12.3 If consent is not obtained by Settlement Date, providing neither party is in default, either party may terminate this Contract.
- 13. Encumbrance**
The Property is sold free of Encumbrances and Tenancies other than included in Items (6), (16) & (19) (But subject to all reservations in favour of the Crown).
- 14. Further Acts**
Each party must do whatever is reasonably necessary, at that party's own expense, to carry out its obligations under this Contract.
- 15. Inspection**
On the giving of reasonable notice to the Seller, the Buyer, or designated representative, may at reasonable times, prior to Settlement, inspect the Property for the purposes of:
- (1) Inspections as per Clause 4.
 - (2) valuation, if required (under Clause 5 or otherwise).
 - (3) one pre-settlement Inspection in addition to Clauses 15(1) & 15(2).
- 16. Interest on Unpaid Monies**
Any monies payable under this Contract, or any Judgement given in respect of this Contract not paid when due, will attract Interest, from the due date, at the rate prescribed in Item (20) and the party, to whom these monies are owed, when such monies are paid, may recover the interest from the other party as liquidated damages.
- 17. Possession Prior to Settlement**
- 17.1 Should possession be given before the Settlement Date set out in Item (12) it shall be given solely at the Seller's discretion and then only on terms agreed between the parties in writing.
 - 17.2 Such possession shall not give rise to a tenancy (unless otherwise agreed) but is a licence only.
 - 17.3 The Buyer accepts the Property in the condition it is in at the date of possession.
 - 17.4 The Buyer must maintain and not alter the Property, fair wear and tear accepted.
 - 17.5 The Buyer must not part with possession of the Property.
 - 17.6 The Property shall be at the Buyer's risk. The Buyer will adequately insure the Property in both the Buyer's and Seller's name.
- 18. Property Description**
- 18.1 The Seller believes the Property to be correctly described. The Buyer may survey the Land and should there be an error or mis-description in this Contract or an encroachment onto or from the Land the Buyer may:
- (a) In the case of a material error or encroachment, elect to complete this Contract or terminate before Settlement; or
 - (b) In the case of an immaterial error or mis-description, the Buyer must complete.
- In the case of Clause 18.1 (b) or should the Buyer elect to complete in the case of Clause 18.1 (a), the Buyer will be entitled to monetary compensation only.
- 18.2 The Buyer shall only be entitled to claim compensation if notice of such claim is given at or before Settlement.
- 18.3 Any such claim for compensation does not entitle the Buyer to delay Settlement or withhold any of the purchase monies.
- 19. Property Information**
- 19.1 The Seller must, prior to Settlement, provide to the Buyer current copies of all relevant documents relating to the Property, in particular those relating to tenancies, licences, warranties, and any unregistered dealings.
- 19.2 The Seller by this Contract consents to and authorises the Buyer to inspect the records of authorities relating to the Land and Improvements.
- 20. Property Use**
- 20.1 The Seller gives no warranty regarding the Present Use of the Property. See Item (17).
- 20.2 If at the Date of Contract:
- (a) under the Local Authority planning provisions the Present Use is unlawful; or
 - (b) access and utilities to the Land are not legally secured; or
 - (c) compliance with statutory requirements with respect to the Land or adjoining land will materially adversely affect the Property; or
 - (d) the Land and Improvements are affected by the *Queensland Heritage Act 1992* or included in the WORLD HERITAGE LIST; and these matters have not been disclosed in this Contract, the Buyer may by notice to the Seller, given not less than 2 days before Settlement, terminate this Contract. If such notice is not given at all or as required, the Buyer will be deemed to have accepted the Land subject to any matters outlined in Clause 20.2.
- 21. Requisitions**
The Buyer is not entitled to deliver requisitions on title.
- 22. Rights After Settlement**
Notwithstanding the sale has settled and registration of the transfer occurred, each party shall retain the benefit of any provisions of this Contract, which may require the other party to do something or take some action.
- 23. Risk**
From 5.00pm on the next Business Day after the signing of this Contract the Property shall be at the risk of the Buyer, however as long as the Seller continues to occupy the Property the Seller shall maintain any current insurance policies and will use and maintain the Property with reasonable care (As provided in Clause 8).
- 24. Seller's Delay**
If Settlement does not take place by the Settlement Date in Item (12) due to delay by the Seller, the Seller shall pay to the Buyer, as liquidated damages on Settlement, Interest on the Balance Purchase Price at the rate set out in Item (20).
- 25. Special Conditions**
Any Special Conditions to this Contract shall form part of this Contract. Should there be any inconsistency between these Terms and Conditions and a Special Condition, the Special Condition shall apply.
- 26. Stamp Duty**
Payment of Stamp Duty on this Contract is the responsibility of the Buyer.
Note: The Buyer may incur penalties if stamp duty is not paid within 30 days of the conditions of this Contract being satisfied.
- 27. Time**
- 27.1 Time shall be of the essence. Settlement may take place on the Settlement Date at any time between the hours specified in Clause 7.1 of this Contract.
 - 27.2 Any event that must occur on or before a specified date, in respect to this Contract, which date does not fall on a Business Day shall be extended to the next Business Day following the specified date.
- 28. Work Orders and Notices**
- 28.1 The Seller must, by Settlement, fully comply with any Work Orders or Notices, pursuant to Clause 10.1 (6), made on or before the Date of Contract and the Buyer shall comply with any Work Orders or Notices issued subsequent to the Date of Contract.
 - 28.2 The costs of any Work Order or Notice complied with by one party which, under Clause 28.1, is the responsibility of the other party shall be, to the extent of such cost, an Adjustment to the Purchase Price.
 - 28.3 The Buyer shall bear all costs towards construction or repair of any dividing fences between the Land and any adjoining land, unless a Notice served under the provisions of the *Dividing Fences Act, Section 19*, is in force as at the date of this Contract, in which case such Notice shall be treated in the same manner as a Notice referred to in Clause 28.1 and 28.2.

Notice

- 29. Notice**
- 29.1 Any notice to be served on any party under this Contract shall be in writing and may be served on that party:
- (a) by delivering the notice to the party personally; or
 - (b) by leaving it for the party at the party's address as stated in Items (3) and (5); or
 - (c) by posting it to the party by registered mail as a letter addressed to the party at the address as stated in Item (3) or (5); or
 - (d) by facsimile to the party's facsimile number in Item (3) or (5); or
 - (e) if both parties agree and it is lawful, by electronic transmission to the party at the email address shown for that party in the Item Schedule. (Refer to * Footnote on page 3 of this contract); or
 - (f) by delivery to the party's solicitor's office by any of the methods outlined in Clauses 29.1 (a) to 29.1 (e) above.
- 29.2 Where the Seller is not represented by a solicitor, service of a notice upon the Seller for the purposes of Finance (Item 10) and Inspections (Item 11) may be affected by posting the notice to the Seller's address (Item 2) by Registered Post before 5:00pm on the next Business Day after the date specified in the relevant item.
- 29.3 A notice so posted shall be deemed to have been served, unless the contrary is shown, at the time when, by the ordinary course of post, the notice would be delivered.
- 29.4 Notices given by a party's solicitor will be deemed to have been given by and with the authority of the party.
- 29.5 Notices must be served before 5pm on a Business Day, failing which, such Notice will be deemed to have been served on the next Business Day.