

Ashford

RESIDENCES



Artist's impression. Indicative only and subject to change.

CONTRACT OF SALE

STAGE 2 - CTS



Ashford Land CTS

CONTRACT - REFERENCE SCHEDULE

Contract Date

Buyer

Buyer 1 name _____ date of birth _____

Buyer 2 name _____ date of birth _____

Buyer 3 name _____ date of birth _____

A.C.N. _____ A.B.N. _____

address _____

telephone _____ email _____

Buyer's Solicitor

name _____

address _____

telephone _____ email _____ fax _____

Personal Use

[Complete as either Occupier or Investment. If not completed, assumed Property being acquired for investment purposes.]

Foreign Interest

Foreign Person	Yes / No	Nationality
Buyer 1		
Buyer 2		
Buyer 3		

[Complete as either Yes or No. If not completed, Buyers are assumed not a Foreign Person.]

Property

address Lot No. _____ **Ashford Land** community titles scheme situated at 50 Ashmore Street, Everton Park, Qld 4053.

description The proposed community title lot _____ as shown on the Identification Plan contained in the Disclosure Documents (**Lot**).

Price

\$ _____

Total Deposit \$ _____ payable to HWL Ebsworth, Lawyers;

Initial Deposit \$ _____ payable on the signing of this Contract; and

Balance Deposit \$ _____ payable within 14 days after the Contract Date.

Guarantor

[IF BUYER IS A COMPANY]

Guarantor 1 Name _____

Guarantor 1 Address _____

Guarantor 2 Name _____

Guarantor 2 Address _____

Guarantor 3 Name _____

Guarantor 3 Address _____

IMPORTANT NOTICE TO BUYER

Depositing Funds into HWL Ebsworth Trust

1. HWL Ebsworth receives dozens of transfers and direct deposits into our Trust Account every day.
2. It is imperative that we know what the funds are paid for so that they can be properly receipted and applied.
3. If we can't identify and receipt a deposit into our Trust Account, it may lead to delay in progressing your matter.

Matter Reference

4. When transferring or depositing funds into our Trust Account, **it is imperative** that you include a reference which has:
 - (a) your name (as per the Contract);
 - (b) the lot number you are buying; and
 - (c) the development name.

For example: *Smith: Lot 101: Ashford Land*

IMPORTANT

Immediately after you have transferred or deposited the funds into our Trust Account, **send to HWL Ebsworth a fax or an email with a copy of the transfer or deposit receipt.** The relevant email address and fax number are listed in the Reference Schedule of the Contract.

Trust Account Details

5. Our Trust Account details are as follows:

HWL Ebsworth ABN:	37 246 549 189
Bank Account Name:	HWL Ebsworth Lawyers Law Practice Trust Account
Bank:	Westpac Banking Corporation
Address:	388 Queen Street, Brisbane, QLD 4000
BSB:	034 003
Account:	24 66 34
Swift Code:	WPACAU2S

CONTRACT - REFERENCE SCHEDULE (CONT.)

Agent	<i>name</i>	Mirvac Real Estate		
	<i>address</i>	Level 17, 123 Eagle Street, Brisbane Qld 4000		
	<i>telephone</i>	(07) 3859 5888	<i>fax</i>	(07) 3859 5975
Deposit Holder		HWL EBSWORTH LAWYERS (the particulars for the Deposit Holder are on the previous page)		
Seller	<i>name</i>	MIRVAC QUEENSLAND PTY LTD ACN 060 411 207		
	<i>address</i>	Riverside Centre, Level 17, 123 Eagle Street, Brisbane QLD 4000 Australia	<i>telephone</i>	07 3859 5310
Seller's Solicitor	<i>name</i>	HWL EBSWORTH LAWYERS (ATTN: Linda Margetts)		
	<i>address</i>	Level 19, 480 Queen Street (GPO Box 2033) Brisbane Qld 4000		
	<i>telephone</i>	(07) 3169 4726	<i>facsimile</i>	1300 368 717
	<i>email</i>	lmargetts@hwle.com.au		

The contract may be subject to a 5 business day statutory cooling-off period. A termination penalty of 0.25% of the purchase price applies if the buyer terminates the contract during the statutory cooling-off period. It is recommended the buyer obtain an independent property valuation and independent legal advice about the contract and his or her cooling-off rights, before signing.

Buyer's Signature

SIGNED by the Buyer in the presence of (and if a company, in accordance with Sections 126 or 127 of the *Corporations Act 2001 (Cth)* or by its duly authorised signatory):

.....
Buyer (or Director/Secretary of Buyer or authorised signatory, if company)

Witness
(witness not required if signed electronically)

.....
Buyer (or Director/Secretary of Buyer or authorised signatory, if company)

.....
Buyer (or Director/Secretary of Buyer or authorised signatory, if company)

The signatories, by placing their signatures above, warrant that:

- (a) they are the Buyer or they are authorised by the Buyer to sign; and
- (b) if an officer of a company, the company duly resolved to enter into and sign this Contract.

Seller's Signature

SIGNED ON BEHALF of MIRVAC QUEENSLAND PTY LTD ACN 060 411 207 by its duly authorised signatory:

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)
)
)
)

NO PRE-CONTRACT REPRESENTATIONS – IMPORTANT NOTICE

No sales or marketing agent has authority from the Seller or any related company to make promises, representations or give any warranties or assurances about the Principal Scheme, the Scheme or the Property other than promises, representations, warranties and assurances which are contained in this Contract or the Disclosure Documents.

Buying a property is an important investment. If the Buyer has been induced to buy the Property by, or in buying the Property has relied on anything the Buyer has been told or any assurance the Buyer has been given other than what is in this Contract or the Disclosure Documents, it is important these promises, representations, warranties or assurances are identified so they can be disclaimed, confirmed, qualified or clarified before the Buyer commits to buy the Property.

The Buyer should set out below any promises, representations, warranties or assurances that have been made to the Buyer by the Seller or any sales or marketing agent of the Seller that have, to any extent, induced the Buyer to buy the Property or on which the Buyer has to any extent relied, in its decision to buy the Property, but which are not included in this Contract or the Disclosure Documents:

Promise, representation, warranty or assurance allegedly made	Person who is alleged to have said it	Date made

Buyer's Acknowledgment about Seller's Representations

1. The Buyer acknowledges that no sales or marketing agent has authority from the Seller to make promises or representations or to give warranties or assurances on behalf of the Seller, other than those contained in this Contract or the Disclosure Documents.
2. The Buyer confirms and represents to the Seller that the Buyer has not been induced to enter into this Contract by, and has not relied on, any promises, representations, warranties or assurances other than those which are contained in this Contract or the Disclosure Documents or which are hand written above.
3. The Buyer understands that:
 - 3.1 if it leaves the table above blank, it is representing and warranting to the Seller that it has not been induced by and has not relied on anything said or done by or on behalf of the Seller to enter into this Contract, other than what is contained in this Contract or the Disclosure Documents;
 - 3.2 except for this representation and acknowledgement, the Seller would not have entered into this Contract; and
 - 3.3 by the acknowledgment, confirmation and representation given in paragraphs 1, 2 and 3 above, it is likely that the Buyer will not be able to sue the Seller in respect of any promise, representation, warranty or assurance other than those set out above or which are set out elsewhere in this Contract or the Disclosure Documents.

Buyer 1 Sign

Buyer 2 Sign

Buyer 3 Sign

Version 1 - 7 November 2019

CONTRACT TERMS

A MEANING OF TERMS

1. Reference Schedule

Terms in the Reference Schedule have the meanings shown opposite them.

2. Disclosure Documents

Terms used in the Disclosure Documents (including the Statutory Disclosure Statements and other statements contained in the Disclosure Documents), unless otherwise defined, have the meanings given to them in this Contract.

3. BCCM Act

Terms not defined in this Contract but defined in the BCCM Act have the meanings given to them in the BCCM Act.

4. Definitions

In this Contract, unless the context otherwise indicates:

ADI has the meaning given in the *Banking Act 1959 (Cth)*.

Authority means any body (including any judicial body), government, person or otherwise having or exercising control over the approval of, carrying out of, use or operation of the Principal Scheme, the Scheme or the Property (or any part or proposed part of them) including any services to be provided to them.

Balance Price means the Price, less any cash Deposit paid, adjusted in accordance with this Contract.

Bank means an ADI that is permitted under section 66 of the *Banking Act 1959 (Cth)* to call itself a bank or a bank constituted under a law of a State of Australia.

Bank Cheque means a cheque issued or drawn by an ADI on itself.

BCCM Act means the *Body Corporate and Community Management Act 1997 (Qld)*.

Body Corporate means the body corporate created under Section 30 of the BCCM Act upon establishment of the Scheme.

Body Corporate Agreements means any proposed service contractor's agreements, letting authorisation agreement and possibly other agreements to be entered into by the Body Corporate when the Scheme is established (or continued when the Scheme is changed), draft copies of which are contained in the Disclosure Documents. If the Scheme is already established, these agreements may have already been entered into by the Principal Body Corporate.

Builder means a builder who has been advertised through the Seller's current marketing campaign.

Building Contract means a contract with a Builder to build a Dwelling on the Lot.

Business Day means any week day which is not a public holiday in Brisbane.

Buyer's Solicitor means the Buyer's Solicitor named in the Reference Schedule and includes any other solicitor notice of which is given as acting for the Buyer.

By-laws means the by-laws of the Principal Scheme or the Scheme (as the context requires) as amended from time to time.

Claim includes any claim, cause of action, proceeding, right, entitlement, damage, cost, loss, liability or demand however it arises and whether it is past, present or future, fixed or unascertained, actual, potential or contingent.

Committee means the committee of the Principal body Corporate or the Body Corporate.

Common Property means, as the context requires, the common property of the:

- (a) Principal Scheme; or
- (b) Scheme.

Community Management Statement means, as the context requires, the community management statement recorded in order to:

- (a) establish the Scheme, or
- (b) change the Scheme on the addition of a further stage.

Compliant Bank Guarantee means a guarantee or undertaking by a Bank acceptable to the Seller, which:

- (a) is issued by an Australian Bank;
- (b) is for the amount of the Deposit;
- (c) is issued in favour of the Deposit Holder as "Favouree" (as opposed to specifying the Seller as Favouree);
- (d) specifies that the Seller has agreed to accept the guarantee or undertaking instead of payment of a cash deposit;
- (e) requires the bank to pay the Deposit Holder the Deposit amount immediately on presentation of the guarantee or undertaking without first checking with the Buyer or any other person;
- (f) has no expiry date and is expressed to be unconditional and irrevocable;
- (g) contains the names of the Seller and the Buyer (and no other third party) and makes reference to this Contract and the sale made under it, eg:

MIRVAC QUEENSLAND PTY LTD ACN 060 411 207 sale of lot [No.] Ashford Land to [Buyer's Name]; and

- (h) is otherwise on terms and conditions and in a form satisfactory to the Seller and any Seller's financier.

Conditions Subsequent means the conditions set out in the clause titled **Conditions Subsequent**.

Contract means this contract document.

Contract Rate means the Contract Rate prescribed by the Queensland Law Society Inc.

Cost means any cost, fee, charge, expense, outgoing, payment, liability or other expenditure of any nature including legal fees.

Dealing has the meaning given in clause 84.1 concerning **Assignment**.

Deed Poll means the Deed Poll for the Housing Covenants accompanying this Contract document.

Deposit means the Total Deposit (which comprises the Initial Deposit and the Balance Deposit) shown in the Reference Schedule.

Deposit Bond means a bond or other surety (however described) that is:

- (a) from an insurance company or other institution acceptable to the Seller (at the Contract Date being only QBE as the insurer or underwriter);
- (b) in a form acceptable to the Seller in its discretion;
- (c) for an amount equal to the Deposit; and
- (d) payable on demand.

Digitally Sign has the meaning in the ECNL.

Disclosure Documents means the documents titled **Disclosure Documents** or similar given or delivered to the Buyer before formation of this Contract.

Display Home has the meaning given to that term in the *Domestic Building Contracts Act 2000 (Qld)*.

Dwelling means the residential detached dwelling constructed or to be constructed on the Lot in accordance with the Housing Covenants.

ECNL means the *Electronic Conveyancing National Law (Queensland)*.

Electronic Conveyancing Documents has the meaning in the *Land Title Act 1994*.

Electronic Lodgement means lodgement of a document in the Queensland Land Registry in accordance with the ECNL.

Electronic Settlement means settlement facilitated by the Platform.

Electronic Workspace means a shared electronic workspace within the Platform that allows the Buyer and Seller to effect Electronic Lodgement and Financial Settlement by way of electronic addresses for service of notices and for written communications.

Essential Term means a term of this Contract which is specified to be an **Essential Term** and any other term of this Contract that a court finds to be essential.

Expert means an expert nominated by the President of the Queensland Master Builders Association or a similar association determined by the Seller, such request for nomination to be made by the Seller.

FATA means the *Foreign Acquisitions and Takeovers Act 1975 (Cth)*.

Financial Settlement means the exchange of value between financial institutions in accordance with the Financial Settlement Schedule.

Financial Settlement Schedule means the electronic settlement schedule within the Electronic Workspace listing the source accounts and destination accounts.

Foreign Interest means any person within the definition of **foreign person** in FATA.

Further Statement means a further statement for the purposes of Section 214 of the BCCM Act.

GST means goods and services tax payable under the GST Law.

GST Law means the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

Guarantee means the Guarantee and Indemnity accompanying this Contract document.

Housing Covenants means any building covenants attached to or accompanying this Contract document regulating the design and building of improvements and landscaping on the Land as varied by the Seller from time to time.

Identification Plan means the plan(s) contained in the Disclosure Documents used in order to identify the Lot.

Interest means any interest earned on the investment of a cash Deposit.

Latest Date means **31 December 2020**.

Lot means the proposed lot in the Scheme which is sold under this Contract and is further described in the Reference Schedule.

Lot Entitlement means the contribution or interest entitlement (as the context requires) of a lot included in the:

- (a) Principal Scheme as specified in the Principal CMS; or
- (b) Scheme as specified in the Community Management Statement.

Name means the name or intended name of the:

- (a) Principal Scheme being **Ashford Principal**; and
- (b) Scheme being **Ashford Land**.

NBN Co means any one or more of NBN Co Limited ABN 86 136 533 741 or any related body corporate or related entity to it.

NBN Co Building Ready Specifications means the specifications concerning the building requirements for connection of the Lot to the Network Infrastructure as provided by NBN Co or as otherwise available on NBN Co's website, as varied by NBN Co from time to time including the NBN Co Residential preparation and installation guide for SDUs and MDUs.

Network Infrastructure means the physical infrastructure of the high speed broadband fibre optic network (or other technology selected by NBN Co) which may be installed by NBN Co:

- (a) including all fibre, cables, electronic devices and equipment, ducts, poles, towers, cabinets, housing and any other active and passive equipment and distribution infrastructure;
- (b) not including the Pit and Pipe Works, any existing pit and pipe infrastructure, lead-in conduit, the network termination unit or the power supply unit and related cable at the Lot.

Non-Compliant Guarantee means a:

- (a) Deposit Bond; or
- (b) a guarantee or undertaking by a Bank that is not a Compliant Bank Guarantee.

Notice means:

- (a) any notice, request, direction or other communication to be given under or in relation to this Contract; or
- (b) any statement, notice or disclosure required by any law to be given in relation to this Contract or the transactions evidenced by it (including statements under sections 213 and 214 of the BCCM Act).

Novation Deed means a deed (in a form reasonably required by the Seller) to be made in relation to a Dealing and under which, on and from completion of the Dealing, the Third Party covenants in favour of the Buyer to be bound by the obligations of the Seller under this Contract.

Object means to object generally and includes to:

- (a) object to a Variation;
- (b) object to Title;
- (c) avoid or attempt to avoid this Contract;
- (d) refuse to effect Settlement;
- (e) delay Settlement;
- (f) make any Claim, whether before or after Settlement, including a claim for damages or compensation or any reduction in the Price;
- (g) retain any part of the Price;
- (h) require the Seller to carry out any works;
- (i) withhold a consent;
- (j) seek an injunction; or
- (k) to object indirectly, for example, through participation as a member of the Body Corporate.
- (l) **Other Features** means street trees, street lights, bin pads, footpaths, driveways and fencing (intended to be constructed or that has been constructed by or on behalf of the Seller).

Outgoings means:

- (a) rates, charges or levies on the Principal Scheme Land, the Scheme Land or the Lot by

any Authority (including rates, water charges, fire service levies etc);

- (b) land tax;
- (c) Body Corporate levies; and
- (d) Principal Body Corporate and Body Corporate and building insurances paid by the Seller.

Parties means the Seller and Buyer.

Party means the Seller or the Buyer as the context requires.

Permitted Variation means a Variation which, viewed objectively, does not:

- (a) have a material adverse effect on the use or value of the Property; and
- (b) result in the Property being substantially different to that depicted in the Contract and the Disclosure Documents.

Pit and Pipe Works means the physical infrastructure, including all pits, pipes, conduits and any other materials to be designed and constructed on behalf of the Seller under the Seller's agreement with NBN Co (if any) necessary to properly service the Lot and possibly other land.

PLA Act means the *Property Law Act 1974 (Qld)*.

Plan means the survey plan to be registered pursuant to the *Land Title Act 1994 (Qld)* which creates the Lot.

Platform means any bona fide system operated for settlement of conveyancing transactions and lodgement of Queensland Land Registry documents by a party approved as an Electronic Lodgement Network Operator under section 15 of the ECNL, including the system operated by Property Exchange Australia Ltd.

Power of Attorney means appointment of the Seller (and its representatives) by the Buyer as the Buyer's attorney pursuant to the clause 58 **Power of Attorney**.

PPSA means the *Personal Property Securities Act 2009 (Cth)*.

PPS Release means a document or a copy of a document (which may be a letter) signed by a Secured Party giving a release of its Security Interest for the Sold Property.

PPSR means the register kept pursuant to the PPSA.

Principal Body Corporate means the body corporate created under Section 30 of the BCCM Act upon establishment of the Principal Scheme

Principal Body Corporate Agreements means any proposed service contractor's agreements and possibly other agreements to be entered into by the Principal Body Corporate when the Principal Scheme is established (or to be continued when the Principal Scheme is changed), draft copies of which are contained in the Disclosure Documents. If the Principal Scheme is already established, these agreements may have already been entered into by the Principal Body Corporate.

Principal CMS means the community management statement recorded for the Principal Scheme when the

Scheme is established or changed (as the case may be) as applies to the Lot sold under this Contract.

Principal Scheme means the *Ashford Residences community titles scheme*.

Principal Scheme Land means the land as described in the Disclosure Documents to be subdivided to create or progressively develop the Principal Scheme and the Scheme and other lot(s) included in the Principal Scheme.

Promotional Materials means all marketing materials (including websites), models, artists impressions, display boards and similar and any representation or depiction contained in any display apartment in relation to the Property, the Principal Scheme or the Scheme.

Proposed CMS means the proposed community management statement for the Scheme included in the Disclosure Documents which relates to the stage of the Scheme in which the Lot is proposed to be included.

Proposed Principal CMS means the proposed community management statement for the Principal Scheme to apply on establishment or changing of the Scheme, a draft copy of which is included in the Disclosure Documents.

Proposed Lot Entitlement means the proposed contribution or interest entitlement (as the context requires) of a proposed lot in the:

- (a) Principal Scheme as shown in the Proposed Principal CMS; or
- (b) Scheme as shown in the Proposed CMS.

Regulation Module means the regulation module under the BCCM Act which applies or is proposed to apply to the Principal Scheme or the Scheme.

Scheme means the *Ashford Land* community titles scheme. The Scheme may be developed in stages and is or is proposed to be a:

- (a) subsidiary scheme of the Principal Scheme; and
- (b) lot included in the Principal Scheme.

Scheme Land means the land as described in the Disclosure Documents to be subdivided to create or progressively develop the Scheme. The Scheme Land will be created from the Principal Scheme Land.

Section 213 Statement means the disclosure statement required under Section 213 of the BCCM Act contained in the Disclosure Documents.

Secured Party means the holder of a Security Interest.

Security Interest has the meaning given in the PPSA.

Services means services including water supply, electricity (including street lighting), sewerage, stormwater, roofwater, telephony services and reticulated gas (if any).

Services and Other Features Plans means the lot services plans contained within the Disclosure Documents.

Settlement means the event of settlement of this Contract.

Settlement Date means the date on which Settlement is to take place determined in accordance with the clause 44 **Settlement Date**.

Settlement Materials means all things which the Seller is required to provide or deliver to the Buyer (including, if applicable, by way of Electronic Settlement) at or following Settlement including any releases, withdrawals, documents, certificates, declarations, Notices, instruments, materials, letters or similar.

Settlement Statement means a statement which outlines or lists:

- (a) the calculation of the Balance Price payable by the Buyer to the Seller at Settlement (including details of adjustments to the Price for the Deposit paid, Outgoings and other amounts payable by the Parties under this Contract);
- (b) directions as to payment of the Balance Price by Bank Cheques (or trust cheques if authorised by the Seller) or by Electronic Settlement, if applicable;
- (c) Settlement Materials; and
- (d) any other particulars the Seller considers appropriate.

Sold Property means the Lot.

Special Conditions means the special conditions (if any) annexed to or forming part of this Contract.

Statutory Disclosure Statements means the statutory disclosure statements contained in the Disclosure Documents including the Section 213 Statement.

Statutory Obligation means any obligation, duty, liability, direction or requirement imposed by any statute, ordinance, regulation, by-law or subordinate legislation.

Sunset Date means that date which is **3 ½ years** after the day this Contract was entered into by the Buyer or any later date for Settlement requested by the Buyer and agreed to by the Seller.

Third Party means the person in whose favour the Seller effects a Dealing.

Title means the title to the Lot.

Transfer Documents means:

- (a) a Form 1 Transfer under the *Land Title Act 1994 (Qld)*; and
- (b) a Form 24 Property Transfer Information (Part B – Transferor to complete) form.

(If before Settlement the Queensland Land Registry changes its requirements of or the form of the Transfer Documents, then the definition of Transfer Documents will be deemed to be amended to give effect to the intent of this Contract to provide for the then equivalent forms and documents as determined by the Seller's Solicitors, acting reasonably).

Variations means variations, changes, reductions, omissions, substitutions or additions to (as the context requires) the Principal Scheme, the Scheme, the Common Property, the Body Corporate assets or the Lot, including variations, changes, reductions,

omissions, substitutions or additions to any one or more of the above which are in respect of the:

- (a) titling arrangements;
- (b) administration and management arrangements;
- (c) utility infrastructure and supply arrangements;
- (d) method of construction;
- (e) construction materials;
- (f) number of lots:
 - (i) or subsidiary schemes included in the Principal Scheme;
 - (ii) included in the Scheme; or
 - (iii) included in other subsidiary schemes of the Principal Scheme;
- (g) change in, omission or reduction of the number of:
 - (i) community titles schemes which are subsidiary community titles schemes of the Principal Scheme,
 - (ii) buildings within the Principal Scheme;
 - (iii) buildings within other subsidiary schemes of the Principal Scheme; or
 - (iv) stages within the Principal Scheme or the Scheme (including the Seller not proceeding with the development of any or all of the balance stages of the Principal Scheme or the Scheme);
- (h) the staged nature of the carrying out of the development of the Principal Scheme or the Scheme including the Seller's intention to commence or complete any particular stage and the timing, sequencing and completion of any stage;
- (i) facilities;
- (j) access arrangements;
- (k) landscaping;
- (l) composition;
- (m) density;
- (n) mix of or rights in relation to uses;
- (o) design;
- (p) retaining walls;
- (q) fences;
- (r) elevations;
- (s) location;
- (t) layout;
- (u) size;
- (v) dimensions;
- (w) area;
- (x) components which comprise the Principal Scheme or the Scheme;

- (y) community facilities within the Principal Scheme or the Scheme;
- (z) descriptions or identification numbers of lots, plans or assets; and
- (aa) the design, location, size and dimensions of any pool (if any) and associated facilities;
- (bb) addresses – street names and numbers.

Withholding Law means Schedule 1 to the *Taxation Administration Act 1953 (Cth)*.

B AGREEMENT TO SELL & BUY

5. Seller's Agreement to Sell

The Seller agrees to sell the Property to the Buyer on the terms set out in this Contract.

6. Buyer's Agreement to Buy

The Buyer agrees to buy the Property from the Seller on the terms set out in this Contract.

C SELLER'S CONDITIONS

7. Conditions Subsequent

Settlement of this Contract is subject to the Seller satisfying the following Conditions Subsequent:

- (a) if the Seller is not already the owner of the Scheme Land, the Seller becoming the owner of the Scheme Land;
- (b) the Seller obtaining all necessary Authority approvals for the development of the stage of the Scheme which includes the Property;
- (c) recording of the Community Management Statement which first includes the Lot with the Queensland Land Registry;
- (d) registration of the Plan.

8. Unreasonable Conditions

8.1 Clause 8.2 applies if an Authority:

- (a) refuses to grant or revokes a necessary permit or approval required to satisfy the Condition Subsequent in clause 7;
- (b) grants or intimates that it proposes to grant an approval or permit for the development of the Scheme (or any stage of it) containing conditions with which the Seller is unable or, acting reasonably, not willing to comply;
- (c) refuses to seal the Community Management Statement or the Plan; or
- (d) agrees to seal the Community Management Statement or the Plan on conditions with which the Seller is unable or, acting reasonably, not willing to comply.

8.2 If this clause 8.2 applies, the Seller may terminate this Contract by Notice to the Buyer. If this happens:

- (a) the Deposit and Interest must be released to the Buyer; and

- (b) the Buyer has no further Claim against the Seller.
- 8.3 For the purpose of this clause 8, the Buyer acknowledges and agrees that:
- (a) at the time of entering into this Contract, the Seller may not know all of the conditions, imposed by Authorities to which the:
- (i) necessary approvals and permits for the development of the Scheme (or any stage of it) may be subject; and
- (ii) sealing of the Community Management Statement and the Plan may be subject;
- (b) there may be a variety of reasons why the Seller may be unable or unwilling to comply with particular conditions to which an approval or permit for the development of the Scheme (or any stage of it) or to which the sealing of the Community Management Statement or the Plan may be subject, including that such conditions make the carrying out of the development of the Principal Scheme or the Scheme commercially or financially undesirable or unviable or unacceptably risky for the Seller; and
- (c) as long as the Seller is acting in good faith, it will not be unreasonable for the Seller to refuse to accept conditions to which an approval or permit for the development of the Scheme (or any stage of it) or to which the sealing of the Community Management Statement or Plan is subject, if the Seller makes a judgement that such conditions make the carrying out of the development of the Principal Scheme or the Scheme commercially or financially undesirable or unviable or unacceptably risky for the Seller.

Explanatory Note: *The lawful completion of the Scheme is conditional upon the matters identified in clause 7. If those conditions are not forthcoming then the Scheme will be unable to proceed. If any conditions imposed by an Authority are unreasonable, such conditions could impact on the financial viability of the Scheme. In those circumstances, the Seller has retained the right to terminate the Contract. This right is balanced by the obligation on the Seller to act reasonably and to return the Deposit and any Interest to the Buyer. In those circumstances, the Buyer will suffer no significant financial detriment*

9. Sunset Date

- 9.1 Subject to clause 9.2, Settlement must be effected by the Sunset Date, failing which either Party may terminate this Contract by Notice to the other Party. If this happens:
- (a) the Deposit and Interest must be released to the Buyer; and
- (b) the Buyer has no further Claim against the Seller.
- 9.2 Notwithstanding clause 9.1, if Settlement has not been effected because of the Buyer's default, the Buyer has no right to terminate this Contract.

10. Seller's Condition – Latest Date

- 10.1 Clause 10.3 applies;
- (a) at any time up to and including the Latest Date; and
- (b) if the Seller, acting in good faith, reasonably believes that;
- (i) the carrying out of the development of the Principal Scheme or the Scheme is unable to proceed; or
- (ii) that the continued existence of this Contract or other contracts may jeopardise the Seller's ability to undertake or continue the carrying out of the development of the Principal Scheme or the Scheme.
- 10.2 By way of example only and without limitation, the following circumstances may jeopardise the Seller's ability to undertake or continue the development of the Principal Scheme or the Scheme:
- (a) the proposed financier to enable construction of relevant improvements will not consider this Contract to be a qualifying pre-sale contract for funding purposes;
- (b) the Seller is of the view that it will not obtain funding to enable the construction of relevant improvements on terms and conditions satisfactory to the Seller;
- (c) insufficient sales of proposed lots have been effected during the period up to the Latest Date;
- (d) projections for sales of proposed lots for the period after the Latest Date are insufficient; or
- (e) the Seller is of the view it may not be able to satisfy the Conditions Subsequent by the Sunset Date.
- 10.3 If this clause 10.3 applies, the Seller may by Notice to the Buyer terminate this Contract on or before the Latest Date.
- 10.4 On termination of this Contract under clause 10.3:
- (a) the Deposit and Interest must be released to the Buyer; and
- (b) the Buyer has no further Claim against the Seller.
- 10.5 The Seller may waive the benefit of clause 10.3 at any time. The Seller is taken to have waived the benefit of clause 10.3 if the Seller has not terminated this Contract by the Latest Date.
- 10.6 If this Contract is entered into after the Latest Date, then this clause 10 does not apply.

Explanatory Note: *The ability of the Seller to complete the Scheme may be dependent upon a number of circumstances including, but not limited to, the obtaining of suitable finance and the obtaining of sufficient pre-sales. During the course of the carrying out of the development of the Scheme, economic and other factors may change making it difficult and/or uneconomic to proceed with the development of the Scheme. In those circumstances, the Seller needs the right to terminate the Contract. This right is limited however such that the*

Seller is unable to terminate the Contract merely because it has a better deal. If the Contract is terminated the Seller is obliged to return the Deposit and any Interest to the Buyer. In those circumstances, the Buyer will suffer no significant financial detriment. The ability of the Seller to obtain finance to carry out the development of the Scheme may be linked to securing sufficient pre-sales.

D CONSTRUCTION STANDARDS & ACTIVITIES

11. Construction Standards

The Seller will, subject to the terms of the Contract, including those regarding the rights of the Seller to make Variations, cause the Lot, to be created substantially in accordance with the Identification Plan, in a good and workmanlike manner.

12. Construction Activities

12.1 The Buyer acknowledges that construction of the Principal Scheme and the Scheme will not be totally complete at Settlement and may be completed after Settlement.

12.2 The Buyer will not Object to:

- (a) any building of improvements or any other things done on the Principal Scheme Land or the Scheme Land or within the Principal Scheme or the Scheme including any noise, nuisance or other inconvenience which might arise from those activities;
- (b) the use by the Seller and any party authorised by the Seller of parts of the Principal Scheme or the Scheme for construction access and storage of building materials, vehicles, equipment or fill;
- (c) the Seller and any party authorised by the Seller causing areas to be temporarily closed off to facilitate the construction of any part of the Principal Scheme or the Scheme; or
- (d) the Seller not making available for use by occupants certain areas of Common Property (including hoarding or closing off areas to prevent access and use) due to safety reasons or to enable the further carrying out of the development of the Principal Scheme or the Scheme or construction activities generally,

including if these things occur after Settlement and for an extended period after Settlement.

12.3 The Buyer must comply with any reasonable directions of the Seller and any contractor appointed or authorised by the Seller while building of improvements is being carried out on the Principal Scheme Land, the Scheme Land or within the Principal Scheme or the Scheme, including directions related to traffic flow, both vehicle and pedestrian.

13. Buyer's Consent – Further Development

13.1 The Buyer consents to any application for any approval made to any Authority for the further carrying out of the development of the Principal Scheme or the Scheme or improvements within them and agrees, if directed by the Seller:

- (a) to sign and return any instrument of consent presented to it by the Seller within 5 Business Days after presentation; and
- (b) to vote in favour of any resolution of the Body Corporate which facilitates, enables or authorises the further carrying out of improvements as tabled by, on or behalf of or at the request of the Seller at meetings of the Body Corporate.

13.2 The Buyer will not Object to any application for any approval made with any Authority for further development or the carrying out of improvements, provided such application is for an approval which, if granted and given effect to, will not have a direct material adverse effect on the use or the value of the Property.

14. Common Property Finishes

- 14.1 All Common Property finishes and landscaping will be determined by the Seller in its discretion.
- 14.2 The Buyer must not Object if Common Property facilities, for example, recreational areas, barbeque facilities, swimming pool and the like, are not constructed and made available until subsequent stages of the development of the Principal Scheme are carried out.

E VARIATIONS

Explanatory Note: *At its inception, the Principal Scheme and Scheme begins as a general concept and becomes more defined as it moves towards Settlement. The final outcome may be impacted by a number of factors during the development process which cannot be accurately anticipated or predicted including, but not limited to, conditions of building approval, finance conditions, availability of materials and the finessing of design elements, which necessarily requires a level of flexibility to make additions, alterations and deletions to the initial concepts for the Principal Scheme or the Scheme. In those circumstances, in order to give effect to the general concept for the Principal Scheme and the Scheme, the Seller has retained the right to make certain Variations. The Buyer has been restricted as to the objections it can make to those Variations as such objections have the ability to affect other buyers, the financial viability of the Principal Scheme and the Scheme and the timing for the completion of the Principal Scheme and the Scheme.*

15. Buyer's agreement and acknowledgements about Variations

15.1 The Buyer acknowledges and agrees that:

- (a) as the Property is sold "off the plan", there are likely to be differences between the Principal Scheme, the Scheme and the Property as shown or described in any Promotional

- Materials, the Contract and the Disclosure Documents and as titled or built;
- (b) the Seller has made no representation and given no warranty that the Principal Scheme, the Scheme or the Property as titled or built will be exactly the same as shown or described in any Promotional Materials, the Contract or the Disclosure Documents, or, if any such representation has been made or warranty given, it is hereby withdrawn by the Seller;
- (c) the Seller may not own or have control over all of the Principal Scheme Land, the Scheme Land, the Principal Scheme or the Scheme;
- (d) the intention of the Seller to carry out the entire development of the Principal Scheme or the Scheme may not be fixed and unequivocal;
- (e) the Seller may carry out only some parts of the Principal Scheme or the Scheme and not others;
- (f) the Seller may not have applied for, obtained or finalised all necessary approvals for the Principal Scheme, the Scheme or the Property;
- (g) the Seller may not have finalised the design of all aspects of the Principal Scheme, the Scheme or the Property;
- (h) further detailed design may need to be undertaken by the Seller prior to completion of any civil works or construction;
- (i) any statements made in any Promotional Materials, Contract or the Disclosure Documents regarding the Seller's intentions about the carrying out of the development of the Principal Scheme, the Scheme or the Property are:
- (i) statements of the Seller's then present intention only and not predictions or representations that development of the Principal Scheme, the Scheme or the Property will be carried out in accordance with that information;
- (ii) correct as at the date on which they were prepared but may cease to be so in the future as circumstances change;
- (j) the development of the Principal Scheme, the Scheme or the Property may be subject to Variations for various reasons including requirements of Authorities, financial feasibilities, civil works costs, construction costs, market conditions, rates of sale of lots, etc (which may occur after this Contract is entered into or after Settlement);
- (k) components (including any or all future stages) of the development of the Principal Scheme or the Scheme (including community facilities) may not be developed at all or may be developed subject to significant Variations for various reasons including those specified in this clause (which, for avoidance of doubt, may change the character of the Principal Scheme or the Scheme);
- (l) it is reasonable that the Seller has flexibility to and may make Variations to the development of the Principal Scheme, the Scheme and the Property as set out in this Contract;
- (m) the Buyer:
- (i) has not relied on or been induced to enter into this Contract or purchase the Property by any information about the carrying out of the development of the Principal Scheme, the Scheme or the Property; and
- (ii) accepts the risk that any part of the development of the Principal Scheme or the Scheme may not be carried out or may be carried out subject to Variations in accordance with this Contract.
- 15.2 The Buyer acknowledges and understands that the Seller:
- (a) has relied on and been induced by the matters acknowledged and agreed to by the Buyer under clause 15.1 in deciding to enter into this Contract; and
- (b) would not have agreed to sell the Property to the Buyer but for the acknowledgements and agreements of the Buyer under clause 15.1.
- 16. Variations to the Principal Scheme**
- 16.1 The Seller is entitled to make Variations to the Principal Scheme (including community facilities) so that they are different from those depicted in any Promotional Materials, the Contract and the Disclosure Documents as determined by the Seller in its discretion.
- 16.2 The Buyer will not Object because of any Variations as set out in clause 16.1.
- 17. Seller's right to make Variations to the Scheme, the Common Property, & the Lot**
- 17.1 The Seller is entitled at its discretion to make Variations to the:
- (a) Scheme;
- (b) Common Property; and
- (c) Lot;
- so that they are different from those depicted in any Promotional Materials, the Contract and the Disclosure Documents.
- 17.2 The Buyer must not Object because of any such Variations provided:
- (a) in the case of Variations to the Scheme or the Common Property they do not:
- (i) materially detract from the character or standard of the Scheme; or
- (ii) have a direct material adverse effect on the use or the value of the Property;
- (b) in the case of Variations to the Lot, they are Permitted Variations;

- (c) in the case of any Variation, if the Seller has given the Buyer a Further Statement concerning the Variation and a period of 21 days has elapsed after the Seller has given the Buyer the Further Statement.
- 17.3 Each Variation of the Lot is to be considered separately in determining if the Variation is a Permitted Variation. The Parties agree that regard will not be had to the aggregate effect of more than one Variation, in making a determination as to whether a Variation is or is not a Permitted Variation.
- 17.4 Without limitation as to what may constitute a Permitted Variation, a Variation in the size of the Lot as shown on the Plan and that identified on the Identification Plan will be deemed to be a Permitted Variation, unless the difference in size is greater than 5%.
- 18. Rights of Buyer if Buyer entitled to Object to Variation**
- 18.1 This clause 18.2 applies if the Buyer is entitled to Object to a Variation pursuant to the Contract and is subject to any statutory rights of the Buyer.
- 18.2 If this clause 18.2 applies:
- (a) the Buyer must not Object other than as set out in this clause (without limitation, the Buyer cannot terminate this Contract); and
- (b) subject to clause 18.3, the Buyer may give Notice to the Seller claiming compensation as a result of the Variation (**Compensation Notice**), such Compensation Notice to be given before the earlier of:
- (i) the date 1 Business Day prior to the date which is (first) fixed as the Settlement Date; and
- (ii) the date 30 days after the Seller gives Notice to the Buyer that the Variation has been made or is intended to be made,
- failing which the Seller is not obligated to consider it or pay compensation and the Buyer will have no further Claim or right to Object.
- 18.3 The Buyer cannot make a compensation claim for an amount less than \$2,000.00. The amount of any claim for compensation made by the Buyer under this clause must be limited to an amount no greater than the reduction in value (if any) of the Property occurring as a result of the Variation.
- 18.4 If the Buyer gives a Compensation Notice, the Seller must, within 10 Business Days after receipt of the Compensation Notice, give Notice to the Buyer that the Seller either:
- (a) accepts the Buyer's claim for compensation set out in the Compensation Notice;
- (b) terminates this Contract, in which case this Contract is at an end, the Deposit and Interest must be refunded to the Buyer and the Buyer will have no further Claim against the Seller arising out of the subject matter of this Contract; or
- (c) requires a valuer to determine the amount of compensation payable to the Buyer (**Valuer Notice**).
- 18.5 If the Seller gives a Valuer Notice:
- (a) the Parties must use their best endeavours to agree a valuer to determine the compensation within 5 Business Days and, failing agreement, the valuer will be nominated by the President for the time being of the Queensland Law Society Incorporated (or their nominee) following request by either Party;
- (b) the valuer will be instructed to determine the amount of the compensation:
- (i) based on the reduction in value (if any) of the Property occurring as a result of the Variation; and
- (ii) within a reasonable time and, in any event, within 10 Business Days;
- (c) the determination of the valuer as to the quantum of compensation is final and binding on the Parties and is the only compensation payable by the Seller; and
- (d) the costs of the valuer must be paid equally by the Parties.
- 18.6 If the Buyer gives a Compensation Notice, the Settlement Date is the later of:
- (a) the Settlement Date calculated in accordance with the clause 44 **Settlement Date**; and
- (b) the date 5 Business Days after the measure of compensation is accepted by the Seller or determined by a valuer (as the case may be).
- 18.7 Any compensation payable by the Seller to the Buyer under this clause 18 is payable at, and is conditional upon, Settlement and may, at the election of the Seller, be paid by way of a minus adjustment of the Price.

F DEALINGS WITH COMMON PROPERTY

19. Seller's Right to Grant Leases & Licences

- 19.1 The Seller may procure that the Principal Body Corporate grant leases and licences over areas of Common Property and Principal Body Corporate assets on such terms and conditions that the Seller considers appropriate, providing that the grant does not:
- (a) materially detract from the standard or character of the Principal Scheme;
- (b) materially detrimentally affect the use of Common Property amenities or Principal Body Corporate assets; or
- (c) have a direct material adverse effect on the use or value of the Property.
- 19.2 The Seller discloses and the Buyer acknowledges and agrees that the Seller may derive a benefit, income or fee due to a grant of the kind referred to in clause 19.1. The Buyer must not Object if this happens.
- 19.3 Subject to clause 19.1, the Buyer will not Object to the Seller exercising its rights to procure that the Principal

Body Corporate grant leases and licences over areas of Common Property or Principal Body Corporate assets.

19.4 Without limitation, and by way of example only, the Seller may procure that the Principal Body Corporate grant a lease or licence:

- (a) to the Seller or any party nominated by the Seller over an area of rooftop Common Property for the purposes of installing and keeping a telecommunications aerial device at a peppercorn or nominal rental amount;
- (b) to the Seller or any party nominated by the Seller over an area of Common Property for the purposes of installing and keeping signage at a peppercorn or nominal rental amount; or
- (c) to a utility provider over an area of Common Property being an equipment keeping room in which utility supply equipment owned by the utility provider is kept.

19.5 The Seller or the nominated party who has the benefit of a lease or licence area as contemplated by this clause may sub-lease or sub-licence (as applicable) that area to a telecommunications carrier and derive income or other benefits from doing so. If this happens, the Buyer must not Object.

G TITLE

20. Title

20.1 Title is under the BCCM Act and the *Land Title Act 1994 (Qld)*. The Buyer accepts Title subject to the provisions of these Acts.

20.2 The Buyer is not entitled to make any requisitions as to the Title.

20.3 The Buyer accepts Title and the Property subject to and must not Object as a result of any of the following matters, even if they adversely affect the Common Property (all of which are authorised or permitted encumbrances or dealings for the purposes of this Contract):

- (a) the Housing Covenants;
- (b) the Community Management Statement;
- (c) the Principal CMS;
- (d) any matter endorsed upon the Plan;
- (e) any rights or interests reserved in favour of the Crown;
- (f) any administrative advices or similar dealings;
- (g) any encumbrances in favour of any Authority or any service authority (whether registered, unregistered or statutory);
- (h) the conditions of any approval of any Authority;
- (i) the existence or passage through the Property of utilities or utility infrastructure or other systems or services and all statutory rights relating to services;
- (j) any notifications, easements, restrictions, encumbrances, covenants or other matters or dealings disclosed to the Buyer in the

Disclosure Documents, this Contract or elsewhere;

(k) all notifications, easements, restrictions, encumbrances, covenants, administrative advices and dealings (other than a mortgage, caveat, writ or charge) on the title for the Common Property or the Title or otherwise affecting the Property or the Common Property not disclosed to the Buyer in the Disclosure Documents or this Contract providing they do not materially adversely affect the Buyer's use or value of the Property;

(l) any easements benefiting or burdening the Property, the Title, the Principal Scheme Land, the Scheme Land or the Common Property, whether statutory or otherwise for:

- (i) support;
- (ii) utility services and utility infrastructure;
- (iii) shelter;
- (iv) projections;
- (v) access; and
- (vi) maintenance of buildings close to boundary; and

(m) all notifications, easements, statutory covenants, administrative advices and restrictions in relation to the Title, the Principal Scheme Land, the Scheme Land, the Common Property or the Property required in order to satisfy the requirements of any Authority.

20.4 The Buyer must not Object to the surrender, extinguishment, variation or non-application to the Property, Title or the Common Property of any encumbrances, easements, interests, dealings or advices which apply to the Principal Scheme Land or the Scheme Land.

21. Encumbrances on Title

At Settlement the Title will be free from all material adverse encumbrances except those:

- (a) authorised by the BCCM Act or other statute;
- (b) authorised or permitted by this Contract;
- (c) in respect of which the Buyer must not Object under this Contract; or
- (d) otherwise disclosed in the Disclosure Documents, this Contract or elsewhere.

22. Mistake

If a mistake or omission is made by the Seller in the description of the Principal Scheme Land, the Scheme Land, the Lot, the Title or the Common Property, the Buyer:

- (a) is not entitled to terminate this Contract;
- (b) may (unless that right is limited elsewhere in this Contract) make a claim for compensation if any loss is suffered by the Buyer; and
- (c) subject to clause 22(b), is not entitled to otherwise Object.

23. Buyer must not Object

- 23.1 Subject to any rights of the Buyer under this Contract, and without limitation to the Seller's rights elsewhere in this Contract, the Buyer will not Object as a result of:
- (a) 24 hour public access being permitted over certain components of the Principal Scheme or the Scheme such as roadways, driveways, parking areas and thoroughfare areas.
 - (b) the Seller carrying out the development of proposed stages of the Principal Scheme or the Scheme at any time, including as combined stages;
 - (c) the Seller deciding not to proceed with all or some proposed future stages of the Principal Scheme or the Scheme at all;
 - (d) any of the matters and disclosures contained in this Contract, the Disclosure Documents or the Promotional Materials;
 - (e) any error, mistake or omission contained in the Disclosure Documents or the Promotional Materials;
 - (f) the Seller replacing or updating materials disclosed in the Disclosure Documents or the Promotional Materials;
 - (g) the views or visual aspect from the Lot being interrupted due to the further carrying out of the development of the Principal Scheme including if the Seller has made Variations to any of them resulting in the views or visual aspect being interrupted;
 - (h) the Lot being affected by shadowing or privacy issues from other improvements within the Scheme;
 - (i) residential lots within the Principal Scheme or the Scheme being sold as affordable or low cost type housing whether pursuant to a condition of a development approval or otherwise;
 - (j) the implementation or non-implementation of any environment sustainability initiatives in respect of the Principal Scheme or the Scheme;
 - (k) settlement of lots within the Principal Scheme or the Scheme taking place at different times;
 - (l) the Seller changing its name or there being an error or inaccuracy in the name, company number, address or other particulars of the Seller in this Contract or the Disclosure Documents;
 - (m) any transfer, lease, easement, licence, covenant or other right over part of the Common Property, Principal Body Corporate assets or Body Corporate assets given to the Seller, any Authority, any provider of utility infrastructure, any service contractor, the owner of a lot in the Principal Scheme or the Scheme or the owner of nearby land;
 - (n) the Principal Body Corporate or the Body Corporate entering into agreements with body corporates of other community titles schemes under which members and occupiers of lots in the Principal Scheme or the Scheme and lots included in the other schemes share the use and enjoyment of facilities forming part of the common property or body corporate assets of one or more of the schemes;
 - (o) any alteration to the street number or address of the Principal Scheme, the Scheme or the Lot or the name of or any intellectual property associated with them;
 - (p) any alteration in the number or location of lots in the Principal Scheme or the Scheme or the numbering, size, location or permitted use of lots in them;
 - (q) any alteration to the Lot Entitlement of the:
 - (i) Scheme in the Principal Scheme;
 - (ii) Lot in the Scheme; or
 - (iii) any other lot in the Principal Scheme or the Scheme, from the Proposed Lot Entitlement;
 - (r) any alteration in the aggregate Lot Entitlement of all:
 - (i) lots included in the Principal Scheme; or
 - (ii) lots included in the Scheme;
 - (s) any alteration to the materials which comprise the Statutory Disclosure Statements including any community management statement as a result of any changes to legislation;
 - (t) the Principal Scheme Land or the Scheme Land being affected by flooding or other flow or inundation of water at any time including before or after formation of this Contract or Settlement;
 - (u) a boundary of the Principal Scheme Land or the Scheme Land not being fenced, or any boundary, fence or wall not being upon or within the boundary;
 - (v) the existence of an encroachment onto or from the Principal Scheme Land or the Scheme Land;
 - (w) the existence or passage through the Principal Scheme Land, the Scheme Land, the Common Property or the Lot of utilities or utility infrastructure or other systems or services whether for the Property, the Common Property or other adjoining property or lots;
 - (x) the subdivision of the:
 - (i) Principal Scheme Land into the Principal Scheme; or
 - (ii) Scheme Land into the Scheme, by any type and number of survey plans and accompanying community management statements as determined by the Seller;
 - (y) the subdivision or amalgamation of any lots in the Principal Scheme or Scheme, other than the Lot;

- (z) the transfer of any additional land into the Principal Scheme or the Scheme whether as a lot or Common Property;
- (aa) the transfer, dedication or excision of any land out of the Principal Scheme Land, the Scheme Land, the Scheme;
- (bb) an alteration to the Common Property, Principal Body Corporate assets, Body Corporate assets or any other facilities or rights in relation to their use;
- (cc) facilities within the Principal Scheme or the Scheme being made available for use at different times including after Settlement;
- (dd) an alteration in the access arrangements and facilities intended to benefit or burden the Principal Scheme or the Scheme;
- (ee) the creation of community title schemes in addition to the Principal Scheme and the Scheme;
- (ff) certificates of classification (or equivalent) being issued at different times for different parts of the the Principal Scheme;
- (gg) there being no pool safety certificate at Settlement if there is a pool;
- (hh) a change in the Regulation Module to apply to the Principal Scheme or the Scheme;
- (ii) the disclosure or non-disclosure of proposed service location diagrams as part of the Proposed Principal CMS or the Proposed CMS;
- (jj) arrangements in relation to supply of utilities including if the Principal Body Corporate or the Body Corporate enters into arrangements for the supply of utilities;
- (kk) utility infrastructure being owned by the supplier of the utility and not the Principal Body Corporate or the Body Corporate (for example, cabling, meters, hot water, air conditioning and gas supply equipment, communications equipment and associated infrastructure);
- (ll) the Seller causing the Principal Body Corporate or the Body Corporate to have one or more general meetings while it is (or effectively is) the sole member of them and electing or confirming the appointment of the members of the Committee and attending to matters required by the BCCM Act;
- (mm) the Seller causing the Principal Body Corporate or the Body Corporate to give any indemnity in favour of an Authority, service provider or other entity, including if the indemnity is in respect of loss of profits;
- (nn) the Seller causing the Principal Body Corporate or the Body Corporate to enter into any agreement that may be a requirement of any approval issued by an Authority or as a condition to the provision of any service or utility;
- (oo) the Seller causing changes to be made to the Proposed Principal CMS or the Proposed CMS as required to comply with or set out conditions
- (pp) the Seller causing the Principal Body Corporate or the Body Corporate to pass resolutions while the Seller is the sole member of them, including resolutions that may be beneficial to the Seller or parties related to it or resolutions to assist or facilitate the further carrying out of the development of the Principal Scheme or the Scheme;
- (qq) the Seller causing the Principal Body Corporate or the Body Corporate to enter into, not enter into or amend agreements, documents or dealings or any other matter referred to in the BCCM Act or disclosed or contemplated in this Contract or the Disclosure Documents (including all or some of the Principal Body Corporate Agreements or the Body Corporate Agreements);
- (rr) the identity of any service contractor or letting agent under a Principal Body Corporate Agreement or a Body Corporate Agreement not being known or not being disclosed to the Buyer as at the Contract Date;
- (ss) the manager under any caretaking service contract or letting authorisation not residing within the Principal Scheme or the Scheme;
- (tt) any delay in the entry by the Principal Body Corporate or the Body Corporate into any of the Principal Body Corporate Agreements or the Body Corporate Agreements respectively or delay in their commencing including if the Seller causes interim arrangements to be effected until those agreements commence such as for caretaking and letting authorisations;
- (uu) the grant of the use of areas of the Common Property to the parties who enter into Principal Body Corporate Agreement or Body Corporate Agreements (or some of them) for the use of an office, reception, storage space or other uses ancillary to the duties of the service contractor or business of the letting agent;
- (vv) the Lot or the Common Property being recorded on or in the Contaminated Land Register, Environmental Management Register or any similar register maintained by an Authority or being subject to a site management plan, remediation action plan or similar plan because the Principal Scheme Land or the Scheme Land (or any part of them) is or was recorded on such a register or is or was subject to such a plan;
- (ww) the Principal Scheme Land, the Scheme Land, the Common Property or the Lot being recorded on or in the Contaminated Land Register or the Environmental Management Register or any similar register or being subject to a site management plan, remediation action plan or similar because of something that occurs or contamination that is discovered during construction of the Principal Scheme or the Scheme (or any part of them) or because of the installation of improvements within the Principal

Scheme or the Scheme (or any part of it), for example, fuel storage tanks for back-up generators; and

- (xx) the existence of any electrical substation, sewerage system, transformer or telecommunications facility (including a tower or satellite dish) or similar thing within the Principal Scheme or the Scheme.

H **PRINCIPAL BODY CORPORATE & BODY CORPORATE**

24. **By-Laws**

24.1 Subject to clause 24.2, at Settlement, the By-laws for the:

- (a) Scheme will be as set out in the Proposed CMS; and
- (b) Principal Scheme will be as set out in the Proposed Principal CMS

24.2 Subject to the BCCM Act, the Seller is entitled to make or cause to be made changes to the By-laws considered necessary by the Seller, or as required by an Authority for the effective control and management and progressive development of the Principal Scheme or the Scheme. The Buyer must not Object to any changes of the By-laws.

25. **Body Corporate Records**

The Buyer may apply and is authorised by the Seller to apply to the Body Corporate for an information certificate under Section 205 of the BCCM Act.

26. **Principal Body Corporate & Body Corporate Agreements**

26.1 The Seller may cause the:

- (a) Principal Body Corporate to enter into the Principal Body Corporate Agreements; and
- (b) Body Corporate to enter into the Body Corporate Agreements,
- or any one or more of them with any party or parties which, in the Seller's opinion, are reasonably qualified to perform the obligations contained in those agreements including the Seller itself or parties however related to the Seller.

26.2 The Seller may change the terms of the Principal Body Corporate Agreements or the Body Corporate Agreements as considered necessary by the Seller for the effective control and management of the Principal Scheme or the Scheme. The Buyer must not Object to any such changes.

26.3 The Seller discloses and the Buyer acknowledges that the Seller may receive fees (or other benefits) for causing the Principal Body Corporate Agreements or the Body Corporate Agreements or any one or more of them to be entered into.

26.4 The Buyer warrants and represents to the Seller that it has read, understood and taken advice about the Principal Body Corporate Agreements and the Body

Corporate Agreements (or has had an opportunity to do so) and agrees that the terms of those instruments:

- (a) achieve a fair and reasonable balance between the interests of the parties to those agreements; and
- (b) are appropriate for the Principal Scheme and the Scheme respectively,

and that the powers to be exercised and functions required to be performed by any caretaking service contractor and letting agent under those agreements are appropriate for the Principal Scheme and the Scheme and do not adversely affect the Principal Body Corporate or the Body Corporate or their ability to carry out their functions.

26.5 The Buyer consents to the Seller causing the:

- (a) Principal Body Corporate to enter into the Principal Body Corporate Agreements; and
- (b) Body Corporate to enter into the Body Corporate Agreements,

and if this has already occurred as at the date of this Contract, the Buyer affirms any such action taken by the Seller and agrees that the consideration is the property of the Seller absolutely.

26.6 Clauses 26.7, 26.8 and 26.9 are subject to the Seller having complied with its obligations under the terms of the BCCM Act in relation to the Principal Body Corporate Agreements and the Body Corporate Agreements.

26.7 The Buyer must not Object or participate in (including voting for, authorising or otherwise procuring that) the Principal Body Corporate or the Body Corporate objecting or making any Claim arising out of the Seller:

- (a) causing the Principal Body Corporate Agreements or the Body Corporate Agreements or any one or more of them to be entered into with a party nominated by the Seller;
- (b) causing the Principal Body Corporate Agreements or the Body Corporate Agreements or any one or more of them to be entered into with a party related to the Seller, including by common shareholders or company officers to the Seller; or
- (c) obtaining a fee or deriving any form of benefit, directly or indirectly, as a result of the:
- (i) Principal Body Corporate entering into the Principal Body Corporate Agreements or any one or more of them; or
- (ii) Body Corporate entering into the Body Corporate Agreements or any one or more of them.

26.8 The Buyer must vote against any motion of the Body Corporate that the Body Corporate objects to or makes a Claim in relation to the matters set out in this clause.

26.9 Notwithstanding Settlement, if there is a breach or anticipated breach by the Buyer of this clause, the Seller will be entitled to all reasonable Costs incurred and all losses suffered as a result of, or arising from, the breach or anticipated breach.

- 26.10 The Buyer acknowledges receipt of the Seller's disclosure to the Buyer titled "*Disclosure About Management Rights Etc*" or similar contained within the Disclosure Documents.
- 26.11 A reference to a service contractor providing services in respect of a particular facility or thing in the Principal Body Corporate Agreements or the Body Corporate Agreements does not mean that that facility or thing will be provided. For example, a reference to maintaining a water feature does not mean that a water feature will form part of the Common Property.
- 26.12 The Buyer acknowledges that the manager under any caretaking service contract or letting authorisation may (but is not required to be) be a recognised or branded operator with a chain of management rights type operations, and, if that happens, the Buyer must not Object.
- 26.13 The Seller may cause the Principal Body Corporate or the Body Corporate to increase any *relevant limit for major spending* by the relevant resolution of the Principal Body Corporate or the Body Corporate at general meeting to facilitate any of the Principal Body Corporate Agreements or the Body Corporate Agreements or other service contractor or body corporate manager engagements being entered into by the Body Corporate Agreements or the Body Corporate. If this happens, the Buyer must not Object.
- 27. Waste Services**
- 27.1 The Seller discloses to the Buyer that the Principal Body Corporate or the Body Corporate and each owner of a lot within the Scheme may be required to give an indemnity to Brisbane City Council or other Authorities and others against any damage to pavement or other driving surfaces resulting from the weight of the waste collection vehicles or similar indemnity.
- 27.2 The Buyer must give such an indemnity if directed to do so by the Seller in the form required by the Brisbane City Council or other Authority and must not Object due to the giving of the indemnity or the liability of the Principal Body Corporate or the Body Corporate (and the Buyer) under the indemnity.
- I THE BUYER**
- 28. Proof of identity**
- 28.1 If directed to do so by the Seller, the Buyer must, within 5 Business Days after direction, give to the Seller a copy of the Buyer's passport (if any), and if the Buyer is a Company, a copy of the passport of each of the directors and shareholders of the Buyer or such other evidence of the identity of the Buyer as the Seller may reasonably require. If the Buyer fails to do this, the Buyer will be in default of an Essential Term.
- 29. Foreign Interest**
- 29.1 The Buyer promises the Seller that its status as a Foreign Interest as shown in the Reference Schedule is correct. The Buyer acknowledges that the Seller has relied on and been induced by the Buyer's promise in electing to enter into this Contract. If the Buyer's promise is not correct, the Buyer will be taken to have breached an Essential Term and the Seller may take whatever actions are available to the Seller under this Contract or at law.
- 29.2 If the Buyer does not declare in the Reference Schedule that the Buyer is a Foreign Interest then the Buyer warrants that either:
- (a) the Buyer's purchase of the Property is not a notifiable action; or
 - (b) the Buyer has received a no objection notification, under FATA.
- 29.3 If the Buyer is shown in the Reference Schedule as a Foreign Interest then:
- (a) nothing in this Contract constitutes or is otherwise intended to give rise to a binding agreement for the sale and purchase of the Property until the Buyer has received FIRB Approval. The parties acknowledge and agree that:
 - (i) despite any provision to the contrary, the Buyer is not intended to acquire any rights in relation to the Property until the Buyer has received FIRB Approval;
 - (ii) despite any provision to the contrary, no obligation on the Seller to sell, or right of the Buyer to buy the Property is of any force or effect until FIRB Approval has been obtained; and
 - (iii) all other provisions of this contract (other than those described in sub-clauses 29.3(a)(i) and 29.3(a)(ii)) are binding on the parties as at the Contract Date, including this Special Condition;
 - (b) this Contract is subject to the Treasurer of the government of the Commonwealth of Australia (**Treasurer**) or his delegate consenting to or providing a notice that the Treasurer has no objections (or similar) to the Buyer's purchase of the Property under FATA (**FIRB Approval**) within 90 days after the Contract Date (**Approval Date**);
 - (c) the Buyer must make an application for the FIRB Approval and pay all relevant fees and taxes associated with the application and FIRB Approval within 5 Business Days after the Contract Date (**Application Date**) and must diligently pursue that application. This clause 29.3(c) is an Essential Term;
 - (d) the Buyer must give the Seller a copy of the application and sufficient substantiation that all necessary payments of fees and taxes have been made within 2 Business Days after making the application and payments. This clause 29.3(d) is an Essential Term;
 - (e) the Buyer must keep the Seller informed of the progress of the application for FIRB Approval and correspondence between the Buyer and the Treasurer or his delegate concerning the

- application. The Buyer will immediately upon receipt or dispatch deliver to the Seller copies of correspondence between the Buyer or its solicitors or consultants and the Treasurer or his delegate and advise in writing of the context of any telephone discussions with the Treasurer or his delegate. Upon request by the Seller, the Buyer must inform the Seller of the progress of the application for FIRB Approval;
- (f) the Buyer must give Notice to the Seller of the outcome of the application for FIRB Approval within 2 Business Days of determination by the Treasurer and in any event by the Approval Date, indicating that the:
- (i) FIRB Approval has been obtained (and on giving of that Notice the condition in this clause is satisfied); or
- (ii) FIRB Approval has not been obtained and that this Contract is terminated (in which case the Deposit and any Interest is to be released to the Buyer and neither Party has any Claim against the other);
- (g) the Buyer acknowledges that where vacant land is being purchased, FIRB Approval will likely be subject to conditions including but not limited to a condition that the Buyer undertakes to construct a dwelling upon the Lot within a specified period after the Settlement Date. The Buyer agrees that if such a condition (or similar conditions) are imposed on the Buyer as a term of receiving FIRB Approval, then such conditions are satisfactory to the Buyer for the purpose of this clause and will not entitle the Buyer to terminate this Contract if FIRB Approval is otherwise obtained by the Buyer;
- (h) the Buyer is not required to comply with the above requirements in this Special Condition if, within 5 Business Days of the Contract Date, the Buyer provides evidence to the satisfaction of the Seller, in the Seller's absolute discretion, that the Buyer does not require FIRB Approval. The Buyer must pay the Seller's solicitor reasonable legal costs of reviewing that evidence;
- (i) the Seller may, in its absolute discretion, extend the Approval Date, by notice to the Buyer given at any time before the Buyer terminates under clause 29.3(f)(ii), by any number of days specified in that notice. For the avoidance of doubt, the Seller may give this notice on any number of occasions; and
- (j) this clause cannot be waived by the Buyer or Seller and must be satisfied by the Buyer.
- 29.4 If the Buyer has not made the application for FIRB Approval by the Application Date, and without limitation to the Seller's rights arising out of that failure, the Seller may, but is not required to, give Notice to the Buyer that the Seller will make the application for FIRB Approval. If this happens, the following will apply:
- (a) the Buyer appoints the Seller as its agent to make and administer the application for FIRB Approval;
- (b) within 5 Business Days after request by the Seller, the Buyer must give all information (including a copy of the Buyer's passport), sign all documents and do all things required by the Seller in order to facilitate any application for FIRB Approval. If the Buyer fails to do this, the Buyer will be in default of an Essential Term;
- (c) the Seller will be taken to have obtained the FIRB Approval if the Seller obtains an exemption certificate or similar from the Treasurer under which the acquisition of the Property by the Buyer is approved or consented to for the purposes of FATA;
- (d) the Buyer must, as an Essential Term, within 5 Business Days of direction by the Seller, pay to the relevant authority (Australian Taxation Office) all relevant fees and taxes associated with the application and FIRB Approval and provide the Seller with a receipt or other sufficient substantiation confirming the payment;
- (e) the Buyer must, at Settlement, pay the Seller's costs incurred in making the application or obtaining the FIRB Approval (so far as the costs relate to approval of the Buyer's purchase of the Property) in addition to the Price, including any fee or tax paid by the Seller (which the Seller may, but is not required to pay) and the Seller's legal costs which legal costs are agreed to be \$500 plus GST;
- (f) the Seller must give Notice to the Buyer that the:
- (i) FIRB Approval has been obtained (and on giving of that Notice the condition in this clause is satisfied); or
- (ii) FIRB Approval has not been obtained and that this Contract is terminated (in which case the Deposit and any Interest is to be released to the Buyer and neither Party has any Claim against the other); and
- (g) if the Seller does not give notice in accordance with sub clause (f) by 6.00 pm on the Approval Date, the Buyer may by Notice to the Seller terminate this Contract (but only before notice is given by the Seller to the Buyer that the FIRB Approval has been obtained).
- 29.5 The Buyer consents to any information given by the Buyer under this Contract being included in any reports that must be given by the Seller as a condition of any approval given to the Seller under FATA.
- 29.6 Notwithstanding this clause, if the Buyer obtains the consent or a notice that the Treasurer has no objections

(or similar) to the Buyer's purchase of the Property and gives a copy of that consent or notice to the Seller, the Seller is deemed to have given Notice to the Buyer that FIRB Approval has been obtained.

30. Personal Guarantee

30.1 This clause is an Essential Term and applies if the Buyer:

- (a) is a company; or
- (b) is a company trustee of a trust.

30.2 If this clause applies, the Buyer must arrange that its performance under this Contract is guaranteed, in the form of the Guarantee, by:

- (a) in the case of the Buyer being a company, the directors of the company, and if required by the Seller, the shareholders of the company; and
- (b) in the case of the Buyer being a company and a trustee of a trust, the directors of the company, and if required by the Seller, the shareholders of the company and the principal beneficiaries and unitholders (if any) of the trust.

30.3 The Buyer must procure the Guarantee to be signed by the Guarantors before the Seller signs this Contract.

31. Buyer a Trustee

31.1 Unless otherwise disclosed in the Reference Schedule, the Buyer promises the Seller that the Buyer is not buying the Property as trustee of any trust.

31.2 If the Buyer is described in the Reference Schedule as being a trustee of a trust, the Parties agree that each promise made by the Buyer in this Contract which is in the nature of a representation or a warranty is made by the Buyer in both its own capacity and in its capacity as trustee of the relevant trust and on this basis, is true.

31.3 If the Buyer is described in the Reference Schedule as being a trustee of a trust, then the Buyer represents and warrants to the Seller that:

- (a) the Buyer is the sole trustee of the trust;
- (b) the Buyer enters into this Contract as part of the due administration of the relevant trust and that this Contract is for the benefit of the relevant trust and its beneficiaries;
- (c) the Buyer is empowered by the trust instrument for the relevant trust to enter into and perform this Contract in its capacity as trustee of the trust (there being no restriction on or condition of it doing so);
- (d) all necessary resolutions have been duly passed and all consents, approvals and other procedural matters have been obtained or attended to as required by the trust instrument for the relevant trust for it to enter into and perform this Contract;
- (e) no property of the relevant trust has been re-settled or set aside to any other trust;
- (f) the relevant trust has not been terminated and no event for the vesting of the assets of the trust has occurred;

- (g) the trust instrument for the relevant trust complies with all applicable laws;
- (h) the Buyer has complied with its obligations and duties under the trust instrument for the relevant trust and at law;
- (i) the Buyer has taken all steps necessary to entitle it to be indemnified from the assets of the trust against any liability undertaken under to this Contract; and
- (j) the Buyer will, upon request, deliver to the Seller copies of all documents establishing or amending the trust or making appointments under the trust.

31.4 Each of the Buyer's representations and warranties in clause 31.3 are repeated, with respect to the facts and circumstances, at the time, at Settlement.

32. Age of Majority

The Buyer, if a natural person, whether buying as a trustee of a trust or for its own benefit, warrants and represents to the Seller that the Buyer is at least 18 years of age at the Contract Date.

33. Insolvency or Death of Buyer

33.1 The Buyer is in default of an Essential Term of this Contract, if, before Settlement, the Buyer:

- (a) being a company:
 - (i) resolves to go into liquidation;
 - (ii) enters into a scheme of arrangement for the benefit of its creditors;
 - (iii) is ordered to be wound up or is placed in provisional liquidation; or
 - (iv) is put into the control of a receiver and manager, official manager or administrator; or
- (b) being a natural person enters into a composition or assignment with or in favour of its creditors or becomes bankrupt.

33.2 If before Settlement the Buyer dies then the Seller may terminate this Contract. If this happens:

- (a) the Deposit and Interest must be released to the Buyer's estate or trustee as the case may be; and
- (b) neither Party has any further Claim against the other Party.

33.3 For the purposes of this clause "Buyer" includes any of the parties that comprise the Buyer.

J DEPOSIT

34. Deposit

34.1 The Parties nominate the Deposit Holder as trustee for the purposes of the BCCM Act.

34.2 The Buyer must pay the Deposit to the Deposit Holder at the times shown in the Reference Schedule. This is an Essential Term. The Deposit Holder will hold the Deposit until a Party becomes entitled to it.

- 34.3 The Buyer is in default if the Buyer:
- (a) does not pay any part of the Deposit when required;
 - (b) pays any part of the Deposit by a post-dated cheque; or
 - (c) pays any part of the Deposit by a cheque which is dishonoured on presentation.
- 34.4 The Parties authorise and direct the transfer to the Deposit Holder of any amounts paid by the Buyer to third party deposit holders under expression of interest or similar arrangements to be credited as part payment of the Deposit by the Buyer under this Contract.
- 35. Deposit Holder Authority, Release and Indemnity**
- 35.1 The Parties agree that:
- (a) this Contract constitutes a written instruction from the Parties to the Deposit Holder to hold the Deposit on the terms described in this Contract; and
 - (b) the Deposit Holder holds the Deposit and any Interest as stakeholder, with authority to pay the Deposit and any Interest to the Party that the Deposit Holder reasonably believes is entitled to the Deposit and any Interest under the terms of this Contract.
- 35.2 Provided that the Deposit Holder has acted honestly and in good faith, the Buyer releases the Deposit Holder from and separately indemnifies the Deposit Holder in respect of any liability for any loss or damage suffered or incurred by the Buyer as a direct or indirect consequence of or in connection with any act or omission on the part of the Deposit Holder related to its duties as stakeholder, including, without limitation, where the Deposit Holder pays the Deposit (and any Interest) to a Party and it is subsequently determined that the payee was not entitled to the Deposit.
- 35.3 The Parties acknowledge and agree that:
- (a) the Deposit Holder is a third party intended to take the benefit of this clause within the meaning of section 55 of the PLA;
 - (b) that the Deposit Holder's acceptance of the Deposit is taken to be acceptance of the benefit of this clause; and
 - (c) the Deposit Holder is entitled to rely on the release and indemnity contained in this clause, notwithstanding that it is not a party to the Contract.
- 36. Investment of Deposit**
- 36.1 The Parties authorise and direct the Deposit Holder to invest the Deposit. The Deposit Holder may invest the Deposit with a Bank selected by the Deposit Holder on terms and at an interest rate determined by the Deposit Holder in its discretion.
- 36.2 The Deposit Holder is not required to invest the Deposit:
- (a) unless the Buyer is a Foreign Interest, until the Buyer gives the Deposit Holder its tax file number;
 - (b) unless the Deposit paid in cash equals at least 10% of the Price;
 - (c) until the whole of the Deposit is paid;
 - (d) if the Settlement Date is anticipated to be within 90 days after the Contract Date; or
 - (e) if the Buyer has notified the Seller that it intends to substitute a cash payment of the Deposit with a Compliant Bank Guarantee in accordance with this Contract.
- 36.3 The Deposit Holder is not liable to either Party for any loss occasioned by any:
- (a) delay or failure in investing the Deposit; or
 - (b) break costs or other fees being levied on or deducted from the Interest.
- 36.4 The Parties acknowledge that as a condition of funding for the construction of the Scheme, the financier may require that the Deposit be invested with that financier at an interest rate determined by the financier. The Parties direct the Deposit Holder to comply with any such requirement and must not Object if this occurs.
- 36.5 The Deposit Holder may at any time, for bona fide purposes, including after a request by the Seller, terminate the investment of the Deposit and re-invest the Deposit and Interest accrued to that time with an alternate Bank or other financial institution selected by the Deposit Holder on terms and at an interest rate determined by the Deposit Holder in its discretion.
- 36.6 The Parties may provide the Deposit Holder with their tax file number (if any) and must provide any other information or assistance necessary for the purpose of the investment. The Buyer acknowledges that if it does not provide its tax file number to the Deposit Holder, any Interest will be subject to withholding tax. The Party entitled to the Interest must pay any tax on the Party's entitlement.
- 36.7 The Parties indemnify the Deposit Holder for the costs of preparing and lodging any income tax return required in respect of the investment of the Deposit and authorise the Deposit Holder to deduct those costs from the Interest.
- 36.8 The Deposit Holder is authorised to terminate the investment of the Deposit at a reasonable time before the Settlement Date so that the Deposit and Interest will be available at or immediately after Settlement.
- 36.9 The Deposit is invested at the risk of the Party who is ultimately entitled to it. The Deposit Holder is not liable for any loss or if diminution occurs in value arising out of the investment of the Deposit. All persons claiming any beneficial interest in or over the Deposit are deemed to take with notice of and subject to the protection conferred by this clause upon the Deposit Holder.
- 36.10 Any Interest held by the Deposit Holder is held in trust until a Party is entitled to it under this Contract or at law. The Interest is not held by the Deposit Holder by way of Deposit but under an unrelated trust and under no circumstances is the Seller entitled to receive any of the Interest before this Contract is settled or terminated.
- 36.11 The Parties agree that the Deposit Holder will have no liability to either Party arising out of any withholding tax, fees or charges (including break fees or early

redemption charges) being withheld or charged in respect of interest earned on the Deposit, irrespective of whether or not the Buyer notified the Deposit Holder of its tax file number.

36.12 The Party who is entitled to the Interest (and if more than one, in proportion to the entitlement) authorises the Deposit Holder to retain from the amount of the Interest, the sum of \$165.00 (including GST) in payment to the Deposit Holder for attendances associated with the investment of the Deposit. The retention amount is to be released to the Deposit Holder for its absolute benefit after (and not before) Settlement or termination of the Contract (as the case may be).

37. Entitlement to Deposit & Interest

37.1 Entitlement to the Deposit and Interest is determined as follows:

Circumstance	Entitlement to Deposit	Entitlement to Interest
If this Contract settles	Seller	Buyer
If this Contract is terminated without default by Buyer	Buyer	Buyer
If this Contract is terminated due to default by Buyer	Seller	Seller

37.2 This clause applies if Settlement has occurred and the Buyer received, at or after Settlement, a cheque from the Deposit Holder by way of payment of the Interest (**Interest Cheque**). The Buyer must, within a reasonable time after Settlement, present to a bank the Interest Cheque for payment. If the Buyer does not present the Interest Cheque within a reasonable time (but not more than 3 months from the date of Settlement), the Buyer agrees that the Seller becomes the absolute owner of the Interest and the Deposit Holder is authorised by the Parties to:

- (a) cancel the Interest Cheque;
- (b) pay to the Seller's Solicitor \$330.00 or such lesser amount as is available by way of payment of the Seller's costs of the Seller's Solicitor associated with the cancellation of the Interest Cheque and associated attendances required as a result of the Buyer's failure to present the Interest Cheque for payment; and
- (c) disburse to the Seller or as the Seller directs any balance Interest held by the Deposit Holder.

37.3 Any Interest payable to the Buyer may be paid within a reasonable period after Settlement. The Buyer cannot require the Interest to be paid at Settlement.

37.4 Any Interest payable may be paid in any manner convenient to the Deposit Holder including payment to the Buyer by way of a cheque payable to the trust account of the Buyer's Solicitor or by way of electronic funds transfer to the trust account of the Buyer's Solicitor.

38. Bank Guarantee

- 38.1 Instead of paying the Deposit as a cash payment, the Buyer may lodge with the Seller's Solicitor a Compliant Bank Guarantee.
- 38.2 If the Buyer has already paid cash Deposit, the Buyer may at any time elect to replace that cash Deposit with a Compliant Bank Guarantee.

NOTE: The requirements for a Compliant Bank Guarantee must be strictly met.

39. Non-Compliant Guarantee

- 39.1 The Seller may, in its discretion, accept from the Buyer as security for payment of the Deposit a Non-Compliant Guarantee to be lodged with the Seller's Solicitor. If that happens:
 - (a) the Seller may at any time direct the Buyer to replace the Non-Compliant Guarantee with a Compliant Bank Guarantee or cash Deposit; and
 - (b) the Buyer must, as an Essential Term, comply with the direction within 10 Business Days after the date the direction is made.

40. Calling on Deposit Guarantee

- 40.1 Without limiting any other right or remedy of the Seller including those under this Contract or any right under statute or at common law, if the Buyer breaches or fails to comply with any term of this Contract, the Seller may direct the Seller's Solicitor to call on any Compliant Bank Guarantee or Non-Compliant Guarantee (if the terms of the Non-Compliant Guarantee permit a call to be made without termination).
- 40.2 The Seller or the Deposit Holder is not required to notify the Buyer that:
 - (a) a Compliant Bank Guarantee or Non-Compliant Guarantee is due to expire and must be replaced; or
 - (b) a call is to be made on a Compliant Bank Guarantee or Non-Compliant Guarantee,
 as a pre-condition to a call being made.
- 40.3 If the Seller's Solicitor calls upon a Compliant Bank Guarantee or Non-Compliant Guarantee, the proceeds received must be dealt with as the Deposit in accordance with the relevant provisions of the BCCM Act and the terms of this Contract.
- 40.4 The Seller's Solicitor is not liable for the loss of a Compliant Bank Guarantee or Non-Compliant Guarantee or for making any call on or demand under a Compliant Bank Guarantee or Non-Compliant Guarantee unless that action occurs as a result of or in consequence of an act committed or omitted in personal, conscious or fraudulent bad faith by the Seller's Solicitor. All persons claiming any beneficial interest in or over such an instrument are deemed to take with notice of and be subject to the protection conferred by this clause upon the Seller's Solicitor.
- 40.5 The Buyer must not do anything which may cause a Compliant Bank Guarantee or Non-Compliant Guarantee

to be withdrawn, revoked, compromised, terminated or limited in any way. This is an Essential Term.

K **PRICE**

41. Payment of Price

At Settlement, the Buyer must pay the Balance Price by Bank Cheques as directed by the Seller or the Seller's Solicitor. This is an Essential Term.

42. GST

42.1 Interpretation

In this clause:

- (a) unless expressly stated otherwise, words or expressions which are not defined, but which have a defined meaning in GST Law, have the same meaning as in the GST Law.
- (b) **Buyer's ATO Settlement Confirmation** means the confirmation to be given by the Buyer to the Commissioner in the approved form of the actual Settlement Date.
- (c) **Buyer's ATO Withholding Notice** means the notification to be given by the Buyer to the Commissioner in the approved form of the GST Withholding Amount.
- (d) **GST Withholding Amount** means the amount that the Buyer is required to withhold on account of GST from the Price and pay to the Commissioner as notified by the Seller in the GST Withholding Notice.
- (e) **Potential Residential Land** means land that is permissible to be used for residential purposes but does not contain any buildings that are residential premises or that are in use for commercial purposes.
- (f) **Seller's GST Withholding Notice** means the notification to be made by the Seller under section 14-255 of Schedule 1 to the TA Act which states whether or not the Buyer is required to make a payment of a GST Withholding Amount.
- (g) **TA Act** means the *Taxation Administration Act 1953 (Cth)*.

42.2 Amounts for payment expressed inclusive of GST

Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under or in accordance with this Contract are inclusive of GST.

42.3 Margin scheme

The Parties agree that the margin scheme is to apply in working out the amount of GST on the supply of the real property under this Contract.

42.4 Potential Residential Land

If the supply under this Contract is of Potential Residential Land, and the Buyer is:

- (a) registered for GST; and

- (b) acquiring the Potential Residential Land for a creditable purpose to any extent,

the Buyer must serve a statement to that effect by no later than 10 Business Days before the Settlement Date and if the statement is provided the Buyer will not be required to make a payment of the GST Withholding Amount pursuant to clause 42.5 and clause 42.7 does not apply.

42.5 GST Withholding

If a GST Withholding Amount is required to be paid in respect of the supply of the Property under this Contract:

- (a) the Seller must serve a Seller's GST Withholding Notice, as may be amended or updated from time to time, not later than 10 Business Days prior to the Settlement Date;
- (b) the Buyer or the Buyer's agent must, as an Essential Term, complete and lodge the Buyer's ATO Withholding Notice and serve evidence of having done so to the Seller and to the Seller's Solicitor by no later than 5 Business Days prior to the Settlement Date;
- (c) the Buyer or the Buyer's agent must, as an Essential Term, serve a Notice with:
 - (i) the Buyer's Lodgement Reference Number and Payment Reference Number (or other relevant identification number) issued by the Commissioner upon lodgement of the relevant form or notification; and
 - (ii) the Settlement Date,on and as a condition of Settlement; and
- (d) the Seller, for the purposes of clause 41 **Payment of Price**, directs the Buyer to pay to the Seller on Settlement a Bank Cheque in favour of the Commissioner for the GST Withholding Amount.

42.6 The Parties must co-operate with each other and take all reasonable steps to comply with their respective obligations under Subdivision 14-E of Schedule 1 to the TA Act including:

- (a) provision of any information reasonably requested by the other Party for the purposes of determining whether a GST Withholding Amount will be payable or for completing any form or making any notification to the Commissioner; and
- (b) making any necessary additions or amendments to this Contract to address any requirement under the GST law or TA Act.

42.7 Buyer's ATO Settlement Confirmation

- (a) The Buyer authorises the Seller's Solicitor to act as the Buyer's agent (and in doing so the Seller's Solicitor is not the agent of the Seller) to give the Buyer's ATO Settlement Confirmation to the Commissioner or registrar.
- (b) The Buyer declares that the information contained in the documents provided to the Seller's Solicitor under sub-clause 4(c) and (d) is true and correct and authorises the Seller's

Solicitor to submit this information to the Commission in the Buyer's ATO Settlement Confirmation.

42.8 Electronic Settlement

If Settlement is to be conducted by way of Electronic Settlement, the Seller and the Buyer will be taken to have complied with clause 42.5(d) if the Financial Settlement Schedule within the Electronic Workspace specifies payment of the GST Withholding Amount to the account nominated by the Commissioner.

42.9 Effect on other rights and obligations

Except as expressly set out in this clause, the rights and obligations of the Parties under this Contract are unchanged.

42.10 Other GST Provisions

42.11 This clause 42 does not merge on Settlement or termination of this Contract.

42.12 This clause 42 binds any other entity which is or becomes the supplier or recipient of the supply of the Property or any other supply under or by reason of this Contract.

42.13 If this Contract requires a Party to pay for, reimburse, contribute to, or pay any expense or liability incurred by the other Party, the amount the payer must pay will be the amount of the expense or liability plus the amount of GST payable in respect of that payment, but reduced by the amount of any input tax credit which the other party is entitled to in respect of the expense or liability.

43. Adjustments

43.1 The Price is to be adjusted for Outgoings as provided for in this clause.

43.2 Outgoings are apportioned on the basis that:

- (a) the Seller is liable for Outgoings up to and including the day of Settlement; and
- (b) the Buyer is liable for Outgoings after the day of Settlement.

43.3 Outgoings must be apportioned, unless specified otherwise:

- (a) if paid, on the amount paid;
- (b) if assessed but unpaid, on the amount payable (excluding any discount); or
- (c) if not assessed, unless otherwise provided for in this Contract, on the amount that the Seller's Solicitor, acting reasonably, determines as the basis on which the adjustment will be made.

43.4 In this clause **valuation** means a valuation by an Authority for rating and taxing purposes whether as an assessment of the value of land in its unimproved (natural) condition or as an assessment of the site value of the land (in its present state).

43.5 If there is no separate valuation for the Lot, the land tax amount will be calculated for apportionment purposes on the basis that, as at midnight on the previous 30th June, the Seller owned no land other than its interest in:

- (a) the Scheme Land (if there was a separate valuation for the Lot); or

(b) the Principal Scheme Land (if there was no separate valuation for the Lot or the Scheme Land).

43.6 If there is no separate valuation for the Lot, but there is a separate valuation for the Scheme Land, then the land tax amount for apportionment purposes for the Lot is to be determined using the following formula*:

$$\frac{\text{Amount} \times \text{IE}}{\text{AIE}}$$

Where:

Amount = amount of land tax payable on the Scheme Land determined in accordance with this clause.

IE = interest Lot Entitlement for the Lot.

AIE = aggregate of interest Lot Entitlements for all lots in the Scheme.

43.7 If there is no separate valuation for the Lot or Scheme Land, but there is a separate valuation for the Principal Scheme Land, then the land tax amount for apportionment purposes for the Lot is to be determined using the following formula*:

$$\text{Amount} \times \frac{\text{IE}}{\text{AIE}} \times \frac{\text{ASL}}{\text{AP}}$$

Where:

Amount = amount of land tax payable on the Principal Scheme Land determined in accordance with this clause.

IE = interest Lot Entitlement for the Lot.

AIE = aggregate of interest Lot Entitlements for all lots in the Principal Scheme.

ASL = the area of the Scheme Land.

AP = the area of the Principal Scheme Land.

*If the application of a formula specified above is not possible or results, in the reasonable opinion of the Seller's Solicitor, in an unfair apportionment or adjustment of land tax as between the Parties, then land tax will be adjusted in the manner determined by the Seller's Solicitor, acting reasonably, to achieve a fair apportionment or adjustment.

43.8 If there is a separate valuation for the Lot, then the land tax amount for apportionment purposes will be calculated on the basis that, as at midnight on the previous 30th June, the Seller owned no land other than the Lot.

43.9 If land tax is unpaid at the Settlement Date and the Office of State Revenue or its equivalent body advises that it will issue a final clearance for the Lot on payment of a specified amount (**Specified Amount**), then the following will apply:

(a) at the election of the Seller, land tax will be apportioned on the greater of the Specified Amount or the amount calculated under this clause;

(b) the Seller will provide a cheque for the Specified Amount at Settlement and promptly pay it to the Office of State Revenue after Settlement; and

- (c) land tax will be treated as paid at Settlement.
- 43.10 The amount paid by the Seller for body corporate and building insurance for the Principal Scheme is to be adjusted using the following formula**:

$$P^{***} \times \frac{SIE}{SAIE} \times \frac{IE}{AIE}$$

Where:

P = premium paid by the Seller (being the total amount paid by the Seller for body corporate and building insurance including brokerage, duties and GST).

SIE = interest Lot Entitlement for the Scheme.

SAIE = aggregate of interest Lot Entitlements for all lots in the Principal Scheme.

IE = interest Lot Entitlement for the Lot.

AIE = Aggregate of interest Lot Entitlements for all lots in the Scheme.

- 43.11 The amount paid by the Seller for body corporate and building insurance for the Scheme is to be adjusted using the following formula**:

$$\frac{P^{***} \times IE}{AIE}$$

Where:

P = premium paid by the Seller (being the total amount paid by the Seller for body corporate and building insurance including brokerage, duties and GST).

IE = interest Lot Entitlement for the Lot.

AIE = Aggregate of interest Lot Entitlements for all lots in the Scheme.

**If the application of the formula specified above is not possible or in the reasonable opinion of the Seller's Solicitor results in an unfair apportionment or adjustment of insurance as between the Parties, then insurance will be adjusted in the manner determined by the Seller's Solicitor, acting reasonably, to achieve a fair apportionment or adjustment.

*** if the development of the Principal Scheme or the Scheme is staged, this amount may vary from time to time as additional insurance is paid for by the Seller and, if required, the amount to be adjusted may be determined by the Seller's Solicitor, acting reasonably.

- 43.12 For the purposes of determining any areas for apportionment purposes, a certification from the surveyor engaged by the Seller for the Scheme or another surveyor selected by the Seller will be binding on the Parties in the absence of manifest error.
- 43.13 No adjustment to the Price is to be made in respect of water usage.
- 43.14 If any Outgoings (other than land tax which is dealt with elsewhere in this clause) are assessed but unpaid at Settlement, then the Seller may provide a cheque for the amount at Settlement and promptly pay it to the relevant Authority or entity. If a cheque is provided under this clause, the relevant Outgoings will be treated as paid at Settlement.

- 43.15 Notwithstanding any other provision of this clause, if an Outgoing is paid at Settlement or is taken to be treated as paid at Settlement, the Seller may waive the requirement to adjust the Price in relation to that Outgoing.

- 43.16 At Settlement there is to be a deduction adjustment to the Price equal to the Queensland Land Registry registration fee for any mortgage or other encumbrance registered over the Title which is being released at Settlement.

- 43.17 If Settlement does not occur on the Settlement Date due to the Buyer's default, or the Settlement Date is extended by agreement between the Parties following a request for an extension by the Buyer, then Outgoings, at the Seller's election, may be adjusted as if Settlement took place on the original date specified for Settlement under the terms of this Contract.

L SETTLEMENT

44. Settlement Date

- 44.1 When the Conditions Subsequent in relation to recording of the Community Management Statement and registration of the Plan have been satisfied, the Seller will give Notice to the Buyer calling for Settlement provided that:

- (a) the earliest date such Notice may be given is the date on which the Seller reasonably forms the opinion that all other Conditions Subsequent will be satisfied within 14 days (**Earliest Notice Date**); and
- (b) such Notice may be given at any time on or after the Earliest Notice Date but must be given not later than 90 days after the last of the other Conditions Subsequent have been satisfied.

- 44.2 The Settlement Date is the date **14** days after the Seller gives Notice to the Buyer calling for Settlement.

- 44.3 As an Essential Term (subject to the Seller's rights to extend the Settlement Date), Settlement must take place on the Settlement Date.

- 44.4 The Seller may, at any time before Settlement, by Notice to the Buyer extend on any number of occasions the Settlement Date by up to an aggregate period of 90 days. If this happens, time remains of the essence of this Contract notwithstanding the extension(s).

Explanatory Note: *The Seller is required to provide to the Buyer Title to the Property at Settlement. In some circumstances, the Seller may not be in a position to provide that Title because of the need to deal with objections or address caveats lodged over Title. The ability to extend the Settlement Date allows the Seller an opportunity to deal with such matters before Settlement.*

45. Time & Place for Settlement

- 45.1 Unless Settlement is to be effected by way of Electronic Settlement, Settlement must take place:

- (a) in Brisbane;
- (b) at a time nominated by the Seller, and if no time is nominated at 3.00 pm;

- (c) at a place nominated by the Seller, and if no place is nominated at the offices of the Seller's Solicitor in Brisbane; and
- (d) between 9.00 am and 5.00 pm.
- 45.2 If, on the Settlement Date, the other Conditions Subsequent have not been satisfied, subject to the clause titled **Sunset Date**, the Settlement Date is automatically extended for a period of 2 Business Days on the basis that time remains of the essence. This condition continues to apply until all the Conditions Subsequent have been satisfied.
- 46. Extensions of the Settlement Date**
- 46.1 The Buyer acknowledges that nothing in this clause:
- (a) is a representation by the Seller that it will agree to an extension of the Settlement Date;
- (b) creates any entitlement for the Buyer to an extension of the Settlement Date; or
- (c) alters time being of the essence of this Contract.
- 46.2 If the Buyer requests an extension of the Settlement Date, the Seller may agree to the extension in the Seller's discretion. If the Seller agrees to the extension, the Seller may elect to charge the Buyer \$330.00 (for each extension of the Settlement Date granted) to reimburse the Seller its legal costs of the extension.
- 46.3 The Buyer must pay any amounts payable under this clause as directed by the Seller at, and conditional upon, Settlement.
- 46.4 Notwithstanding any other term of the Contract, if the Settlement Date is extended:
- (a) by agreement between the Parties;
- (b) by a Party exercising a right to extend the Settlement Date; or
- (c) by operation of a provision of the Contract which extends the Settlement Date,
- time is of the essence in respect to the extended Settlement Date.
- 47. Transfer Documents**
- 47.1 The Seller must prepare the Transfer Documents, but may leave out personal details regarding the Buyer, other than the name of the Buyer.
- 47.2 The Buyer must, within 2 Business Days after direction by the Seller, give to the Seller further particulars as required by the Seller to enable the Seller to prepare the Transfer Documents.
- 47.3 The Buyer must, within 10 Business Days after engaging any solicitor to act on its behalf in relation to this Contract and the conveyance of the Lot pursuant to it, cause that solicitor to give the Seller's Solicitor an undertaking of their firm that the Transfer Documents will be used for stamping purposes only pending Settlement so that, at the relevant time, the Seller can lend the Transfer Documents to that solicitor without charge for stamping prior to Settlement.
- 47.4 On receipt of a signed undertaking from the Buyer's Solicitor that the Transfer Documents will be used for stamping purposes only pending Settlement, the Seller will, at the relevant time, lend the Transfer Documents to the Buyer's Solicitor without charge for stamping before Settlement.
- 47.5 The consideration to be shown in the Transfer Documents is to include the cost of any upgrades, variations or similar amounts payable by the Buyer, whether in this Contract or a separate agreement.
- 47.6 Each Party authorises the other Party and their solicitors to make any necessary amendments to the Transfer Documents so as to rectify any inaccuracies or complete any omissions.
- 47.7 This clause does not apply if the Transfer Documents are to be prepared and provided by way of Electronic Settlement.
- 48. Settlement Statement**
- 48.1 Prior to Settlement, the Seller may give to the Buyer a Settlement Statement.
- 48.2 If the Buyer considers that there is an error or omission in respect of anything contained in the Settlement Statement, the Buyer must, within 3 Business Days after receipt of the Settlement Statement, and in any event at least 2 hours before the time nominated by the Seller for Settlement on the Settlement Date, give to the Seller a Notice which clearly specifies the error or omission.
- 48.3 If the Buyer does not comply with the requirements of clause 48.2:
- (a) the Settlement Statement is taken to be correct and to list all the Settlement Materials; and
- (b) the Buyer cannot later Object or assert that the Seller was not ready, willing or able to effect Settlement because of an error or omission in the Settlement Statement.
- 48.4 The purpose of this clause is to require the Buyer to notify the Seller well before the time for Settlement if the Buyer considers that there has been an error in the calculation of Settlement adjustments and figures or an omission in the list of Settlement Materials and to prevent the Buyer from Objecting at or after Settlement on the basis of an error or omission that could have been drawn to the Seller's attention earlier.
- 48.5 The Seller may, at any time before Settlement, give the Buyer an updated or amended Settlement Statement and the provisions of this clause apply to that updated Settlement Statement.
- 48.6 Nothing in this clause prevents:
- (a) the Seller from recovering any shortfall in payment of the Price after Settlement;
- (b) the Buyer from recovering any over payment of the Price after Settlement; or
- (c) a Party from requiring any adjustment to be made between the Parties after Settlement in relation to Outgoings if it is discovered that Outgoings were not apportioned in accordance with this Contract.

49. Procedure at Settlement

49.1 In exchange for payment of the Balance Price and, if applicable, release of the cash Deposit, the Seller must, as an Essential Term, provide or deliver to the Buyer at Settlement:

- (a) separate indefeasible Title;
- (b) unstamped Transfer Documents capable of immediate registration (after stamping) if not already in the possession of the Buyer's Solicitor or otherwise contained in the Electronic Workspace for Electronic Lodgement with the Queensland Land Registry; and
- (c) vacant possession of the Lot.

49.2 The Buyer will only be entitled to receive a PPS Release from a Secured Party for a Security Interest registered on the PPSR where the Property is specifically described (in whole or part) under that Security Interest. The onus of demonstrating that the Sold Property is specifically described (in whole or part) under a Security Interest is on the Buyer and is to be demonstrated to the Seller on or before 7 days before the Settlement Date. The Seller is not required to provide the Buyer with a PPS Release from a Secured Party in respect of any Security Interest over "*all present and after acquired property*" (or similar) of the Seller.

49.3 Subject to clause 49.4, if the Lot is subject to a mortgage or other adverse encumbrance which is not authorised or permitted by this Contract then the Buyer must accept at Settlement a signed release of mortgage or withdrawal, surrender, removal or revocation of such encumbrance by whatever means permitted by the relevant authority (**Release**).

49.4 If Settlement is to be effected by way of Electronic Settlement, the Seller will give and the Buyer must accept:

- (a) at Settlement:
 - (i) an effective electronic release of mortgage; and
 - (ii) any other electronic Releases, which are contained in the Electronic Workspace for Electronic Lodgement with the Queensland Land Registry; and
- (b) after Settlement, any other Releases not given under clause 49.4(a)(ii).

49.5 No paper certificate of title for the Title will be provided at Settlement.

M DEFAULT

50. Buyer's Default

50.1 ***Buyer's Default – Breach of Essential Term or fundamental breach of intermediate term – the Seller may affirm or terminate***

- (a) Without limiting any other right or remedy of the Seller including those under this Contract or any right under statute or at common law, if the Buyer breaches or fails to comply with an Essential Term or makes a fundamental breach

of an intermediate term of this Contract, the Seller may affirm or terminate this Contract.

- (b) No affirmation or termination of this Contract is effective unless it is in the form of a Notice.
- (c) A failure to make an election to affirm or terminate this Contract by any particular date is not to be taken as a waiver of any rights of the Seller under this Contract.

50.2 ***If Seller affirms***

If the Seller affirms this Contract under clause 50.1(a), in addition to enforcing this Contract, it may sue the Buyer for damages, specific performance or both.

50.3 ***If Seller terminates***

If the Seller terminates this Contract under clause 50.1(a), the Seller may do any or all of the following:

- (a) resume possession of the Property;
- (b) forfeit the Deposit and Interest;
- (c) sue the Buyer for the Deposit (if not yet paid);
- (d) sue the Buyer for damages; and
- (e) resell the Property.

50.4 ***Buyer's default – breach of other term***

Without limiting any other right or remedy of the Seller including those under this Contract or any right under statute or at common law, if the Buyer breaches or fails to comply with a term of this Contract other than a term of the kind described in clause 50.1(a), the Seller may do either or both of the following:

- (a) sue the Buyer for damages; and
- (b) sue the Buyer for specific performance of the obligation breached.

50.5 ***Resale***

If the Seller terminates this Contract and the Property is resold, then the Seller may recover from the Buyer any and all losses suffered or incurred caused by the Buyer's breach, including, without limitation:

- (a) the difference (if any) between the Balance Price and the price for which the Property is sold on resale;
- (b) its Costs of any repossession, failed attempt to resell and the resale;
- (c) any additional loss or Cost connected with the requirement for the Seller to continue to hold the Property, such as, without limitation, debt costs;
- (d) any Outgoings that would have been payable by the Buyer if this Contract had settled from the original due Settlement Date to the date of settlement of the resale of the Property inclusive; and
- (e) any legal or other costs and outlays incurred by the Seller as a consequence of the Buyer's default.

50.6 **Buyer Indemnifies Seller**

The Buyer indemnifies the Seller for all and any loss the Seller suffers and Costs the Seller incurs as a result of:

- (a) a breach of warranty, representation or promise of the Buyer; or
- (b) the Buyer's breach or failure to comply with any term or condition of this Contract,

such Costs, to the extent they comprise legal fees and outlays, are to be assessed on the full indemnity basis.

51. **Seller's Default**

51.1 **Seller's default – Breach of Essential Term or fundamental breach of intermediate term – Buyer may affirm or terminate**

- (a) Without limiting any other right or remedy of the Buyer including those under this Contract or any right under statute or at common law, if the Seller breaches or fails to comply with an Essential Term or makes a fundamental breach of an intermediate term of this Contract, the Buyer may affirm or terminate this Contract.
- (b) No affirmation or termination of this Contract is effective unless it is in the form of a Notice.
- (c) A failure to make an election to affirm or terminate this Contract by any particular date is not to be taken as a waiver of any rights of the Buyer under this Contract.

51.2 **If Buyer affirms**

If the Buyer affirms this Contract under clause 51.1(a), in addition to enforcing this Contract, it may sue the Seller for damages and, if the Conditions Subsequent have been satisfied, for specific performance or both.

51.3 **If Buyer terminates**

If the Buyer terminates this Contract under clause 51.1(a), the Buyer may do any or all of the following:

- (a) sue the Seller for the Deposit (if paid) and any Interest; and
- (b) sue the Seller for damages.

51.4 **Seller's default – breach of other term**

Without limiting any other right or remedy of the Buyer including those under this Contract or any right under statute or at common law, if the Seller breaches or fails to comply with a term of this Contract other than a term of the kind described in clause 51.1(a), the Buyer may do either or both of the following:

- (a) sue the Seller for damages; and
- (b) sue the Seller for specific performance of the obligation breached.

51.5 **Seller Indemnifies Buyer**

The Seller indemnifies the Buyer for all and any loss the Buyer suffers and Costs the Buyer incurs as a result of the Seller's breach or failure to comply with any term or condition of this Contract, such Costs to the extent they comprise legal fees and outlays to be assessed on the full indemnity basis.

51.6 **Insolvency of Seller**

If the Seller:

- (a) resolves to seek the appointment of a liquidator, provisionally or otherwise;
- (b) enters into a scheme of arrangement for the benefit of its creditors;
- (c) is ordered to be wound up or is placed in provisional liquidation;
- (d) has its affairs, business or assets placed under the control of a receiver, receiver and manager, official manager, administrator or external controller; or
- (e) on any basis whatsoever becomes insolvent or unable to pay its debts,

it will not be taken to be in default of or to have breached this Contract. The Buyer will, in that circumstance, continue to be bound by this Contract, according to its terms as though the event had not occurred.

52. **Interest**

52.1 Without limiting the rights of the Parties, if money payable by a Party under this Contract is not paid when due, the Party must, as an Essential Term:

- (a) in the case of the Buyer, pay to the Seller interest on that money either at Settlement or upon the Seller obtaining a judgement against the Buyer requiring the Buyer to pay the money or earlier agreement, as the case may be; and
- (b) in the case of the Seller, pay the Buyer interest on that money at the same time as the money is paid by the Seller,

calculated at the Contract Rate (published at the time that payment was first due) plus 3% per year, compounded annually, from the due date for payment until payment is made (inclusive). That interest may be recovered from the relevant Party as liquidated damages.

52.2 If the Buyer fails to effect Settlement on the due date, then the Seller may elect to charge interest (which is payable at Settlement) on the full Price without making any allowance for the Deposit having been paid by the Buyer (this clause is included in this Contract to take into account that the Seller does not receive the Deposit until Settlement).

52.3 The Buyer's obligation to pay interest does not mean that the Seller has to agree or has agreed to extend any date on which a payment is due.

53. **Buyer to give Notice before Termination**

53.1 Despite any Seller Default and notwithstanding anything express or implied in this Contract, the Buyer must not terminate, cancel, avoid, rescind or declare itself not bound by this Contract unless:

- (a) the Buyer has first given the Seller a Notice (**Remedy Notice**):
 - (i) giving particulars of the Seller Default;
 - (ii) offering the Seller the opportunity to remedy the Seller Default by a

specified date, being a reasonable time (given the nature of the Seller Default) but in any event not less than 10 Business Days after the Remedy Notice is given to the Seller; and

- (iii) specifying that the Buyer intends terminating, cancelling, avoiding, rescinding or declaring itself not bound by this Contract (as the case may be) if the Seller Default is not remedied by the date specified in the Remedy Notice; and

- (b) the Seller has not remedied the Seller Default complained of in the Remedy Notice by the date specified.

53.2 In this clause, the expression **Seller Default** includes:

- (a) a wrongful act or omission;
- (b) a breach of or failure to comply with any term or condition;
- (c) conduct which amounts to repudiation, wrongful termination or mistake of fact; or
- (d) any failure to comply with a Statutory Obligation,

by the Seller relating to this Contract.

N **LEGISLATIVE DISCLOSURE & OTHER ISSUES**

Explanatory Notes: *The Seller is proceeding with this Contract on the assumption that the Buyer has received, at the proper time, all of the statutory notices and statements so as to give lawful effect to this Contract and that the promises made by the Buyer throughout the Contract are true and correct. If anything in this Section is incorrect, then it needs to be brought to the attention of the Seller prior to the Buyer entering into this Contract. This is important as the Seller will be seeking funding and will be withholding the Property from sale pending Settlement based on the enforceability of this Contract.*

54. Disclosure

54.1 Application of clause

The promises and acknowledgements of the Buyer in this clause are subject to the clause 54.8 **Retraction of Acknowledgements or Promises**.

54.2 Statutory Notices & Statements

The Buyer acknowledges receiving, before signing this Contract:

- (a) the Section 213 Statement duly signed by the Seller or duly signed by a person authorised by the Seller to do so;
- (b) details of the Proposed Lot Entitlement and exclusive rights (if any), as set out in the Disclosure Documents;
- (c) a copy of the Proposed Principal CMS and the Proposed CMS included in the Disclosure Documents; and

- (d) the Identification Plan, included in the Disclosure Documents, clearly identifying the Lot.

54.3 Separate Notices & Statements

- (a) The Buyer acknowledges that the Statutory Disclosure Statements including the notices and statements acknowledged to have been received under clause 2 are each separate notices and statements.
- (b) If the Seller has not itself signed the Statutory Disclosure Statements contained in the Disclosure Documents, the Seller affirms that it has authorised the signatory to bind the Seller to the information contained in the Disclosure Documents and to sign, date and give the Statutory Disclosure Statements as the Seller's authorised signatory and agent.

54.4 Buyer's Promise – Section 213 Statement

- (a) The Buyer promises the Seller that, before the Buyer signed this Contract, the Buyer:
 - (i) received the Section 213 Statement, signed by the Seller or the Seller's authorised signatory or agent; and
 - (ii) reviewed the contents of the Section 213 Statement and had the opportunity to take legal advice about those statements and this Contract.
- (b) The Buyer acknowledges that:
 - (i) the Identification Plan satisfies the requirements for a disclosure plan under Section 213AA of the BCCM Act;
 - (ii) the Section 213 Statement is substantially complete for the purposes of Section 213 of the BCCM Act; and
 - (iii) the Buyer cannot Object, given the Buyer's promises and acknowledgments under this clause, as a result of the content or any deficiency in the Identification Plan or the Section 213 Statement.

54.5 Buyer Promises and Representations

The Buyer promises the Seller that the Buyer:

- (a) has read the statements described in this clause;
- (b) is aware of its rights in respect of any cooling off period applicable to this Contract;
- (c) is aware of the requirements of and its rights under the BCCM Act; and
- (d) is aware of the conditions set out in this Contract as regards to the rights of the Seller to make Variations,

and if any of the matters referred to in clauses 54.5(a) to 54.5(d) are incorrect, the Buyer promises the Seller that it has taken legal advice or had an opportunity to take legal advice in relation to those matters before signing this Contract and chose not to take legal advice.

54.6 **Use of Property & other Promises**

- (a) In this clause 54.6 **Personal Use** means the use of the Property by the Buyer for personal, domestic or household use or consumption.
- (b) The Buyer promises the Seller and represents that:
- (i) the Buyer has, before signing this Contract, read this Contract and the disclosure, materials, statements and notices contained within the Disclosure Documents (or has been given an opportunity to do so) and took or was given an opportunity to take legal advice and any other advice the Buyer considered appropriate about this Contract and the content of the Disclosure Documents;
 - (ii) the Buyer, before signing this Contract, was given an effective opportunity by the Seller or the Seller's agents to negotiate the terms of this Contract, including an opportunity to reject its terms, and that, accordingly, in making this Contract, the Buyer has either negotiated those terms or chosen not to negotiate those terms;
 - (iii) the Buyer agrees that the terms of this Contract are fair, reasonable and balanced as between the interests of the Buyer and the Seller, having regard to the technical, planning, regulatory, economic and commercial uncertainties faced by the Seller in undertaking the development of the the Principal Scheme or the Scheme and the relative commercial burdens and risks to which each of the Seller and the Buyer is exposed; and
 - (iv) the Buyer agrees that the Contract Terms, in particular terms that:
 - (A) permit the Seller to make Variations;
 - (B) permit termination and dealings with the Deposit and Interest on termination;
 - (C) limit the ability of the Buyer to Object or participate in the Body Corporate objecting to specified matters; and
 - (D) limit the right of the Buyer to object to, or refrain from providing consent for, the completion of the Principal Scheme or the Scheme;
 - (E) provide a right of the Deposit Holder to invest the Deposit on terms and at an interest rate determined by the Deposit Holder in its total discretion; and

(F) are in relation to the status of Promotional Materials,

are reasonably necessary and required to protect the legitimate interests of the Seller given the nature of the Property sold (it being sold "off the plan") and given the technical, planning, regulatory, economic and commercial uncertainties faced by the Seller in undertaking the development of the the Principal Scheme, the Scheme and the relative commercial burdens and risks to which each of the Seller and the Buyer is exposed.

54.7 **Proposed Principal CMS & Proposed CMS**

The Buyer acknowledges that:

- (a) the Buyer has received, before entry into this Contract, a copy of the Proposed Principal CMS and the Proposed CMS (contained in the Disclosure Documents);
- (b) the Proposed Principal CMS and the Proposed CMS complies with all of the requirements for a community management statement under Section 66 of the BCCM Act;
- (c) the explanation or details in the Proposed Principal CMS and the Proposed CMS about the contribution and interest entitlements for lots in the Scheme are:
 - (i) written in plain English; and
 - (ii) simple enough and only as detailed as necessary for an ordinary person (including the Buyer), if necessary with the assistance of an interpreter, to understand the explanation or details;
- (d) the Buyer, before entry into this Contract, reviewed the Proposed Principal CMS and the Proposed CMS and either took or had the opportunity to take legal advice about that statement; and
- (e) the Buyer cannot Object, given the Buyer's acknowledgements under this clause, as a result of the content or any deficiency in the Proposed Principal CMS and the Proposed CMS.

54.8 **Retraction of Acknowledgements or Promises**

- (a) Subject to clause 54.8(b), if the Buyer wishes to retract or vary any or all of the acknowledgements, representations or promises made in this Contract, the Buyer must give Notice to the Seller of such within 5 Business Days after the Contract Date in which case:
 - (i) the Buyer is taken to have given the Seller notification that the Buyer terminates this Contract;
 - (ii) the Seller is taken to have accepted the Buyer's notification of termination;
 - (iii) this Contract is at an end and neither Party has any further Claim against the other; and
 - (iv) the Deposit paid and Interest must be released to the Buyer.

- (b) Clause 54.8(a) does not apply if:
 - (i) the Buyer has given to the Seller an instrument which has the effect of waiving any cooling off period in relation to this Contract; or
 - (ii) the Buyer has obtained pre-contract legal advice in relation to this Contract.

55. Section 213 Statement

The Buyer acknowledges that the Section 213 Statement comprises only that portion of the material contained in the Disclosure Document that is necessary to constitute a "disclosure statement" as required by Section 213 of the BCCM Act. For avoidance of doubt, the Section 213 Statement does not comprise the entire contents of the Disclosure Document.

56. Section 214 BCCM Act

56.1 The Parties agree that a **Further Statement** may take the form of a Notice, but a Notice will not be considered to be a **Further Statement** unless the Notice specifically states that it is intended to constitute a Further Statement.

56.2 If the Buyer proposes to give a Notice terminating this Contract under Section 214(4) of the BCCM Act, despite the provisions of that Section, the Buyer agrees that it will deal with the Seller justly and fairly by giving to the Seller before or at the same time that any such Notice is given, written details clearly outlining how the Buyer would be materially prejudiced if compelled to complete this Contract given the extent to which the Section 213 Statement was, or has become, inaccurate.

56.3 If the annual contributions payable by the Buyer are up to 10% more than the annual contributions set out in the Section 213 Statement, the Buyer agrees that the Buyer:

- (a) will not be materially prejudiced if compelled to complete this Contract; and
- (b) has no right to Object.

56.4 Nothing contained in clause 56.3 implies a term in this Contract or an agreement between the Parties that the Buyer will be materially prejudiced if the annual contributions payable by the Buyer are 10% or more than the annual contributions set out in the Section 213 Statement.

56.5 If anything occurs, the possibility of which has been disclosed to the Buyer prior to entry into this Contract, the Buyer agrees that the Buyer:

- (a) will not be materially prejudiced if compelled to complete this Contract; and
- (b) has no right to Object.

57. Other Engagements

57.1 The Seller directs the attention of the Buyer to that part of the Section 213 Statement (contained in the Disclosure Documents) titled "*Other Engagements*" or similar. As foreshadowed in that disclosure, the Seller may cause the Body Corporate to engage other service contractors or body corporate managers for various purposes but the terms of any such engagements and other particulars required to be included in a Section 213

Statement are not known as at the Contract Date. The Seller may give a Further Statement if, after the Contract Date, it is determined that the Body Corporate, when it is established or changed, will enter into one or more further engagements of service contractors or body corporate managers (for example, for the administration, supply and maintenance of utility infrastructure or the supply of utilities). If that happens, the Buyer must not Object and agrees that:

- (a) the Section 213 Statement does not fail to be substantially complete for the purposes of Section 213 of the BCCM Act merely because, at the time it was initially given, it did not include details of the further service contractor or body corporate manager; and
- (b) given the disclosure made by the Seller in the Section 213 Statement about the possibility of the further engagements, the Buyer will not be materially prejudiced if compelled to complete this Contract given the extent to which the Section 213 Statement was, or has become, inaccurate, due to the introduction of and disclosure about additional engagements as disclosed to the Buyer by way of a Further Statement.

O POWER OF ATTORNEY

58. Power of Attorney

58.1 So far as is lawful, the Buyer irrevocably appoints, jointly and severally, the Seller and each director of the Seller, to be an attorney of the Buyer and its company nominee (if the Buyer is a company) (**Attorney**) on the terms and for the purposes set out in this clause.

58.2 The Power of Attorney may be used for the following purposes:

- (a) in relation to Body Corporate matters:
 - (i) to appoint or revoke the appointment of a voter for a general meeting of the Body Corporate within the meaning of "voter" for a general meeting of the Body Corporate under the Regulation Module and to give all necessary notifications of the appointment or revocation to the Body Corporate so that the details of the appointment or revocation may be entered into the Body Corporate roll;
 - (ii) to request that a meeting of the Body Corporate be held and to attend and vote (or do either) in the name of the Buyer at all or any meetings of the Body Corporate or the Committee, to the exclusion of the Buyer if present; and
 - (iii) to complete, sign and lodge any voting paper or any other document (including a proxy, appointment form, notice asking for an extraordinary general meeting, corporate owner nominee notification form or other representative notification form and any other notice under the Regulation

- Module) to allow the Seller to call for any meeting or to attend at or vote in the name of the Buyer at all or any meetings of the Body Corporate or of the Committee,
- in respect of any motion or resolution for or relating to any one or more of the matters or things set out in the Power of Attorney disclosure contained in the Disclosure Documents;
- (b) in relation to matters to effect a novation or assignment by the Seller of this Contract, to complete, sign, seal (as "Buyer") give and deliver to any party:
- (i) any Novation Deed;
- (ii) any instrument to waive any cooling off period applicable as a result of the novation; and
- (iii) any other document to give effect to a novation or assignment;
- (c) in relation to other matters, to complete, sign and lodge any instrument of consent to any application for approval for the further carrying out of the development of the Principal Scheme or the Scheme or any part of them providing such application is for an approval which, if granted and given effect to, will not have a direct material adverse effect on the use or the value of the Property.
- 58.3 The Power of Attorney commences on the Contract Date and expires on the latest date permitted by Section 219(3) of the BCCM Act and not sooner than that date.
- 58.4 The Parties agree that the Power of Attorney is a **power of attorney given as security** in terms of Section 10 of the *Powers of Attorney Act 1998* (Qld) and, as far as it is lawful, the rights of an Attorney under this clause can be exercised in the total discretion of the Attorney and to the exclusion of the Buyer. Without limitation, the rights of the Attorney under this clause can be exercised even if the:
- (a) Seller obtains a benefit for itself or a third party from doing so;
- (b) exercise involves a conflict of interest or duty; or
- (c) Attorney has a personal interest in doing so.
- 58.5 If the Seller is a company or company trustee, the Power of Attorney may be exercised by an authorised corporate representative of the Seller.
- 58.6 The Buyer must, as directed by the Seller, ratify and confirm any action taken by an Attorney in exercise of the Power of Attorney.
- 58.7 While the Power of Attorney remains in effect, the Buyer must not transfer or assign the Lot except to a transferee or assignee who has first given a power of attorney in favour of the Seller and its directors, if a company, on the same terms as the Power of Attorney. If the Buyer does not comply with this provision, the Buyer indemnifies the Seller against all loss and damage incurred by the Seller as a result.
- 58.8 If directed to do so by the Seller at any time, the Buyer must, at the Buyer's expense, take all steps available in order to give full effect to the Power of Attorney including signing and completing any further instrument provided by the Seller.
- 58.9 For the purposes of this clause, the Seller includes any assignee of the Seller.
- P** **STAGED SETTLEMENTS**
- 59. Staged Settlements**
- 59.1 The Seller may elect to effect settlement of the sale of the various lots within the Principal Scheme or the Scheme at different times on a staged basis (**Staged Settlements**).
- 59.2 The Buyer acknowledges that if the Seller elects to effect Staged Settlements, construction works of some parts of the Principal Scheme or the Scheme (lots and Common Property) may continue to be undertaken after Settlement.
- 59.3 The Buyer will not Object to the Seller effecting Staged Settlements and the Buyer will not Object to continued construction activities within the Principal Scheme or the Scheme including:
- (a) building improvements or any other things done on or within the Principal Scheme Land or the Scheme Land including any noise, nuisance or other inconvenience which may arise from those activities;
- (b) the use by the Seller and any party authorised by the Seller of parts of the Principal Scheme or the Scheme (including Common Property) for construction access and the storage of building materials, vehicles, equipment or fuel;
- (c) the Seller and any party authorised by the Seller causing areas within the Principal Scheme or the Scheme to be temporarily closed off to facilitate the continued construction of the Principal Scheme or the Scheme; and
- (d) parts of the Principal Scheme or the Scheme and Common Property, including community facilities not being complete or available for use by the Buyer upon Settlement,
- despite these things occurring after Settlement even if for an extended period after Settlement.
- Q** **GENERAL & OTHER MATTERS**
- 60. Contract Execution, Counterparts & Exchange**
- 60.1 This Contract is considered to be executed by a Party if affixed with a manuscript signature or initials or a typed name of the Party or a person, firm or company holding the requisite authority to bind the relevant Party.
- 60.2 This Contract may be executed in any number of counterparts. All counterparts taken together constitute one and the same instrument.
- 60.3 This Contract, including counterparts of it, may be exchanged by any means, including electronically.

60.4 If the Buyer or any agent of the Buyer received this Contract or the Disclosure Documents (either for signing or as a signed instrument) from the Seller or any agent of the Seller electronically, the Buyer promises the Seller that the Buyer consented to the giving of the documentation and any other materials by way of electronic means before receiving the documentation and materials.

60.5 Each person who signs this Contract as attorney for a Party warrants and represents to the other Party that at the date the person executed this Contract they had not received any notice or information of the revocation of the power of attorney appointing them.

60.6 Each person who signs this Contract for a Party, by placing their signatures, warrants and represents to the other Party that, at the date the person signed this Contract;

- (a) they are a Party to this Contract; or
- (b) they are duly authorised by the relevant Party to sign this Contract; and
- (c) if an officer of a company, the company duly resolved to enter into and sign this Contract.

61. Status of Promises

Where in the terms of this Contract or in the Special Conditions a promise has been made by a Party:

- (a) the promise amounts to a representation, warranty and assurance made by the Party to the other Party; and
- (b) the Party to whom the promise is made is entitled to rely on that promise.

62. Reliance on Acknowledgements and Agreements

The Buyer acknowledges that the Seller has agreed to enter into this Contract in reliance upon the various promises, acknowledgments and agreements made by the Buyer in this Contract and, but for those promises, acknowledgements and agreements, the Seller would not have entered into the Contract.

63. Buyer's Obligation to Disclose Rebates etc

63.1 If the Buyer receives or takes from the Seller the benefit of any form of rebate of a portion of the Price or other concession or valuable consideration (such as a contribution towards payment of Body Corporate levies, payment of transfer duty or a rental guarantee or like instrument) or other advantage under this Contract, the Buyer promises the Seller that the Buyer will fully disclose that fact to all parties who may have an interest in knowing about it, including the Buyer's financier and any party who buys the Property from the Buyer.

63.2 The Buyer:

- (a) promises the Seller that it will not make any false declaration in respect of this Contract and the conveyance of the Property made pursuant to it; and
- (b) consents to the Seller disclosing any such rebate, concession or valuable consideration to any Buyer's financier or any other interested party; and

(c) will not Object to the Transfer Documents being prepared by the Seller in accordance with all relevant practice notes, directions and the like issued by the Queensland Law Society, the Queensland Land Registry and the Queensland Office of State Revenue.

64. Legislative Termination Rights

64.1 This clause applies if:

- (a) the Seller reasonably forms a view that the Buyer is or has become entitled to cancel, withdraw from or terminate this Contract or declare itself not bound by this Contract under any legislative provision (**Legislative Termination Right**); and
- (b) the Legislative Termination Right has not expired and will not expire within a period less than 21 days after the date that the right arose.

64.2 If this clause applies, then:

- (a) the Seller may send the Buyer a new contract that is on the same terms as this Contract, except for only those changes to the form of contract or to related documents that are required so that the Legislative Termination Right will not apply to the new contract (**New Contract**); and
- (b) if the Buyer does not sign and return the New Contract to the Seller with 15 Business Days from when it is sent to the Buyer, then the Seller may by Notice to the Buyer terminate this Contract and the Deposit and any Interest must then be refunded to the Buyer and neither Party will have any Claim further against the other Party with respect to this Contract or its termination.

To be clear, the Buyer is not obliged to enter into a proposed New Contract.

64.3 A termination right under clause 64.2(b) may be exercised by the Seller at any time until either:

- (a) a New Contract is formed; or
- (b) the Legislative Terminate Right may no longer be exercised; or
- (c) this Contract is completed.

64.4 If a New Contract is formed, then this Contract is terminated and the Deposit and any Interest must be held as if it had been paid and earned under the New Contract and the Parties so instruct the Deposit Holder.

65. Interpretation

65.1 **References**

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;

- (d) a Party includes the Party's executors, administrators, successors, and permitted assigns; and
- (e) dimensions include the area of the thing for which the dimensions have been given.

65.2 **Use of word "including"**

The use of the word **including** (and any similar expression) is not used as a word of limitation.

65.3 **Use of the word "or"**

In any combination or list of options, the use of the word **or** is not used as a word of limitation.

65.4 **Headings**

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

65.5 **Parties**

- (a) If a Party consists of more than one person, this Contract (including each agreement, representation, warranty and promise) binds them and is for their benefit jointly and each of them individually.
- (b) A Buyer that is a trustee is bound both personally and as a trustee.

65.6 **Statutes and Regulations**

- (a) Reference to statutes includes, if the context requires, any regulations, codes, policy statements and similar things concerning them.
- (b) Reference to statutes and regulations includes all statutes and regulations amending, consolidating, or replacing them.

65.7 **Inconsistencies**

If there is any inconsistency between the terms of this Contract and any provision added to this Contract (including those added by Special Condition), the added provision prevails.

65.8 **Interpretation to Favour Binding Contract**

- (a) Subject to the terms of this Contract, the Parties acknowledge that it is their intent that the Seller is obliged to sell and the Buyer is obliged to buy the Property on the terms set out in this Contract.
- (b) If a provision of this Contract or any legislation is (in the context of whether or not this Contract is valid and binding) open to interpretation, then such provision or legislation must be read or interpreted so that the Contract is found to be valid and binding on the Parties.

65.9 **Clauses permitting Variations**

Any provision of this Contract which permits or authorises a Variation does not limit a Variation permitted or authorised by any other provisions of this Contract.

65.10 **No limitation of statutory rights**

A provision in this Contract that limits the right of a Party to Object does not affect the statutory rights of the Party.

66. Performance of Contract

- 66.1 The Seller is entitled to perform this Contract in a manner which is most beneficial to it.
- 66.2 In this Contract, unless specified otherwise, where the Seller is entitled to exercise:
 - (a) its discretion, the Seller may do so in its absolute discretion; and
 - (b) a right, the Seller may exercise that right in its absolute discretion.

67. Time

67.1 Time is of the essence of this Contract, except regarding a time of day for Settlement.

67.2 If a date by which something under this Contract must be done is extended by agreement between the Parties or by right of a Party under this Contract, for example, the date for payment of the Deposit or the Settlement Date, then, despite the extension, time remains of the essence of this Contract whether or not the terms of the agreement or notification requesting or recording the extension specified that time is to remain of the essence as a term of the agreement or notification to extend.

68. Measurement of Time

In relation to measurement of time:

- (a) where a period of time runs from a given day or the day of an act or event, it must be calculated exclusive of that day; and
- (b) a day is the period of time commencing at midnight and ending 24 hours later.

69. Due date not Business Day

If the date or the last date for a Notice to be given, an act to be performed or a payment to be made falls on a Saturday, Sunday or public holiday then the date or the last date (as the case may be) will be the Business Day next following such date.

70. Things to be done by 5.00pm

If this Contract provides for something to be done by the Buyer by a certain date, the Buyer must do so by 5.00 pm, Brisbane time, on that date.

71. Contract Date

This clause applies if following exchange of this Contract, the Contract Date in the Reference Schedule has not been completed. The Contract Date will be taken to be the date that the last Party to sign this Contract has communicated to the other Party, by whatever means, that this Contract has been signed. Each Party authorises the other Party (as relevant) to complete the Contract Date in the Reference Schedule if required.

72. Risk

The Property is at the Seller's risk until Settlement.

73. Costs and Transfer Duty

73.1 Each Party must pay its own costs on this Contract.

- 73.2 The Buyer:
- (a) must pay all transfer duty on this Contract and the Transfer Documents;
 - (b) indemnifies the Seller in respect of all liability for payment of transfer duty on this Contract and the Transfer Documents; and
 - (c) is estopped from relying on its own failure to pay transfer duty, in arguing that this Contract and any other document should not be admitted into evidence in any proceedings about this Contract or the transaction recorded in it.
- 74. Notices**
- 74.1 Notices under this Contract must be in writing and must be signed by or on behalf of a Party.
- 74.2 Unless stipulated otherwise under this Contract, Notices given by a Party's solicitor will be treated as given with that Party's authority.
- 74.3 Notices are considered to be signed if affixed with a manuscript mark, signature or initials or a typed name of a person, firm or company whether conveyed electronically, digitally or otherwise.
- 74.4 In the case of the Buyer, Notices are effectively given if:
- (a) delivered or posted to the address of the Seller's Solicitor;
 - (b) sent to the facsimile number of the Seller's Solicitor;
 - (c) sent by electronic facsimile or similar method to the facsimile number of the Seller's Solicitor; or
 - (d) sent by email or other digital means to the relevant email or other digital address of the Seller's Solicitor,
- which are set out in the Reference Schedule as updated from time to time.
- 74.5 In the case of the Seller, Notices are effectively given if:
- (a) delivered or posted to the address of the Buyer or the Buyer's Solicitor;
 - (b) sent to the facsimile number of the Buyer or the Buyer's Solicitor;
 - (c) sent by electronic facsimile or similar method to the facsimile number of the Buyer or the Buyer's Solicitor; or
 - (d) sent by email or other digital means to the relevant email or other digital address of the Buyer or the Buyer's Solicitor,
- which, subject to clause 74.6, are set out in the Reference Schedule as updated from time to time.
- 74.6 In the case of a Notice to the Buyer's Solicitor, an email address includes any email address that the Buyer's Solicitor or any employee of the Buyer's Solicitor has used for sending emails to the Seller's Solicitor concerning the Contract.
- 74.7 Posted Notices will be treated as given 3 Business Days after posting.
- 74.8 Notices sent by facsimile including electronic facsimile or similar method will be treated as given when the sender obtains a clear transmission report or other confirmation of delivery.
- 74.9 Notices sent by email are taken to be given 1 hour after they are sent, unless the sender receives notification that the email failed to be delivered to the recipient. If asked by the sender of an email to confirm receipt, the recipient must confirm receipt within a reasonable period of request.
- 74.10 For the purposes of Section 11 and 12 of the *Electronic Transactions Act (Queensland) 2001 (Qld)* and the *Electronic Transactions Act 1999 (Cth)*, the Parties consent to Notices and any other information being given by electronic communication.
- 74.11 The Buyer authorises the Seller and the Seller's Solicitor to act as its agent to give notice to the Body Corporate after Settlement that the Buyer has become the owner of the Lot. The Seller is authorised to use the latest contact particulars of the Buyer given to it by the Buyer or the Buyer's Solicitor for the purposes of giving the notice to the Body Corporate and if no such particulars have been given, then the Buyer's particulars in the Reference Schedule.
- 74.12 If the Buyer is no longer represented by a solicitor and has no current known contact particulars for the giving of a Notice, the Seller may give Notice to the Buyer's last known contact particulars even if it is known to the Seller that the Buyer may not receive the Notice. The Parties' intention is that the onus is on the Buyer to ensure that the Seller at all times has current particulars of the Buyer in order to enable the Seller to give Notice.
- 74.13 This clause 74.13 applies if the address of the Buyer included in the Reference Schedule is an address outside of Australia. If this clause 74.13 applies, then in any proceedings concerning the Contract, the Seller may effect service on the Buyer by registered post and the service is effective whether or not the Buyer has notice of the proceedings.
- 75. Variation of Contract**
- 75.1 An amendment or variation of this Contract is not effective unless it is in the form of a Notice in writing and signed by or on behalf of the Parties by a person holding the requisite authority to bind the relevant Party.
- 75.2 The Buyer itself or any partner or employee of the Buyer's Solicitors' firm has authority to bind the Buyer to an amendment or variation of this Contract.
- 76. Waiver**
- 76.1 No waiver of any right under this Contract takes effect unless in the form of a Notice in writing, signed by or on behalf of the Party bound, by a person holding the requisite authority to bind the relevant Party.
- 76.2 In the absence of an effective waiver, no failure or forbearance by a Party to insist upon any right to performance of a condition or obligation of the other Party can amount to, under any circumstances, a waiver, an election between existing rights, a representation sufficient to ground an estoppel or a variation whereby that other Party is relieved or excused from performance of such condition or obligation.

- 76.3 A waiver is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.
- 77. Severance**
If it is held by a Court that:
- (a) any part, clause or part of a clause of this Contract is void, voidable, illegal, unenforceable or a penalty; or
 - (b) this Contract is void, voidable, illegal or unenforceable unless any part, clause or part of a clause of this Contract is severed from this Contract,
- that part, clause or part of the clause will be severed from this Contract and the balance of this Contract given effect to, unless to do so would change the underlying principal commercial purposes of this Contract.
- 78. Rights After Settlement**
Despite Settlement and registration of the Transfer Documents, any term of this Contract that can take effect after Settlement or registration remains in force.
- 79. Applicable Law**
Queensland law applies to this Contract.
- 80. Further Acts**
- 80.1 If requested by the other Party, each Party must, at its own expense, do everything reasonably necessary to give effect to this Contract.
- 80.2 Without limiting clause 80.1, if requested to do so by the Seller, the Buyer must, at its own expense and within a reasonable period of time (and, in any event, before Settlement):
- (a) do all things necessary in order to complete any omission, rectify any error, waive any statutory right (so far as it is possible and lawful to do so) or resolve any ambiguity in this Contract so as to facilitate this Contract being given effect to and being operative and enforceable as between the Parties; and
 - (b) do all things, sign all documents, give all necessary consents, enter into all necessary agreements or deeds as requested by the Seller in order to enable to the Seller to perform its obligations under this Contract (**Additional Obligations**) and in order to enable Settlement even if Additional Obligations are imposed on the Buyer providing that the rights of the Buyer under this Contract are not significantly diminished.
- 80.3 If the rights of the Buyer under this Contract are significantly diminished as a result of a request by the Seller pursuant to clause 80.2, the Buyer must carry out the requested action if:
- (a) the Buyer became aware or ought to have become aware of the possible diminution of rights as part of any reasonable enquiries carried out before the Contract Date; or
 - (b) the Buyer became aware or ought to have become aware of the possible diminution of rights as part of any reasonable enquiries carried out after the Contract Date; or
 - (c) the Seller offers to provide reasonable compensation to the Buyer to offset the diminution of rights.
- 80.4 Without limiting clause 80.1, if requested to do so by the Seller, the Buyer must, at its own expense, do all things necessary in order to complete any omission, rectify any error, waive any statutory right (so far as it is lawful to do so) or resolve any ambiguity in this Contract so as to facilitate this Contract being considered by the Seller's construction financier as a presale for construction funding purposes.
- 80.5 Without limiting clause 80.1 or clause 80.2, if the Contract has been exchanged electronically, the Seller may require that the Contract is again exchanged in hard (physical paper copy) copy. If that happens, the Buyer agrees to exchange hard a copy of the Contract when directed to do by the Seller. This may be required, for example, in order that a funder of the Seller agrees to accept the sale made under this Contract to be a qualifying pre-sale for construction funding qualification purposes. This is an Essential Term.
- 81. Marketing**
- 81.1 The Seller reserves the right to use any lot as a display unit for the sale of lots. The Buyer agrees not to Object to such use of any lot or to the display of advertising material on the Common Property.
- 81.2 The Seller (together with its guests and invitees) reserves the right to use any part of the Principal Scheme or the Scheme including the Common Property for the purposes of promotional and sales functions. The Buyer agrees not to Object to that use of such areas by the Seller.
- 82. Instalment Contracts**
- 82.1 In this clause, the following additional definitions apply:
Instalment Contract has the meaning given to it under Section 71 of the PLA Act.
Prescribed Deposit has the meaning given to the word **deposit** in Section 71 of the PLA Act.
- 82.2 Clause 82.3 applies if:
- (a) this Contract is an Instalment Contract;
 - (b) any interpretation of any annexure or Special Condition causes this Contract to be or become an Instalment Contract; or
 - (c) any negotiation or agreement reached between the Seller and the Buyer following formation of this Contract causes this Contract to be or become an Instalment Contract.
- 82.3 If this clause 82.3 applies, then:
- (a) the Buyer consents, for the purposes of Section 73(1) of the PLA Act, to the Seller:
 - (i) mortgaging or charging the Principal Scheme Land or the Scheme Land or any part of it (including the Lot) on

- terms and conditions the Seller in its discretion determines; and
- (ii) selling parts of the Principal Scheme Land or the Scheme Land (for example, other lots in the Scheme) to other buyers; and
- (b) the Buyer consents, for the purposes of Section 74(2)(a) of the PLA Act, to the removal of the caveat by the Seller.
- 82.4 Despite any contrary provision in this Contract, the Buyer is not bound to make a payment or payments of amounts which total in excess of the Prescribed Deposit without becoming entitled to receive a conveyance in exchange for the payment or payments.
- 82.5 Nothing in this Contract permits the Buyer to elect that the Contract be performed in a manner which would constitute it as an Instalment Contract.
- 82.6 The provisions of this clause are mandatory overriding provisions and override any other provision of this Contract including the Special Conditions.
- 83. Priority Notice**
- The Buyer may lodge a "Priority Notice" or similar over the Title with the Queensland Land Registry but not before the date which is 5 Business Days prior to the date fixed as the Settlement Date.
- 84. Assignment**
- 84.1 The Seller may transfer or assign its interest or a part of its interest in the Lot or any parcel of land from which the Lot is to be created (or any part of it) to another person (**Dealing**).
- 84.2 If the Seller effects or proposes to effect a Dealing, the Seller may, in the Seller's total discretion either:
- (a) novate this Contract to a Third party; or
- (b) assign this Contract to a Third Party,
- as contemplated by this clause.
- 84.3 The Buyer consents:
- (a) to any Dealing;
- (b) if the Seller elects to novate this Contract to a Third Party, to the novation; and
- (c) if the Seller elects to assign this Contract to a Third Party, to the assignment,
- including for the purpose of any consent required under the Property Law Act 1974 (Qld).
- 84.4 If the Seller proposes to effect a Dealing and the Seller elects to novate this Contract to the Third Party:
- (a) the Buyer waives any cooling off period applicable as a result of the Dealing and the Buyer must, if requested by the Seller or Third Party, as an Essential Term, execute and return to the Seller any document to confirm such waiver within 5 Business after request:
- (b) if the Seller requires, the Buyer and any person who has guaranteed the performance of the Buyer's obligations under the Contract to the Seller (**Guarantor**) must be parties to the
- Novation Deed to covenant in favour of the Third Party to perform their respective obligations under this Contract and the Guarantee. The Buyer must, as an Essential Term, execute, and must procure the Guarantor to execute, the Novation Deed within 5 Business Days after request; and
- (c) on completion of the Dealing, the Seller is released from any further obligations under this Contract.
- 84.5 If the Seller effects a Dealing, and the Seller elects to assign the benefit of this Contract to the Third Party:
- (a) the Third Party will have the benefit of the Seller's rights under this Contract as though the Third Party was named as Seller;
- (b) the Seller will be taken to have performed its obligations under this Contract to the Buyer if those obligations are performed by the Third Party;
- (c) for avoidance of doubt, for the purposes of this Contract, the Buyer must accept Transfer Documents signed by the Third Party; and
- (d) no new contract is created as between the Third Party and the Buyer.
- 84.6 With respect to the Deposit;
- (a) on completion of a Dealing with a novation of this Contract as contemplated by clause 84.4: or
- (b) on an assignment of this Contract by the Seller as contemplated by clause 84.5:
- (i) the Seller may transfer to the Third Party's nominated deposit holder the Deposit (and the Seller and the Buyer irrevocably authorise the Deposit Holder to facilitate such transfer); or
- (ii) if the payment of the Deposit has been secured by the provision of a Compliant Bank Guarantee or Non-Compliant Guarantee which is assignable, the Seller may assign the instrument to the Third Party;
- (iii) if the payment of the Deposit has been secured by the provision of a Compliant Bank Guarantee or Non-Compliant Guarantee which is not assignable, the Buyer must, as an Essential Term, within 10 Business days after direction by the Seller, provide to the Third Party's nominated deposit holder a replacement Compliant Bank Guarantee or cash Deposit .
- 84.7 The Buyer may not assign or transfer or attempt to assign or transfer the Buyer's interest under this Contract without the prior written consent of the Seller. This is an Essential Term.
- 84.8 The Seller may:
- (a) mortgage or charge its interest in the in the Lot or any parcel of land from which the Lot is to be created;

- (b) obtain further advances on the security of the Lot or any parcel of land from which the Lot is to be created; and
- (c) enter into joint ventures or other agreements in connection with the development of the Principal Scheme or the Scheme or any parcel of land from which the Lot is to be created.

The Buyer consents to the Seller doing any of the things mentioned in this subclause including for the purpose of any consent required under section 73 of the *Property Law Act 1974* (Qld).

85. NBN Co Limited - Body Corporate Provisions

85.1 Clause 85.2 applies if the Principal Scheme or the Scheme is part of or eligible to participate in the National Broadband Network or similar. However, the Seller may at any time in its discretion enter into an agreement with NBN Co for the installation of network infrastructure in and to the Principal Scheme or the Scheme to form part of the National Broadband Network.

85.2 If this clause 85.2 applies:

- (a) the Buyer must, if directed at any time (including after Settlement) by the Seller, do anything required by the Seller to enable the Seller or any related party of the Seller to comply with its obligations to NBN Co. This includes:
 - (i) transferring ownership in utility infrastructure and networks to NBN Co; and
 - (ii) granting exclusive and non-exclusive licenses for the use of utility infrastructure and networks to NBN Co.
- (b) the Seller may cause the Principal Body Corporate or the Body Corporate to:
 - (i) Notwithstanding clause 19.1, grant licences, including exclusive licences, over broadband network fibre and associated infrastructure on such terms as it considers appropriate (including the ability by the licensee to grant sub-licences) and as required by telecommunications suppliers (such as NBN Co Limited); or
 - (ii) waive, in accordance with clauses 17(5), 18(3) and 19(2) of Schedule 3 of the *Telecommunications Act 1997 (Cth)* (**Schedule 3**), any right the Principal Body Corporate or the Body Corporate has to be given notice in relation to any activity to be undertaken on the Principal Scheme Land or the Scheme Land or within the Principal Scheme, the Scheme or any ancillary area to them under Schedule 3, and any right the Principal Body Corporate or the Body Corporate may have to object to those activities.

85.3 The Buyer must not Object to any matter set out in this clause 85 or to the Seller exercising any rights set out in this clause 85.

86. NBN Co Limited- Property Provisions

86.1 The Seller has entered into or may enter into an agreement with NBN Co for the installation of *Pit and Pipe Works and Network Infrastructure*.

86.2 The Seller discloses to the Buyer and the Buyer acknowledges and agrees that:

- (a) the NBN Co Building Ready Specifications must be complied with by the Buyer to enable connection of the Property to the *Network Infrastructure*;
- (b) the Buyer must adopt and carry out the NBN Co *Building Ready Specifications*;
- (c) if the Buyer fails to comply with the NBN Co *Building Ready Specifications*, the improvements on the Property will not be able to be connected to the Network Infrastructure or will require the Buyer to incur additional costs in order to connect to the *Network Infrastructure* after Settlement.

86.3 The Buyer acknowledges that:

- (a) the Seller is not responsible for the connection of telecommunications services to the Property other than the installation the *Pit and Pipe Works* to the boundary of the Property;
- (b) the Seller has no control over the timing of the connection of telecommunications services to the Property, those being solely the responsibility of NBN Co or such other provider as may be prescribed by a relevant Authority;
- (c) if NBN Co has not connected or made available telecommunication services to the Property when such services are required by Telstra Corporation Limited or such other provider as may be declared by a relevant Authority, NBN Co is required to do so in accordance with the *universal service obligation*; and
- (d) the Seller has no control over the type of telecommunications service provided in accordance with the *universal service obligation*.

86.4 The Buyer must not Object to or as a result of any matter referred to in this clause 86

87. Name

87.1 The Buyer agrees that as at the Contract Date, the Seller intends the name for the Principal Scheme and the Scheme to be the Name (respectively). If the relevant Authority or the Queensland Land Registry refuses to accept the Name, or the Name is not available due to any other reason or the Seller wishes to change the name for the Principal Scheme or the Scheme, the Seller may select an alternative name. If this happens, the Buyer agrees that it must not Object.

87.2 The Seller may deal with the Name in any manner the Seller considers fit and may do any one or more of the following (and the Buyer must not Object if the Seller does so):

- (a) register, in favour of the Seller or any other party determined by the Seller the Name as a business name, trademark or similar;

- (b) license to the Principal Body Corporate or the Body Corporate the right to use the Name as the name of the Principal Scheme or the Scheme;
- (c) transfer to any party, including any service contractor or letting agent of the Principal Scheme or the Scheme, any proprietary rights held by the Seller in the Name (whether by business name, trademark or similar); and
- (d) license to any party, including any service contractor or letting agent, the right to the use of the Name.

88. Privacy

88.1 The Buyer consents to:

- (a) the collection of the Personal Information;
- (b) the use and disclosure by the Seller of the Personal Information for the purposes of enabling the Seller to comply with its obligations under, associated with and arising in connection with this Contract, including any obligations to any third parties, such as the Seller's financiers, manager providing caretaking and letting services to the Scheme and utility providers;
- (c) the Buyer's details becoming part of the "Mirvac database";
- (d) the disclosure to, and use by, third party contractors and service providers (any of whom may be located outside Australia) engaged by the Seller of the Personal Information for the purpose of:
 - (i) enabling the Seller to comply with and fulfil its obligations under or arising pursuant to or in connection with this Contract;
 - (ii) procuring the provision to the Buyer of products and services contemplated by this Contract;
 - (iii) providing the Buyer with information relating to future activities of the Seller;
 - (iv) undertaking research in connection with this Contract and future activities of the Seller (including to request feedback on the products and services provided by Mirvac);
 - (v) the use and disclosure by the Seller of the Personal Information to neighbouring lot owners to the Lot for the purposes of boundary fencing and other similar matters; and
- (e) the use and disclosure by the Seller of the Personal Information for the purposes of enabling the Seller to enforce its rights under this Contract.

88.2 By signing this Contract, the Buyer agrees to Mirvac using its personal information to promote its products and services. If the Buyer no longer wishes to receive promotional information from Mirvac, the Buyer may advise Mirvac of its wish. The Mirvac Group Privacy

Policy (available on www.mirvac.com) contains information about how you may send your request to Mirvac.

88.3 The Buyer acknowledges that:

- (a) the Personal Information is held by the Seller subject to the requirements of the Privacy Act;
- (b) in accordance with the requirements of the Privacy Act, the Buyer may request access to the Personal Information and request that it be corrected at any time; and
- (c) the Buyer may request access to the Personal Information or request that it be corrected by contacting the Privacy Officer.

88.4 In this clause 88, the following words have the following meanings:

- (a) **Personal Information:** means all personal information (as defined in the Privacy Act relating to the Buyer, including all personal information set out in this Contract and otherwise disclosed by the Buyer to the Seller whether prior to or after the date of this Contract.
- (b) **Privacy Act:** means the Privacy Act 1988 (Cth) and any regulations, ancillary rules, guidelines, orders, directions, directives, codes of conduct or other instrument made or issued under that Act, as amended from time to time.

88.5 **Privacy Officer:** means "Privacy Officer", the Mirvac Group, Level 28, 200 George Street, Sydney NSW 2000, Ph: (02) 9080 8000, Email: privacy@mirvac.com.

89. Resale of Property

If, prior to Settlement, the Buyer enters into a contract, option agreement or other arrangement for the sale of the Property, the Buyer must immediately give to the Seller:

- (a) details of such sale, including
 - (i) purchase price;
 - (ii) identity of new buyer; and
 contact details of the new buyer;
- (b) a copy of the power of attorney in favour of the Seller required to be obtained from the new buyer; and
- (c) any other information reasonably required by the Seller.

90. Early Possession

90.1 This clause applies if, at any time prior to Settlement, the Seller agrees to allow the Buyer early possession of the Property. The Seller has no obligation to allow the Buyer early possession.

90.2 If this clause applies the Buyer takes possession of the Property on the following conditions:

- (a) the Property is at the risk of the Buyer from the date of possession;
- (b) the Buyer must insure the Property to the Seller's satisfaction;

- (c) the Buyer must keep and maintain the Property in good and substantial repair;
- (d) the Buyer must not alter or add to the Property in any way;
- (e) entry into possession is under a licence personal to the Buyer (**Licence**);
- (f) no relationship of landlord and tenant is created;
- (g) the Seller may, in its discretion, revoke the Licence at any time by Notice to the Buyer;
- (h) on revocation of the Licence, the Buyer must forthwith yield up possession of the Property to the Seller;
- (i) the Buyer must not let or part with possession or occupancy of the Property;
- (j) the Seller or any nominee of the Seller may at any reasonable time before Settlement enter and view the Property and do anything or carry out any works that the Seller considers necessary for the preservation or repair of the Property; and
- (k) the Buyer indemnifies the Seller against any Claim incurred or suffered by the Seller directly or indirectly as a result of the Buyer's possession.

90.3 If the Buyer requests early possession, then the Buyer must, at and conditional upon Settlement, pay the Seller's legal fees of \$330.00 (Inc GST) to the Seller's Solicitor for facilitating the request (whether or not possession is granted).

90.4 If the Buyer takes early possession then, at the election of the Seller, the adjustment of Outgoings for the purposes of clause 43 will be done on the following basis:

- (a) the Seller is liable for Outgoings up to and including the day the Buyer takes possession; and
- (b) the Buyer is liable for Outgoings after the day the Buyer takes possession.

91. Provision of Information

91.1 The Buyer acknowledges that the Seller may provide information regarding the the Principal Scheme and the Scheme (including a copy of the certificate of classification, certificate of currency for insurance, etc) to the Buyer by way of an online data room or other electronic arrangement.

91.2 If information is provided in this manner, the Seller will inform the Buyer and provide all necessary information to access the data room to the Buyer and the Buyer must not Object to information being provided in this manner.

92. Entire Agreement

This Contract contains the entire terms agreed between the Seller and the Buyer in relation to the sale and purchase of the Property and supersedes all prior negotiations.

93. Electronic Conveyancing

93.1 This clause:

- (a) has priority over any other clause or Special Condition to the extent of any inconsistency;
- (b) applies if the Seller gives Notice to the Buyer that it applies;
- (c) ceases to apply if the Seller gives Notice to the Buyer that it no longer applies; and
- (d) ceases to apply (and the Seller cannot give a Notice pursuant to clause 93.1(b)) if the Buyer gives Notice (which may not be given until after the Seller gives Notice to the Buyer calling for Settlement) to the Seller no less than 2 Business Days before the first due Settlement Date that the Buyer cannot effect Settlement and lodgement electronically for bona fide reasons.

93.2 Settlement and lodgement of the Electronic Conveyancing Documents necessary to record the Buyer as registered owner of the Lot will be conducted electronically in accordance with this clause and the ECNL.

93.3 Each Party must:

- (a) be, or engage a representative who is, a subscriber for the purposes of the ECNL; and
- (b) ensure that all other persons for whom that Party is responsible and who are associated with this transaction are, or engage, a subscriber for the purposes of the ECNL.

93.4 The Seller may open the Electronic Workspace at any time considered appropriate by the Seller.

93.5 Within a reasonable period after the Seller gives Notice to the Buyer calling for Settlement, the Seller will:

- (a) invite the Buyer to the Electronic Workspace;
- (b) include the Settlement Date in the Electronic Workspace; and
- (c) nominate a time for Settlement (being the time of the day for locking of the Electronic Workspace) in the Electronic Workspace being no later than 4pm.

93.6 The Buyer must promptly:

- (a) accept the Seller's invitation to the Electronic Workspace;
- (b) enter the Electronic Workspace and:
 - (i) accept the Settlement Date; and
 - (ii) accept the time for Settlement nominated by the Seller or nominate an alternate time for Settlement on the Settlement Date;
- (c) invite any mortgagee of the Buyer to the Electronic Workspace; and
- (d) complete and Digitally Sign the Transfer Documents where required by the Buyer.

93.7 If the time for Settlement is not agreed, the Parties agree that the time for Settlement is 2pm on the Settlement

- Date and each Party must nominate that time as the time for Settlement (being the time of the day for locking of the Electronic Workspace) in the Electronic Workspace.
- 93.8 If the Parties have agreed to amend the Settlement Date or the Settlement Date is extended pursuant to the Contract Terms:
- (a) the Seller will update the Settlement Date in the Electronic Workspace;
 - (b) the Buyer must accept the updated Settlement Date in the Electronic Workspace; and
 - (c) the provisions of clauses 93.6(b)(ii) and 93.7 apply to the agreement for the time for Settlement on the updated Settlement Date.
- 93.9 Within 2 Business Days after receipt of the Settlement Statement from the Seller (and in any event, within 1 Business Day prior to the time for Settlement on the Settlement Date), the Buyer must enter the Electronic Workspace to prepare the relevant particulars in the Financial Settlement Schedule that relate to the Buyer/source accounts.
- 93.10 If any part of the Price is to be paid to discharge an Outgoing, the Buyer must:
- (a) if required by the Seller, pay that amount to the Seller's Solicitor's trust account and the Seller must pay the amount to the relevant authority following Settlement; or
 - (b) for other amounts, pay the amount to the destination account nominated by the Seller.
- 93.11 Settlement occurs when the Electronic Workspace records that the Financial Settlement has occurred.
- 93.12 A Party is not in default of this Contract to the extent it is prevented from complying with an obligation because the other Party or the other Party's financier has not done something in the Electronic Workspace.
- 93.13 Any rights under the Contract or at law to terminate this Contract may not be exercised during the time the Electronic Workspace is locked for Electronic Settlement.
- 93.14 The Parties must:
- (a) ensure that the Electronic Workspace is completed and all Electronic Conveyancing Documents and the Financial Settlement Schedule are Digitally Signed prior to settlement;
 - (b) do everything else required in the Electronic Workspace to enable Settlement to occur on the Settlement Date; and
 - (c) do everything reasonably necessary to assist the other Party to trace and identify the recipient of any mistaken payment and to recover any mistaken payment.
- 93.15 Where Settlement is to occur in the Electronic Workspace, the Buyer acknowledges and agrees that any bank guarantee or similar instrument provided by the Buyer to secure the payment of the Deposit cannot be returned via the Electronic Workspace and will be returned to the Buyer within a reasonable period after Settlement.
- 93.16 Each Party is to bear its own costs in connection with Settlement occurring in the Electronic Workspace.
- 93.17 If Settlement fails and cannot occur by 4pm on the Settlement Date because a computer system operated by a participating party is inoperative, neither Party is in default and the Settlement Date is deemed to be the next Business Day. Time remains of the essence.
- 94. Promotional Materials**
- 94.1 The Promotional Materials constitute a depiction of the Seller's intentions in respect of the Principal Scheme and the Scheme as they are at the Contract Date. They are not intended to be, nor should they be treated as, a statement of existing fact as to any aspect of the Principal Scheme or the Scheme.
- 94.2 The Promotional Materials do not form part of the description of the Principal Scheme or the Scheme in this Contract or the Disclosure Documents.
- 94.3 The Promotional Materials are not a representation or warranty by the Seller to the Buyer that:
- (a) the intention of the Seller to carry out the development of the Principal Scheme and the Scheme or to carry it out in any particular manner or sequence or to complete it is fixed and unequivocal;
 - (b) the Principal Scheme and the Scheme will be in accordance with the Promotional Materials;
 - (c) the Seller owns or will own all of the land required to undertake the Principal Scheme and the Scheme or any part of them;
 - (d) the Seller has received or will receive all necessary approvals to undertake the development of the Principal Scheme and the Scheme, or if approvals are received, that they will be satisfactory to the Seller;
 - (e) the Seller has funding in place or the financial capacity to undertake the development of the Principal Scheme and the Scheme;
 - (f) the Seller has an unequivocal intention to proceed with the entire Principal Scheme and the Scheme as depicted in the Promotional Materials or at all;
 - (g) the design features, facilities, improvements and inclusions as shown in the Promotional Materials are final and will form part of the Principal Scheme and the Scheme as depicted in the Promotional Materials or at all;
 - (h) all aspects of the Principal Scheme and the Scheme as shown in the Promotional Materials will be included in the Principal Scheme and the Scheme; and
 - (i) the appearance, components and character of the Principal Scheme and the Scheme is fixed and will not change from that which is depicted in the Promotional Materials.
- 94.4 The Buyer acknowledges that the undertaking of the development of the Principal Scheme and the Scheme is a dynamic process which may change or not be proceeded with, either in part or in whole, for any number of reasons, both before and after the Buyer has

entered into the Contract and, as such, the Buyer represents and warrants to the Seller that they have not relied and will not rely on or be induced to enter into this Contract based on the Promotional Materials either in whole or in part.

95. Housing Covenants

95.1 The Buyer acknowledges that:

- (a) the Property forms part of the Principal Scheme which is a quality residential community;
- (b) unsold lots in the Principal Scheme are a valuable asset in the hands of the Seller the value of which depends in part on the Principal Scheme continuing to be and being seen to be a high quality residential community;
- (c) the Seller has a legitimate business interest in ensuring that the Principal Scheme remains a high quality residential community;
- (d) the value of other lots in the Principal Scheme already sold to other owners depends in part on the Principal Scheme continuing to be and being seen to be a high quality residential community; and
- (e) to maintain the value and amenity of unsold lots in the Principal Scheme for the benefit of the Seller and to maintain the value and amenity of lots in the Principal Scheme already sold to other owners for the benefit of those other owners, for the Seller to exercise supervision and reasonable control to ensure a high standard of quality and appearance in respect of the design and construction standard of dwellings, other improvements and landscaping within the Scheme and other matters generally.

95.2 In consideration for the Seller entering into this Contract, the Buyer agrees to comply with and abide by the terms of the Housing Covenants. At Settlement, the Buyer must give to the Seller a copy of the Housing Covenants duly sign by the Buyer if the buyer has not already done so before Settlement. This is an Essential Term of this Contract.

95.3 The Buyer must not sell, transfer, dispose of, lease or in any other way part with possession of the Property without first obtaining a covenant, in the form of the Deed Poll, from any disponent in favour of the Seller agreeing to be bound by the Housing Covenants.

95.4 The Buyer must not lease, licence or part with possession of the Lot without first delivering to the tenant, licensee or occupier a copy of the Housing Covenants.

95.5 The Buyer indemnifies the Seller and must keep the Seller indemnified against any Claim suffered or incurred by the Seller as a result or indirect result of the Buyer's failure to comply with the obligations contained in clauses 95.1(a), 95.3 and 95.4.

95.6 The Buyer acknowledges the Seller may seek an injunction from a court to prevent the Buyer breaching its obligations under this clause 95.

95.7 The Buyer acknowledges that the Seller has and reserves the right to:

- (a) vary the Housing Covenants from time to time;
- (b) exclude or elect not to enforce all or any part of the Housing Covenants; and
- (c) interpret and apply the Housing Covenants and the intent of the Housing Covenants as it consider appropriate, having regard the objectives of them,

in respect of any land within the Scheme in any way it determines in its total discretion.

95.8 The Buyer must not Object to the Seller exercising any of its rights under Special Condition 95.7. The Buyer releases the Seller from any Claim resulting from the Seller exercising those rights provided that the exercise of such rights does not:

- (a) cause a material detraction from the character or standard of the Scheme; or
- (b) have a direct material adverse effect on the use or value of the Property.

95.9 The Parties agree that all of the covenants and agreements in the Housing Covenants remain in full force and effect against the Buyer and the Buyer's successors, administrators and assigns in favour of the Seller and its successors, administrators and assigns notwithstanding settlement of this Contract and the registration of a transfer of the Property in favour of the Buyer.

96. Reticulated Natural Gas

96.1 The Seller may enter into an agreement with APA Group (APA) for the installation of natural gas infrastructure (APA Agreement). The Buyer acknowledges that the APA Agreement may not be entered into or may terminate at any time and that natural gas infrastructure will only be installed if the APA Agreement remains on foot. The Seller makes no warranty or representation that it will maintain or enter into an APA Agreement. The Buyer must not Object if the Seller does not maintain or enter into an APA Agreement.

96.2 If the Seller enters into and maintains an APA Agreement then the balance of this clause 96 applies.

96.3 The Buyer agrees that it must and must ensure that its agents, consultants, builders, contractors, invitees and other third parties not related to the Seller or APA cause no other utility assets or any other structure to be constructed directly above and in parallel to any gas main with a horizontal clearance of less than 250 mm. Where other utility assets (not installed by the Seller or APA) are found directly above the gas main, or with inadequate horizontal clearance, the Buyer is responsible for removing the other utility and any rectification costs. The Seller and APA will not be responsible for any costs associated with remediation. The Buyer acknowledges that APA reserves the right to withhold gas supply until the clearance is rectified or if it believes there is a risk to gas assets. The offset of the gas main should meet the following conditions, note that the standard offset is 2.1 metres:

- (a) horizontal clearance of 250 mm from any other asset; and
- (b) vertical clearance of 150 mm when crossing any other assets.

- 96.4 The following minimum depths of cover will need to be maintained above the gas mains unless greater depth is stipulated by the relevant authority:
- 750 mm final cover in new estates (600 mm is before installation of top soil to site);
 - 800 mm final cover in established areas; and
 - 1,200 mm final cover under nominated roads.
- 96.5 Prior to the Buyer being able to utilise natural gas, the Buyer will need to arrange a gas supply agreement with a natural gas retailer.
- 96.6 The Buyer acknowledges and agrees that any:
- breach of clauses 96.3 and 96.4 may prevent connection of the Lot to the gas infrastructure or may require the Buyer to incur additional costs in order to connect the Lot to the gas infrastructure following Settlement.
 - additional costs payable as a consequence of a breach of Special Conditions 96.3 and 96.4 will be at the cost of the Buyer and the Buyer releases and indemnifies the Seller in this respect.
- 96.7 APA will determine the best design and use reasonable endeavours to supply the lot to enable prospective residents to connect to natural gas in accordance with the following:
- lots with frontages less than 12.5m - to be provided with a minimum of 1 connection access point, ie, one road crossing to one shared property boundary (if main not installed on the same side of the road);
 - lots with frontages greater than 12.5m wide (including all corner blocks and duplex sites) - to be provided with 2 x connection access points - one at each shared property boundary (if main not installed on the same side of the road along the entire lot frontage);
 - 'battle-axe' lots - to be provided with one connection access point from the Local Government verge along the lot frontage. APA cannot install gas mains in private properties without owner's consent/easement acquisitions; and
 - Laneways - 'drive through lots' with two frontages - to be provided with one connection access point to one shared property boundary. APA to determine design based on clearances, overall design of reticulation and best accessibility to gas mains. Note: for laneways with reduced verge widths - gas mains cannot be installed in a 'common trench' where the verge is less than 700mm.
- 96.8 Where easements are required to install gas mains, the Lot will be subject to such easement/s and the Buyer will not Object.
- 96.9 If the Seller maintains an APA Agreement, the Seller discloses to the Buyer and the Buyer acknowledges and accepts that:
- the infrastructure will be located in the street and the Buyer must make all connections of the Lot to the infrastructure in the street at its own cost;
 - the Buyer may elect to or elect not to connect the Lot to the gas infrastructure;
 - the Buyer must comply with all directions of APA in relation to access to and construction of structures to and near its infrastructure including sufficient horizontal and vertical clearances and depths; and
 - prior to the Buyer being able to utilise natural gas, the Buyer will need to arrange a gas supply agreement with a natural gas retailer.
- 97. Retaining Walls**
- 97.1 The Seller discloses and the Buyer acknowledges that:
- all retaining walls including the footings are to be located wholly within the property boundary of a lot;
 - retaining walls to stabilise excavation must be set back from the Lot boundaries to accommodate subsoil drainage without encroaching into the neighbouring lot;
 - retaining walls that are greater than 1.0m in height must be vertically and horizontally tiered by a ratio of 1:1 unless an alternative has been approved by the development services; and
 - retaining walls facing onto Local Government property (including road reserve and parkland) must not be constructed from timber.
- 97.2 Accordingly:
- the Lot may contain a retaining wall which also affects the lot adjoining the Lot by providing support; or
 - the lot adjoining the Lot may contain a retaining wall that also affects the Lot by providing support.
- 97.3 From Settlement, (if the Lot contains a retaining wall), the Buyer agrees that it is the Buyer's responsibility to (and the Buyer agrees that it will) have a relevantly qualified professional inspect and maintain all retaining walls affecting the Lot at regular intervals.
- 97.4 The Buyer agrees that it must not change or alter any retaining walls that have been installed by or on behalf of the Seller unless a relevantly qualified professional determines that they have come to the end of their useful life and need replacement.
- 97.5 The Buyer acknowledges that structural advice regarding the retaining walls should be obtained by the Buyer from a relevantly qualified professional in the event that any dwellings or other structures are proposed to be constructed on the Lot in a location adjacent to or near retaining walls installed by or on behalf of the Seller.
- 97.6 The Buyer acknowledges and agrees that the promises contained in this clause are made for the benefit of owners for the time being of lots adjoining the Lot, which are affected by a retaining wall on the Lot and are enforceable by such owners pursuant to section 55 of the PLA Act.

98. Seller's Access Licence after Settlement

98.1 To facilitate the progressive development being carried out by the Seller (**Estate**), with effect from Settlement, the Buyer irrevocably grants to:

- (a) the Seller; and
- (b) any nominees of the Seller (**Nominee**),
a licence to enter and remain on the Lot as is reasonably required to undertake works of any kind (**License**).

98.2 Examples of works that may be performed under the License include:

- (a) installation or establishment of utility infrastructure and utility services and connections thereto;
- (b) completion or rectification of any works required by approvals granted to the Seller for development;
- (c) the installation of pit and pipe works and network infrastructure;
- (d) civil, excavation and general earthworks;
- (e) the construction of common areas, including roads;
- (f) the construction of improvements and facilities as may be considered necessary by the Seller to establish utility services and connections thereto; and
- (g) the construction of services infrastructure whether public or private including connections for sewerage, gas, electricity, communications, water or any other lawful service available to the public,

all of which are collectively called the **Infrastructure Works**.

98.3 In consideration for the grant of the License, the Seller must pay the Buyer \$1.00 within 10 Business Days after demand for payment by the Buyer.

98.4 The Seller or its Nominee may bring onto the Estate and the Lot any machinery, tools, equipment, vehicles and workmen to facilitate the carrying out of the Infrastructure Works.

98.5 The benefit of the License in favour of any Nominee is a covenant for the benefit of the Nominee pursuant to section 55 of the *Property Law Act 1974* in consideration of the Seller agreeing to sell the Property to the Buyer.

98.6 The Buyer must not Object if the Seller or a Nominee exercises their rights under this Special Condition.

98.7 The Seller must:

- (a) so far as reasonably possible cause minimal disturbance to any occupant of the Property; and
- (b) repair any damage caused to the Property,

as a result of the Seller or its Nominee exercising its rights under this Special Condition.

98.8 The Buyer must not Object to the continuation of civil or construction works within the Estate after Settlement which may disrupt or inconvenience the Buyer or an occupier of dwelling on the Lot.

98.9 The Buyer must not sell, transfer, assign or otherwise dispose of the Lot without first delivering to the Seller a deed poll executed by the future buyer, transferee, assignee or dispone in favour of the Seller containing covenants in the same terms (*mutatis mutandis*) as this Special Condition including an obligation for each further buyer, transferee, assignee or dispone to obtain a further deed poll from any subsequent buyer, transferee, assignee or dispone. The covenant to be obtained is to be in the form of the Deed Poll.

98.10 This Special Condition does not merge on Settlement.

99. Slab and Footings Construction

99.1 The Buyer must cause the foundation of any improvements constructed on the Lot to be fit for purpose, as certified by a registered professional engineer, having regard to the soil conditions and site conditions. The Parties acknowledge this may require or include the use of a waffle pods slab on ground type construction.

100. Indemnity

100.1 The Buyer indemnifies the Seller against all loss, costs and damage arising from any Claims, Objections or actions against the Seller in connection with anything the Buyer, or anyone authorised by it, does or fails to do on the Property or due to a breach of this Contract by the Buyer. This indemnity does not merge on Settlement of this Contract.

101. Display Homes

101.1 The Seller may:

- (a) use any lots (other than the Lot) in the Estate which are owned by the Seller for a Display Home; and
- (b) allow any lots (other than the Lot) in the Estate to be used for a Display Home.

101.2 The Buyer must not, without the prior written consent of the Seller, use, promote, advertise or permit any structure erected on the Lot to be used, promoted or advertised in any way as a Display Home.

101.3 The Buyer will not make any Claim against the Seller or Object because of this clause 101.

102. Notice of Default by Buyer before termination

102.1 Notwithstanding any other provision of this Contract, if the Seller is in default of this Contract and such default entitles the Buyer to terminate this Contract or exercise any other right, the Buyer must not terminate or purport to terminate this Contract or exercise a right or purport to exercise a right without first giving the Seller a notice which requires the Seller to remedy the default (or in respect of a breach that is incapable of rectification compensates the Buyer for the breach) within a period of not less than 10 Business Days after the notice is received by the Seller. Only if the 10 Business Day period has expired and the Seller has not remedied the default (or in respect of a breach that is incapable of

rectification compensated the Buyer for the breach) is the Buyer entitled to terminate this contract or exercise any other right.

103. Lodgement of transfer

103.1 The Buyer must lodge the Transfer Documents at the Queensland Titles Registry on or before 60 days after Settlement. This clause is an Essential Term and does not merge on Settlement.

104. Packaged Pricing

104.1 This clause applies if the Buyer has entered into, or intends to enter into a Building Contract with a Builder. The intention of this clause is to show that other than marketing, the relationship between the Seller, the Builder and the Buyer is the same as if the Buyer had engaged a builder who was not advertised through a current marketing campaign of the Seller.

104.2 The Buyer acknowledges that:

- (a) the Seller is responsible for the sale of the Lot only;
- (b) the Buyer will be required to enter into a separate Building Contract with the Builder or a separate building contract with an alternative builder at the Buyer's election as the Seller is not providing any improvements to the Buyer;
- (c) the Buyer may select an alternative builder at its discretion and is not required to select the Builder;
- (d) the relationship between the Seller and the Builder is limited to marketing and advertising activities only;
- (e) the Builder is not a subsidiary or related entity of the Seller;
- (f) the Seller and the Builder are separate entities and no liability or responsibility is shared by these parties; and
- (g) the Seller is not a party to the Building Contract and the Builder is not a party to this Contract.

104.3 The Buyer acknowledges that the Seller makes no representations and gives no warranties about the Builder's ability to enter into and perform the Building Contract. The Seller will not be liable for:

- (a) any failure by the Builder to enter into or perform the Building Contract;
- (b) any delays in construction;
- (c) any representations made by the Builder;
- (d) any acts or omissions on the part of the Builder; or
- (e) any loss suffered by the Buyer or any person in any way arising out of or relating to the Building Contract.

104.4 Any incentives or concessions advertised or offered by the Builder are offered by the Builder alone and the Seller accepts no liability or responsibility with regard to them.

104.5 The Seller does not make any undertaking on behalf of the Builder. The Buyer is to make their own investigations relating to the Builder's licences, insurances, warranties and other requirements.

104.6 The Seller makes no warranty as to the foundation requirements for the proposed Dwelling and is not responsible for the soil testing or design or construction of the foundations.

104.7 The Seller is not liable for any workplace health and safety requirements relating to the construction of the proposed Dwelling.

104.8 The Buyer is responsible for any damage caused by the Builder to the civil infrastructure, retaining walls, concrete kerbs, concrete footpaths and crossovers, adjoining properties and other features.

104.9 The Buyer is required to obtain covenant approval for the proposed Dwelling and associated works in accordance with the Housing Covenants.

104.10 Alterations may be required to the proposed Dwelling to ensure the Dwelling and associated works complies with the Housing Covenants as well as any statutory requirements.

104.11 The Buyer is responsible for satisfying itself as to the compatibility of the Dwelling with the Housing Covenants.

104.12 The location of the proposed Dwelling shown on any marketing material has been determined by the Builder. The location of the Dwelling may not comply with statutory requirements or the Housing Covenants. The Buyer is to confirm the proposed location of the Dwelling with the Builder and its compliance with statutory requirements and the Housing Covenants.

104.13 This Contract is not conditional on the Buyer entering into the Building Contract or any other building contract and is not conditional on any part of the Building Contract or any other building contract.

105. Fencing

105.1 If the Seller has installed any fencing or entry feature on the Lot then the Buyer covenants with the Seller that the Buyer will maintain in a good condition such fence or entry feature.

105.2 Notwithstanding any provision in the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*, the Seller need not contribute to the cost of building any dividing fence between the Lot and any adjoining land owned by the Seller or to the cost of relocating any fence. The Buyer waives any right to claim contribution from the Seller. The Buyer acknowledge that this clause is an agreement made between adjoining owners about a dividing fence for the purposes of section 10 of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011 (Qld)*.

105.3 The Buyer must not sell, transfer, assign or otherwise dispose of the Land without first delivering to the Seller a deed poll executed by the future buyer, transferee, assignee or dispone in favour of the Seller containing covenants in the same terms (*mutatis mutandis*) as this clause including an obligation for each further buyer, transferee, assignee or dispone to obtain a further deed poll from any subsequent buyer, transferee, assignee or

dispose. The covenant to be obtained is to be in the form of the Deed Poll.

106. Buyer's Acknowledgements – Services and Other Features

106.1 The Services and Other Features Plans show the general location of the Services and the Other Features within the stage that contains the Lot. The Buyer acknowledges that the Services and Other Features Plans may be design, preliminary or as constructed drawings and may be revised in the future. Revised drawings (if available) can be obtained by contacting the Seller.

106.2 The Buyer acknowledges that:

- (a) the Services and Other Features Plans have been provided for the sole purpose of showing the general location of the Services and Other Features on or immediately adjacent to the Land and any ancillary information shown on the Services and Other Features Plans is to be disregarded by the Buyer;
- (b) the Seller provides the Services and Other Features Plans in good faith so that the Buyer is aware of the likely locations and alignments of the Services and Other Features;
- (c) the Seller cannot warrant the ultimate location and alignment of the Services and Other Features given that such locations and alignments are subject to external influences beyond the Seller's control (including third party requirements and construction constraints);
- (d) temporary services and redundant services may not be shown on the Services and Other Features Plans;

(e) redundant services may be abandoned and left in situ; and

(f) the alignments and locations of the Services and Other Features are subject to change.

106.3 The Buyer must not lodge a caveat or make any Claim against the Seller or Object if:

- (a) the Seller does not construct the Services or Other Features by the Settlement Date;
- (b) the Services and Other Features Plans show that sewer, stormwater or roofwater services will be located on the Land;
- (c) any of the Services are constructed inside the boundaries of the Property;
- (d) any redundant Services traverse the Lot;
- (e) the alignment or location of the Services or Other Features change from that shown on the Services and Other Features Plans; or
- (f) the Seller does not complete construction of any other land included in the Estate or does not continue to develop any of the land owned by the Seller.

107. Special Conditions

The Special Conditions annexed to this Contract form part of this Contract and override any inconsistent term of the Contract.

HOUSING COVENANTS & DEED POLL

(follows this page)

Housing Covenants

BETWEEN: MIRVAC QUEENSLAND PTY LIMITED ACN 060 411 207 (Seller)
AND: THE PERSON NAMED AS "BUYER" IN THE REFERENCE SCHEDULE (Buyer)

1. ACKNOWLEDGMENT BY BUYER

- 1.1 The Buyer acknowledges that the Land is part of a residential subdivision known as **Ashford Land** being part of **Ashford Residences (Estate)**. The Buyer covenants that it is desirable and in the interest of all owners of lots in the Estate that the Seller exercises supervision and control to ensure that:
- (a) the Land and other relevant lots in the Estate are properly maintained prior to the commencement of construction of a Dwelling thereon;
 - (b) a high standard of design and construction of dwellings, Improvements, Outbuildings and Extensions in the Estate are maintained; and
 - (c) owners conform with agreed standards in relation to the use of their lots and any Extensions and Improvements erected thereon.
- 1.2 The Buyer acknowledges that further construction and development works may be carried out at the Estate after the settlement of the Contract. The Buyer agrees not to Object or seek to make a Claim in respect of any future construction or associated development or other works in connection with the Estate.
- 1.3 The Buyer consents to and agrees not to raise any Objection or lodge any submissions in respect of any Development Application or amendments to any Development Approvals in respect of the Estate or any adjoining or nearby land owned by the Seller.

2. OCCUPATION AND USE

- 2.1 The Buyer must not:
- (a) use or permit the Dwelling to be used for any other purpose than a single family house or a long term residential rental dwelling;
 - (b) reside in the Dwelling until curtain rails and functional curtains, shutters and blinds are installed to all clear glazed windows of the Dwelling visible from any street. The Buyer must not install any sheets or other materials as a temporary measure;
 - (c) commence any Building Work, Improvements to the Dwelling or Land or excavation on the Land unless plans and designs for those Building Works and Improvements have been approved by the Seller or its representative and a building permit has been issued by the Local Government or a private certifier; or
 - (d) except for a fireplace within the Dwelling, erect or install on the Land any incinerators or burners and the Buyer must not burn off any material or rubbish on, in or about the Land.

3. USE AND RESIDENCY CONDITIONS

- 3.1 After completion of the Dwelling on the Land, the Buyer must keep and maintain the Dwelling and all landscaping, trees, shrubs, lawns and gardens on the Land, as well as the lawn between the Land boundary and the road kerb in good order and condition acceptable to the Seller or its representative. Such order and condition will minimally require the adequate watering of all garden and lawn areas (within current Local Government guidelines), the frequent mowing of lawns and trimming of lawn edges and the regular maintenance of plants and trees.
- 3.2 The Buyer must not park or place either on the footpath or within the area of the required setback of the Dwelling from the street boundary of the Land, nor permit to be placed there, any trailer, caravan, boat or other vehicle or object which in the Seller's or its representative's opinion will cause nuisance or annoyance or detract from the amenity of the area. The Buyer must not park or allow to be parked within the Estate's private or public land or upon its streets either overnight or regularly on weekends for periods considered by the Seller or its representative to be excessive, any commercial vehicle other than a light utility vehicle.
- 3.3 The Buyer must not store or leave on the Land any materials or equipment (other than during the period of construction of the Dwelling and any Outbuildings, Improvements or Extensions) on the Land, nor carry out on the Land, repairs to or maintenance of any vehicle or equipment in such a way as, in the Seller's or its representative's opinion, to cause nuisance or annoyance or detract from the amenity of the area.
- 3.4 Refuse bins must be kept to the side of the Dwelling built on the Land and behind any fence or screen constructed between the Dwelling and a side boundary. Refuse bins must not be kept in front of the Dwelling or within the area of its setback from the street or otherwise unnecessarily in public view. Refuse bins are not to be placed on the street for a period greater than 48 hours every 7 days.

3.5 The Buyer must not without the Seller's or its representative's prior written consent display or permit to be displayed to the public the Dwelling erected on the Land (such as for a Display Home) except when such display is with the sole and immediate object of selling such Dwelling. Such period of public display is limited to 2 x 1 hour sessions weekly.

3.6 The Buyer must not without the express prior written consent of the Seller or its representative use the Dwelling, garage or outbuilding as a showroom, shop or Display Home. The Buyer consents to the Seller using (or permitting to be used) other dwellings at the Estate as either a showroom or a Display Home if the Seller wishes to do so.

4. BUILDING OPERATION REQUIREMENTS

4.1 The Seller has produced Residential Design Guidelines (**Design Guidelines**) which set out architectural controls for houses and other improvements being built on relevant land in the Estate.

4.2 The Buyer agrees to be bound by the Design Guidelines which form a part of these Housing Covenants. If there is any conflict between the Design Guidelines and these Housing Covenants, then the Design Guidelines will prevail.

4.3 Only a single Dwelling for residential purposes may be erected on the Land, together with a lock-up garage, which must be suitably fitted with a vehicular access door and form an integral part of the design of the Dwelling.

4.4 The design, appearance and external colours and building materials of all Outbuildings must comply with these Housing Covenants and the Design Guidelines and be integrated with the design of the Dwelling.

4.5 The Buyer can erect or permit to remain upon the Land part of any Building Works or structure only if it fully complies with the requirements of the Local Government.

4.6 No Temporary Dwelling or sub-standard Dwelling can be brought onto the Land except for the purpose of building the Dwelling and for the purpose of building such other permanent structure on the Land as may be permitted by the Seller or its representative.

4.7 No person can reside in any portion of the Dwelling prior to Practical Completion of the Dwelling and no person can reside in any workshop or garden shed at any time.

4.8 The Buyer is responsible for the establishment and maintenance in a proper manner all landscaping on their Land and must not remove any pre-existing trees without the consent of the Seller or its representative.

4.9 The Buyer must complete all driveways and landscaping of the Land including fencing on or before Practical Completion of the Dwelling.

4.10 Additions and Extensions to the Dwelling, Outbuildings and other structures on the Land, including new verandas, pergolas, Outbuildings, sheds, swimming pools and garden structures are subject to the same covenant requirements as the Dwelling and application for approval must be made to the Seller or its representative in the same manner as the original Dwelling building applications.

4.11 Street landscaping along each frontage of the Land must be protected by the Buyer during the construction of the Dwelling, Outbuildings, Improvements and Extensions. The Buyer agrees to reimburse the Seller, upon demand, for expenses incurred by the Seller on the Buyer's behalf in maintaining or repairing the landscaping along each frontage of the Land which have been damaged by the activities on the Land.

4.12 The Seller or its representative, in its absolute discretion, may approve or reject any application for approval of the Dwelling or grant approval subject to such conditions as it may reasonably require unless such application complies with the Housing Covenants

5. CONSTRUCTION AND PUBLIC SAFETY

5.1 The Land must be clean and safe at all times. This is the responsibility of the Buyer and the Buyer's builder.

5.2 Prior to construction of the Dwelling and Outbuildings, the Land must be cleared of all weeds, building debris and general waste.

5.3 During construction of any improvements, a suitable bin must be provided for adequate disposal of waste goods and materials.

5.4 Debris, bins and site facilities should be clear of all neighbouring properties, roads, footpaths, reserves and all other public places at all times.

5.5 The Buyer must disclose these Housing Covenants to its builder and ensure that the builder complies strictly with those covenants that are within the builder's control.

6. MAINTENANCE OF THE LAND

- 6.1 The Buyer must not allow weeds or grass on the Land to exceed more than 150mm in height, nor bring onto or allow on the Land or adjoining lots or footpaths any rubbish, spoil or unsightly materials. In the case that the Land is tenanted, it is the Buyer's responsibility to ensure that tenants comply with this requirement.
- 6.2 The Buyer hereby authorises the Seller or its representative, and the Seller or its representative may elect, to maintain the Land (should the Buyer not do so to the standard required by these Housing Covenants as determined by the Seller or its representative) and grants access to the Land for this purpose and agrees that such entry and access will not constitute trespass. The Buyer agrees to reimburse the Seller or its representative, upon demand, for expenses incurred by the Seller or its representative in maintaining the Land on the Buyer's behalf.

7. ANIMALS

- 7.1 Animals may only be kept in accordance with Local Government by-laws and regulations and in accordance with the requirements of any By-law of a community titles scheme within which the land is included.

8. SIGNS

- 8.1 The Buyer must not without the Seller's or its representative's prior written consent erect on the Land or adjoining footpath or fix to any building or fence on the Land or permit to be erected or fixed, any signs, hoardings or advertisements of any kind except a sign, of no more than 1.08 square metre (900mm x 1200mm) in area, of a contractor actively carrying out work on the Land (together with such other signs as workplace health and safety or planning regulations require) and a maximum of 1 sign no more than 1.08 square metre (900mm x 1200mm) in area advertising the Land for sale. The Buyer hereby authorises the Seller or its representative to enter upon the Land to remove any signs or advertising not complying with these provisions and agrees that such entry and access will not constitute trespass.

9. APPROVAL OF PLANS FOR BUILDING WORK, EXTENSIONS AND IMPROVEMENTS

- 9.1 If the Buyer's Extensions or Improvements are being constructed by the Seller or a related entity of the Seller then this Clause 9 does not apply.
- 9.2 Prior to the Buyer commencing any Building Work, Extension or Improvement or making any application for the approval of building plans (including plans for the Buyer's proposed Dwelling unless the Dwelling has already been approved by the Seller at the time of the application) by the Local Government, the Buyer must first submit the plans for any Building Work, Extension or Improvement to the Seller or its representative showing, in addition to the requirements of Local Government:
- (a) the material and finish of all external walls and gables and of the roof and the pitch of the roof;
 - (b) the position on the Land and the description of any retaining walls and fences;
 - (c) any other information, matter or thing required by the Design Guidelines; and
 - (d) obtain the Seller's or its representative's written approval.
- 9.3 The Seller or its representative, in its absolute discretion, may approve or reject any application for Building Works, an Extension or Improvement or grant approval subject to such conditions as it may reasonably require unless such application complies with the Housing Covenants.
- 9.4 The Buyer acknowledges that any approval granted by the Seller or its representative is in addition to, and not in place of, any approvals required to be given by Local Government and any competent authority. The Buyer agrees not to place any reliance on the Seller's or its representative's approval and acknowledges that the Seller's or its representative's approval will not constitute any representation as to the adequacy, suitability or fitness of any building plan, Building Work, Extension or Improvement.
- 9.5 The Buyer acknowledges and agrees that the Land may have been filled. The Buyer must make its own investigations to satisfy itself concerning any proposed Building Work as to the suitability of any footing, foundations or proposed construction given the nature of the Land and as to any requirements of the Local Government.

10. REQUIREMENTS OF THE EXTENSIONS AND IMPROVEMENTS

- 10.1 If the Buyer's Extensions or Improvements are being constructed by the Seller or a related entity then this Clause 10 does not apply.
- 10.2 The Buyer must carry out all Building Works in respect of any Extensions or Improvements strictly in accordance with the plans, details and conditions approved by the Seller and will obtain the Seller's or its representative's prior written approval of any variation in relation to the approved plans, details and conditions which the Buyer wishes to implement and which affects in any way the outside of the Dwelling or the development of the Land.

- 10.3 The Extensions or Improvements of the Dwelling or the Land must proceed continuously after commencement and without undue interruptions until the Extensions or Improvements are in all practical respects Practically Completed. Any subsequent construction of fences, walls, a driveway or pool and the like, whether undertaken by the Buyer or by others on the Buyer's behalf, must be carried on to completion in all respects without undue interruption or delay.
- 10.4 The aesthetic quality of the Extensions and Improvements in general and its appearance from the adjoining street in particular, in the Seller's or its representative's opinion, will be such as to contribute to or not detract from, the amenity of the area. The Buyer acknowledges that the following requirements in pursuit of this objective are reasonable and agrees to comply with them:
- (a) the aesthetic quality of the Extensions and Improvements will be determined by the Seller or its representative in terms of the style, colour and appearance of the Extensions and Improvements in its own right and in relation to that of the Dwelling and existing other dwellings in proximity to the Land and/or the appearance or style which the Seller intends future dwellings in proximity to the Land to have;
 - (b) the Extensions and Improvements will not incorporate any second-hand or substandard materials;
 - (c) no Temporary Dwelling, caravan, privy, tent or substandard Dwelling can be brought onto the Land prior to completion of the Extensions and Improvements and the Buyer must not live in any part of the Extension or Improvement prior to Practical Completion of the Extension or Improvement; and
 - (d) the aesthetic quality of landscape works between the Dwelling and the street kerb, together with other areas of the Land within public view, will be determined by the Seller or its representative in terms of the style and appearance of the landscape works on the Land in its own right and in relation to that of existing other landscape works in proximity to the Land or the appearance or style which the Seller intends future landscape works in proximity to the Land to have.
- 10.5 All Building Works constructed upon the Land must be constructed by a registered and licensed builder.

11. FENCING

- 11.1 The Buyer is not permitted to replace any pre-existing fence on the Land that has been constructed by or on behalf of the Seller unless:
- (a) the materials are the same standard, design, and quality as the fence which was constructed at the time the Dwelling was constructed; and
 - (b) the replacement fence is constructed in the same location as the original fence was constructed.
- 11.2 The Buyer is not permitted to construct any new fence on the Land without the prior written approval of the Seller or its representative.
- 11.3 The Buyer should refer to the Design Guidelines for design requirements for fencing on the Land.
- 11.4 Notwithstanding any provisions of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011(Qld)* to the contrary, the Seller will not be liable or be required, at any time, to join in or contribute to the cost of erecting or maintaining any fence erected or to be erected on the Land or on the boundaries of the Land or on any dividing line between the Land and any lots unsold or held by the Seller.

12. EARTHWORKS

Any earthworks to be constructed by the Buyer are to be strictly in accordance with the Design Guidelines.

13. SERVICES

- 13.1 The Buyer and Seller acknowledge and agree that if a water supply pipeline or sewerage pipeline, an underground electricity supply cable, an underground telephone service cable, a stormwater or other drainage pipeline or any other similar pipelines or services traverse the Land (whether on, above or below the surface of the Land), then the Buyer accepts title to the Land subject to any rights of the local authority, government department or person or company or in respect of such pipelines and cables and will not make any requisition or Objection in respect of the same.

14. DISCLAIMER

- 14.1 The Seller, at its discretion, has the authority to approve on its merits any innovative or diverse designs that do not meet the requirements of these Housing Covenants.
- 14.2 The Buyer acknowledges that the Seller or its representative has the right to vary, exclude or elect not to enforce any of the Housing Covenants on owners of other relevant land in the Estate. The Buyer must not Object against the Seller and its representatives and specifically absolves the Seller and its representatives from any liability of any nature for any action taken in varying, excluding and electing not to enforce any Housing Covenants on other owners of other land in the Estate.

15. NO MERGER

15.1 The Buyer and the Seller agree that all of the covenants and agreements in the Housing Covenants remain in full force and effect against the Buyer and the Buyer's successors, administrators and assigns in favour of the Seller and its successors, administrators and assigns notwithstanding the completion of the sale and purchase of the Land and the registration of a transfer of the Land in favour of the Buyer.

16. SALE OR LEASE BY THE BUYER

16.1 The Buyer must not sell, transfer or otherwise dispose of the Land without first delivering to the Seller a Deed Poll executed by the future buyer, transferee or disponent in favour of the Seller containing covenants in the same terms (mutatis mutandis) as set forth in the Housing Covenants and including an obligation for each further purchaser, transferee or disponent to obtain a further Deed Poll from any subsequent purchaser, transferee or disponent.

16.2 The Buyer must not lease, licence or part with possession of the Land without first delivering to the tenant, licensee or occupier a copy of the Housing Covenants.

16.3 The Buyer hereby indemnifies the Seller and agrees to keep the Seller indemnified against all loss and damage incurred by the Seller as a direct or indirect result of the Buyer's failure to comply with the obligation contained in Clauses 16.1 and 16.2.

17. ENTRY ONTO THE LAND BY THE SELLER

17.1 The Buyer and Seller agree that if and whenever the Buyer or any successors in title make any default under these Housing Covenants, the Seller or its representative, without prejudice to its other rights, remedies and powers, will be at liberty to enter upon the Land to perform such work as may be necessary to comply with these Housing Covenants and the Seller or its representative will be entitled to recover the cost of the work from the Buyer or any successors in title.

17.2 The Buyer agrees that access or entry onto the Land by the Seller or its representative pursuant to Clause 17.1 is irrevocable and does not constitute trespass.

18. SELLER'S DISCRETION

18.1 The Buyer may apply to the Seller or its representative for consent to complete works on the Land and other buyers of lots in the Estate may apply to the Seller or its representative for consent to complete works on those lots which do not comply with these Housing Covenants. The Seller or its representative may grant or refuse such applications in its absolute discretion.

18.2 The Seller or its representative reserves the right to vary the Housing Covenants for future relevant lots at the Estate.

19. CONSTRUCTION

19.1 The Buyer must:

- (a) commence construction of the Dwelling on the Land (in accordance with these Housing Covenants) by the date 12 months after settlement of the Contract;
- (b) not have the building of the Dwelling left at any time without substantial work being carried out for more than one month; and
- (c) complete construction of the Dwelling, fencing, driveway and landscaping on the Land by the date 12 months after the date the Buyer commenced construction of the Dwelling,

as determined by the Seller acting reasonably.

20. BOND

20.1 The Buyer must pay the Bond to the Deposit Holder prior to the Seller issuing approval to the Buyer in accordance with these Housing Covenants.

20.2 The Bond will be held by the Deposit Holder as security for:

- (a) the Buyer strictly complying with the terms of these Housing Covenants and the terms of the Seller's approval pursuant to these Housing Covenants; and
- (b) damage to any land or improvements within the Estate including but not limited to damage to footpaths, roads, street trees, turfing and gutters which in the Seller's opinion has been caused or contributed to by the Buyer and/or its employees, agents, invitees, contractors and builders.

20.3 The Seller is free to use the Bond to effect, carry out or rectify:

- (a) any works required to be done by the Buyer pursuant to these Housing Covenants or the Seller's approval pursuant to these Housing Covenants but which have not been done by the Buyer; and

- (b) any and all damage to any land or improvements within the Estate including but not limited to damage to footpaths, roads, street trees, turfing, and gutters which in the Seller's opinion has been caused or contributed to by the Buyer and/or its employees, agents, invitees, contractors and builders.

20.4 The Buyer and the Seller irrevocably authorise and direct the Deposit Holder to release to the Seller the Bond for any of the purposes set out in Clause 20.3 on receiving a request from the Seller.

20.5 On Practical Completion of the Dwelling, landscaping, fencing and driveway (in accordance with these Housing Covenants and the Seller's approval pursuant to these Housing Covenants) to the Seller's satisfaction, the Deposit Holder will return any unused portion of the Bond to the Buyer on receiving a request from the Seller.

21. COMPLIANCE WITH HOUSING COVENANTS

21.1 Compliance with Housing Covenants Generally

- (a) The Buyer:
 - (i) acknowledges that the Seller has a significant investment in the Estate, and has an interest in maintaining the value and desirability of lots within the Estate;
 - (ii) acknowledges that a failure by the Buyer to strictly comply with the Housing Covenants will diminish the value of the Seller's significant investment in the Estate;
 - (iii) acknowledges that a failure by the Buyer to strictly comply with the Housing Covenants will diminish the value and desirability of:
 - (A) unsold lots in the Estate in the hands of the Seller; and
 - (B) lots sold by the Seller to other owners within the Estate.
 - (iv) agrees that in the event that the Buyer does not strictly comply with the Housing Covenants, the Seller will have legally enforceable rights against the Buyer, including the right to seek orders from the Courts compelling compliance by the Buyer, the right to enter onto the Land to undertake works to remedy a non-compliance and/or the right to seek damages against the Buyer and the right to call on and use the Bond; and
 - (v) hereby irrevocably grants to the Seller or the Seller's representative or agent, a licence to enter onto the Land to undertake work reasonably necessary to rectify any non-compliance with the Housing Covenants, such right not to be exercised until after notice has been given by the Seller to the Buyer to rectify the breach and that breach has not been rectified within the period provided for in the notice.
- (b) The Buyer warrants and represents to the Seller that the Buyer will comply strictly with the terms of the Housing Covenants and that it has the capacity to do so and the Buyer acknowledges that the Seller has relied on and been induced by those warranties and representations, to enter into the Contract with the Buyer to sell the Land.

21.2 Indemnities

- (a) In further consideration of the Seller entering into the Contract with the Buyer to sell the Land, the Buyer hereby indemnifies the Seller in relation to all Claims and liabilities whatsoever, which are made or may be made by any other person against the Seller, its agents, employees, directors or contractors, arising directly or indirectly out of or in connection with any failure by the Buyer to strictly comply with the terms of the Housing Covenants, including all Claims for damages and costs (on a full indemnity basis); and
- (b) indemnifies the Seller in connection with all legal costs and outlays incurred by the Seller in enforcing or attempting to enforce the Housing Covenants, on a full indemnity basis.

21.3 Restrictions to Cease

The restrictions specified in the above clauses will cease to burden the Land with effect from 31 December 2025. Generally, the Seller will deal with the issue of compliance with the Housing Covenants until improvements within the community titles scheme within which the land is included have been constructed and then the body corporate will be responsible for regulating works to existing improvements.

21.4 Joint and Several

The Buyer (if more than one person) agrees that they are jointly and severally liable in relation to the obligations pursuant to these Housing Covenants.

21.5 Inconsistencies with By-laws

To the extent of any inconsistency between these Housing Covenants and any By-law of a community titles scheme within which the land is included, the terms of the By-laws prevail.

22. DEFINITIONS

Bond	means the amount of \$3,500.00.
Building Works	means any works carried out on the Land in the nature of the construction, alteration, renovation or repair of the Dwelling or other building, fence, retaining wall, external sign or hoarding, driveway, external floodlights or spotlights or external fittings.
Buyer	means the buyer as detailed in the Reference Schedule of the Contract and any subsequent buyer of the Land.
Contract	means the contract of sale by which the Buyer became the owner of the Land whether the Seller or a third party was the seller of the Land to the Buyer.
Claim	means any cost, claim, demand, obligation, remedy, damage, loss, action, proceeding, claim for compensation, requisition or objection, whichever is applicable.
Development Application	means an application for Development Approval.
Deposit Holder	means HWL Ebsworth Lawyers (HWL Ebsworth Lawyers Law Practice Trust Account).
Development Approval(s)	means a development approval made by or on behalf of the Seller or third party pursuant to the <i>Planning Act 2016 (Qld)</i> and/or the <i>Sustainable Planning Act 2009 (Qld)</i> as applicable in relation to the Land and/or the Estate.
Display Home	means a dwelling used as a 'Display Home' as that term is defined in the <i>Domestic Building Contracts Act 2000 (Qld)</i> .
Dwelling	means the residential detached Dwelling constructed or to be constructed on the Land.
Extension	means addition, renovation, or alteration to an existing Dwelling.
Housing Covenants	means these Housing Covenants including the Residential Design Guidelines annexed to these Housing Covenants.
Improvements	means any of the following but is not limited to: new Dwelling, transmitting and receiving devices, security systems, air conditioning units, fences, retaining walls, letterboxes, landscaping within public view, garden sheds, clothes lines, external floodlights or spotlights, driveway, external fittings, pergolas and hot water systems.
Land	has the same meaning as detailed in the Reference Schedule of the Contract which is owned or under contract by the Buyer and is located in the Estate.
Local Government	means the Brisbane City Council.
Object or Objections	means to object generally and includes: <ul style="list-style-type: none">(a) object to a variation, change or substitution;(b) object to title to the Land;(c) avoid or attempt to avoid the Housing Covenants or Contract;(d) require the Seller to carry out any works to the Land;(e) withhold a consent;(f) make any claim, demand, appeal or suit of any nature; or(g) seek an injunction.
Outbuilding	means, for example, garage, veranda, pergola, shed whether attached or detached from the Dwelling.
Practical Completion	means when the relevant Building Works, Dwelling, Improvement, Extension or Outbuilding have reached practical completion and they have been approved by a building certifier (if applicable) that they are fit for use and occupation.
Residential Design Guidelines (Design Guidelines)	means the attached Residential Design Guidelines which form part of the Housing Covenants.

Seller means Mirvac Queensland Pty Limited ACN 060 411 207 and its executors, administrators, successors, substitutes and permitted assigns.

Temporary Dwelling means, for example, caravan, tent or any Dwelling temporarily erected to assist in any Building Works.

Buyer's Signature

SIGNED by the Buyer in the presence of (and if a)
 company, in accordance with Sections 126 or 127)
 of the *Corporations Act 2001 (Cth)* or by its duly) Buyer (or Director/Secretary of Buyer or authorised signatory,
 authorised signatory):) if company)

.....
Witness Buyer (or Director/Secretary of Buyer or authorised signatory,
(witness not required if signed electronically) if company)

.....
 Buyer (or Director/Secretary of Buyer or authorised signatory,
 if company)

The signatories, by placing their signatures above, warrant that:

- (a) they are the Buyer or they are authorised by the Buyer to sign; and
- (b) if an officer of a company, the company duly resolved to enter into and sign this instrument.

Seller's Signature

SIGNED ON BEHALF of **MIRVAC QUEENSLAND**)
PTY LTD ACN 060 411 207 by its duly authorised)
 signatory:)

.....

Ashford

RESIDENCES

Design Guidelines

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DESIGN GUIDELINES OVERVIEW

The Ashford Design Guidelines have been prepared to assist Ashford purchasers (and their builders/designers) to construct well designed, high quality homes to create a premium Mirvac community with a consistent vision. Each house within Ashford must be constructed in accordance with the guidelines which will be managed by the Design Committee.

A great design will help you add value to your home, increase sustainability, improve your quality of life and foster an image for Ashford. These guidelines are not intended to limit design however have instead been included to ensure that Ashford presents as an attractive development with harmonious streetscapes making it a highly desirable place in which you will be proud to live.

The document will cover the following particulars:

Covenant Approval Process

This section provides you with easy to follow steps on the approval process managed by the Design Committee. Following these steps will ensure your house design meets all of Ashford's design guidelines.

Section 1 - Home Size & Siting

The size of your home is a personal choice and at Ashford it is not a requirement to have a bigger or smaller house than you desire. However, it is required that the size of your house suits the lot you have chosen.

Section 2 - Built Form

The built form design of each home in Ashford will contribute to the overall aesthetic of the development. Owners are required to build quality and innovative house designs to ensure a cohesive and premium residential image for Ashford.

Section 3 - Landscaping

A great way to compliment your built form design is through high quality landscaping. We ask that you include attractive low maintenance and water sensitive landscaping and that the design of your front yard compliments the streetscapes of Ashford.

Section 4 - Fencing

Fences are an important part of the streetscape and define the lot boundary of your home. To ensure the architecture of your home is complimented by fencing we require you to include quality fencing materials and design measures.

Section 5 - Construction Obligations

Maintaining appealing streetscapes is integral to Ashford even during construction. We ask that you follow specific guidelines to ensure that the development always presents highly.

Section 6 - Sustainable Living Recommendations

Mirvac considers sustainability and innovation to be key components in delivering cohesive communities that are safe, encourage healthy and active lifestyles and result in lower household expenses. The guidelines provided will guide you on sustainable measures you can implement.

COVENANT APPROVAL PROCESS

Step 1 - Design

Your builder will work with you to design your home to meet the mandatory design guidelines. It is important that your builder has access to the Ashford Design Guidelines as well as the Ashford Building Envelope Guide. During the design phase should you or your builder wish to raise any questions with Mirvac please submit your query to ashfordmpc@mirvac.com

Step 2 - Submission

Once your design is finalised, please submit your Covenant Application on our on online Application Portal - ashford.mirvac.com/portal and track your covenant journey.

Step 3 - Covenant Bond Payment

A Covenant Bond of \$3,500 is required to be paid to the following:

HWL Ebsworth Lawyers Law Practice Trust Account

Account Number: 24 66 34

BSB: 034 003

Description: "Surname" Ashford "Lot Number" - Covenant Bond

Be sure to include the proof of bond payment as part of your covenant application to avoid a delay in the assessment and approval process. This amount is held in trust and is fully refundable upon completion of your home and landscaping in accordance with these Design Guidelines.

Step 4 - Assessment

The Design Committee will assess your plans for compliance with the Design Guidelines. This process will generally take 2 weeks, assuming all information is provided. Any items requiring amendment will be raised with you and your builder, and plans will need to be amended and resubmitted prior to approval being granted.

Step 5 - Covenant Approval

Covenant Approval will be issued when the submission has been assessed by the Design Committee and complies with the Design Guidelines. Please take care to note any comment(s) on your approved plans to ensure that all conditions of the Covenant Approval are addressed.

Step 6 - Building Approval

Once Covenant Approval has been issued, an application can then be made to your accredited building certifier/Council for the statutory Building Approval.

Step 7 - Construction

Please ensure that your lot is properly maintained to be free of excessive weeds, rubbish or garbage prior to and during the construction phase of your home. This will ensure that your land is clean and safe at all times. You must commence construction of your home prior to 12 months after settlement of your land and complete your home and achieve Final Compliance Approval within 12 months from construction commencement.

Step 8 - Final Inspection

Once your House & Landscaping are complete, please request your Final Inspection via the Application Portal. The Final Inspection will be carried out by the Design Committee and assessed against your previously issued Covenant Approval. This process will generally take 2 weeks.

Step 9 - Final Compliance Approval

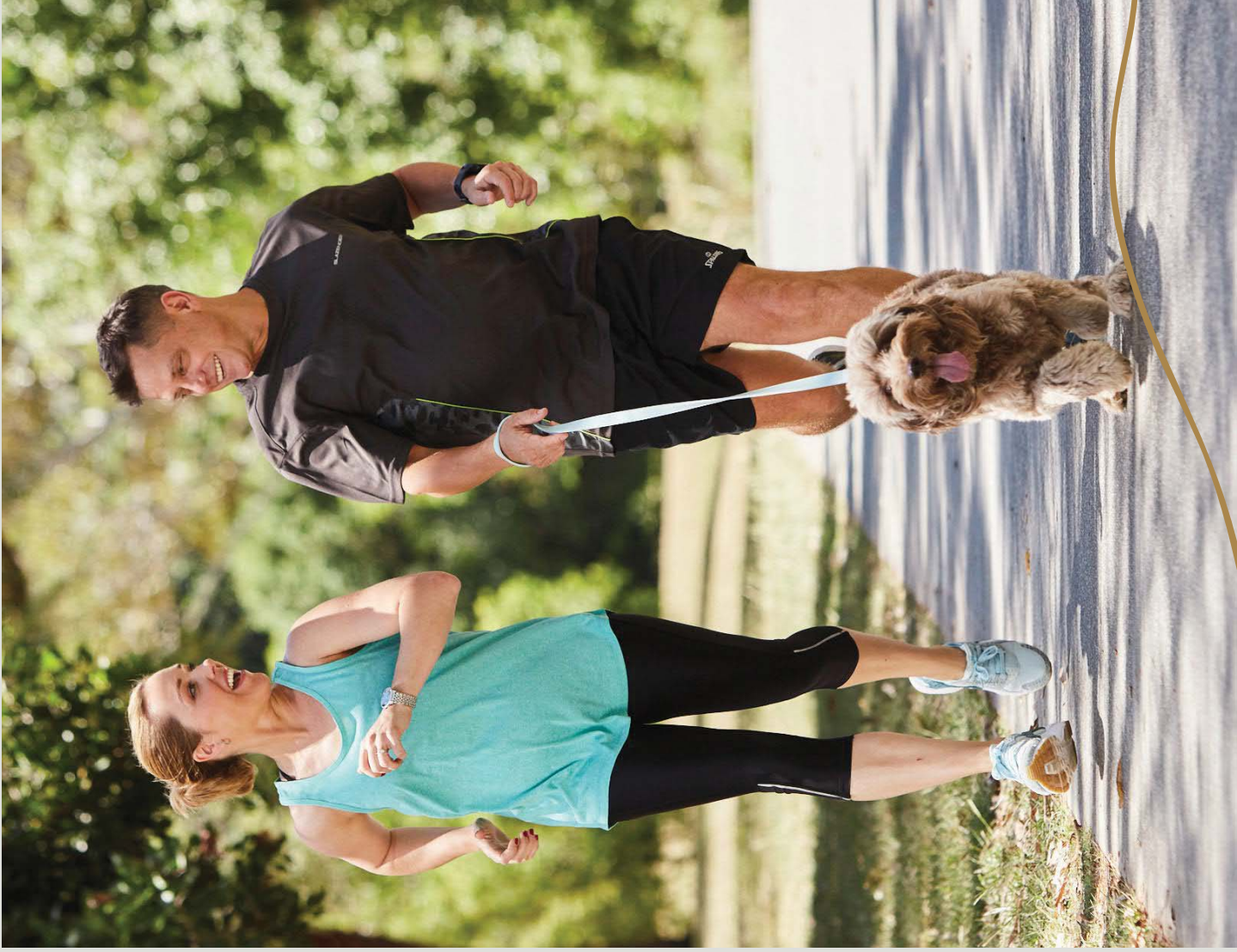
If your home has complied, the Design Committee will issue a Final Compliance Approval. Should your home not be in accordance with the previously issued Covenant Approval the Design Committee will notify on items to remedy prior to issuing a Final Compliance Approval.

Step 10 - Refund of Covenant Bond

The Covenant Bond will be refunded to your bank account once Final Compliance Approval is issued. This process will generally take 2 weeks.

Step 11 - Living at Ashford

The best part! Move into your new home and enjoy the beautiful community that is Ashford.



SECTION 1 - HOME SIZE AND SITING

To assist you in determining if your desired home will fit on a particular lot Mirvac has created the Ashford Building Envelope Guide. This guide is a separate document and can be found at ashford.mirvac.com/portal

This document will detail relevant home size and siting constraints that will help you determine how your desired home may fit on a particular lot including but not limited to:

- Front Setbacks
- Side Setbacks
- Rear Setbacks
- Site Coverage

DISCLAIMER: it is important to note that this is not an approved document from a local authority such as the Brisbane City Council or other legislative body and is intended to be used as a guide only. Mirvac recommends you liaise with a professional building certifier to determine if you can construct your desired home on a particular lot.

SECTION 2 - BUILT FORM

Your built form design is essential to ensuring a consistent high standard of quality throughout Ashford. Facade design, materials, colours, screening, service locations, roof design and well thought out designs allowing privacy and reducing cross viewing are all important factors in delivering a home to be proud of.

Following these guidelines will give you and your neighbours comfort in what you can expect to be built throughout the estate.

Minimum Building Size

- For Standard Lots the minimum width of your home is 75% of the Primary Street frontage width, measured to the outside of walls.
- For Corner Lots the minimum width and length is 65% of the respective frontage.

Facade Design

Primary Street Facade Design

- The residential character of your home must be of a contemporary sub-tropical aesthetic or modern design. Please see examples in Figure 1.
- The Facade must have one substantial projecting feature element such as a portico, balcony, verandah or feature wall.
- Excluding eave overhangs, steps & entry paths, any entrance portico is required to be a minimum of 4m² and 1.5m deep. It must also be open and not enclosed.
- The Primary Street frontage should also include one or more of the following:
 - Windows recessed into the Facade.
 - Window hoods.

- Shadow lines created on the building through minor changes in the Facade (100mm minimum).
- At least 1 habitable room should address the Primary Street frontage.
- The use of architecturally styled and arranged windows/glazing is required.
- Obscure windows or windows to toilets and bathrooms should not front the Primary Street. If they do they must be aesthetically screened.
- Walls over 9m in length without windows or articulation are not permitted.
- No garden sheds, air conditioning condensers, clothes lines or other utilities/services can be located between the Primary Street Facade and street verge.
- Similar homes with similar Facades are not allowed on adjoining lots.

Corner Lot Facade Design

This section is only applicable to Corner Lots.

- Your home must be designed to address all streets frontages, refer to Figure 2 for reference.
- It must have variation in the Secondary Street Facade with at least one substantial projecting feature element

- such as a portico, verandah or feature wall and a variation in colour or materials.
- Walls over 9m in length without windows or articulation are not permitted.
- At least 1 habitable room should address the Secondary Street frontage.
- No garden sheds, air conditioning condensers, clothes lines or other utilities can be located between the Secondary Street Facade and boundary unless they are screened from view from a Public Area by approved screens or fences.

Figure 2 - Corner Lot Façade Design

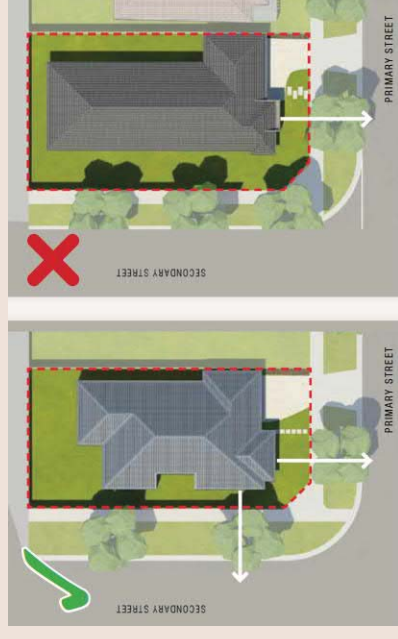


Figure 1 – Facade Character Examples



Image courtesy of Stylemaster



Image courtesy of Stylemaster



Image courtesy of Stylemaster



Image courtesy of Stylemaster



Image courtesy of Metricon



Image courtesy of Metricon



Image courtesy of Metricon



Image courtesy of Metricon



Image courtesy of Kalka



Image courtesy of Kalka



Image courtesy of Kalka



Image courtesy of Kalka

Please note that images above are not intended to represent a completely compliant design in line with the Design Guidelines, however instead should be used as a guide on the character designs that are generally acceptable.

SECTION 2 - BUILT FORM

Glazing

- All Facades (excluding the garage door) are to include glazing for a minimum 10% of the Facade area to provide surveillance, interest and variation.
- Sliding windows under 1200mm width are not permitted.
- Reflective glass is not permitted.
- Temporary window treatments or vertical blinds are not permitted.

External Wall Materials & Colours

To give a sense of variety and interest, a mix of selected materials or colours must be used to all external walls of your home facing a street frontage. For your convenience Mirvac has created a schedule of pre-approved colours and materials. Please refer to Schedule 1 & 2. Other colour and material schedules will be accepted on merit by the Design Committee.

External Wall Colours

- Your colour scheme must primarily consist of muted tones. Pre-approved external colour schemes are included within Schedule 1. Other colour schemes can be assessed and approved on merit. This decision will be at the discretion of the Design Committee.
- Limited use of feature highlight colours may be approved on merit if they compliment the colour palette of your home and achieve a positive addition to your facade. This decision will be at the discretion of the Design Committee.
- Each covenant application must be accompanied by an external colour schedule clearly nominating the location and extent of colours on the proposed dwelling.

External Wall Materials

- Solid render is required to all external walls of a house excluding feature walls.
- External walls facing Primary and Secondary Street (applicable to corner lots) must incorporate a feature material such as stained timber, stone, metal, tile, brick, profiled wall cladding. Windows, doors and garage doors are not included as a feature material. Pre-approved external materials are included within Schedule 2. Other material selections can be assessed and be approved on merit. This decision will be at the discretion of the Design Committee.
- Bag and painting is not permitted at all on any external wall of a house.
- Face brickwork or split-face block work is not permitted on any external walls of a house except as a feature only, this must be limited to 25% of total Facade.
- Double or 1.5 height face brick is not permitted at all on any external wall of a house.
- Each covenant application must be accompanied by an external materials schedule clearly nominating the location and extent of materials on the proposed dwelling.

Roofs

- 40 degrees is the maximum pitch for traditional hip and gable roofs.
- Eaves and/or similar architectural shading devices are required to provide shading of walls and windows.
- Eaves must be minimum 450mm wide except where no eave is permitted on walls on zero lot boundaries (if applicable).
- Contemporary house designs with no eaves may be approved on merit if they achieve a positive addition to the Facade of your home.
- Your roof materials must compliment the colour of your home and are limited to corrugated pre-finished metal sheets (e.g. Colorbond). Any alternate material must be approved by the Design Committee.
- Galvanised steel and similar reflective roofs are not permitted.

Schedule 1 – Pre-approved External Colour Schemes

Pre-approved Colour Scheme 1 Example



1. Primary Colour - Option 1

Dulux Lexicon SW1E3

2. Primary Colour - Option 2

Dulux Grey Pail SG6G1

3. Feature Colour - Option 1

Dulux Simone Weil SG6G4

4. Feature Colour - Option 2

Dulux Domino SG6G8

5. Roof/Fascia/Gutter Colour Option 1

Colourbond Monument

6. Roof/Fascia/Gutter Colour Option 2

Colourbond Basalt

7. Window Frame Colour

Matt Black

This image is an Example only to demonstrate indicative colour selection and placement.

Scheme 1

BRICK - OPTION 1 URBAN ONE CHIFFIN	BRICK - OPTION 2 AUSTRAL BRICKS URBAN ONE SILVER	FEATURE COLOUR OPTION 1 DULUX WHITE MYSTERY S14-D1	FEATURE COLOUR OPTION 2 DULUX DOMINO SG6G8	ROOF / FASCIA / GUTTER OPTION 1 COLOURBOND MONUMENT	ROOF / FASCIA / GUTTER OPTION 2 COLOURBOND BASALT
BRICK - OPTION 1 URBAN ONE CHIFFIN	BRICK - OPTION 2 AUSTRAL BRICKS URBAN ONE SILVER	PRIMARY COLOUR - OPTION 1 DULUX WHITE MYSTERY S14-D1	PRIMARY COLOUR - OPTION 2 DULUX GREY PAIL SG6G1	PRIMARY COLOUR - OPTION 1 DULUX WINNER GREY S14-D2	PRIMARY COLOUR - OPTION 2 DULUX GREY PAIL SG6G1
BRICK - OPTION 1 URBAN ONE CHIFFIN	BRICK - OPTION 2 AUSTRAL BRICKS URBAN ONE SILVER	FEATURE COLOUR DULUX RECKLESS GREY SG6H5	FEATURE COLOUR DULUX DOMINO SG6G8	ROOF / FASCIA / GUTTER MONUMENT	ROOF / FASCIA / GUTTER BASALT

Scheme 2

BRICK - OPTION 1 URBAN ONE CHIFFIN	BRICK - OPTION 2 AUSTRAL BRICKS URBAN ONE SILVER	FEATURE COLOUR OPTION 1 DULUX WHITE MYSTERY S14-D1	FEATURE COLOUR OPTION 2 DULUX GREY CABIN SG6A7	ROOF / FASCIA / GUTTER OPTION 1 COLOURBOND MONUMENT	ROOF / FASCIA / GUTTER OPTION 2 COLOURBOND PLATE GREY
BRICK - OPTION 1 URBAN ONE CHIFFIN	BRICK - OPTION 2 AUSTRAL BRICKS URBAN ONE SILVER	PRIMARY COLOUR - OPTION 1 DULUX WHITE MYSTERY S14-D1	PRIMARY COLOUR - OPTION 2 DULUX WINNER GREY S14-D2	PRIMARY COLOUR - OPTION 1 DULUX WINNER GREY S14-D2	PRIMARY COLOUR - OPTION 2 DULUX WINNER GREY S14-D2
BRICK - OPTION 1 URBAN ONE CHIFFIN	BRICK - OPTION 2 AUSTRAL BRICKS URBAN ONE SILVER	FEATURE COLOUR DULUX RECKLESS GREY SG6H5	FEATURE COLOUR DULUX GREY CABIN SG6A7	ROOF / FASCIA / GUTTER MONUMENT	ROOF / FASCIA / GUTTER PLATE GREY

Scheme 3

BRICK - OPTION 1 URBAN ONE CHIFFIN	BRICK - OPTION 2 AUSTRAL BRICKS URBAN ONE SILVER	FEATURE COLOUR OPTION 1 DULUX DIEKAU S14-H1	FEATURE COLOUR OPTION 2 DULUX BAKU S14-H7	ROOF / FASCIA / GUTTER OPTION 1 COLOURBOND WOODLAND GREY	ROOF / FASCIA / GUTTER OPTION 2 COLOURBOND SURMIST
BRICK - OPTION 1 URBAN ONE CHIFFIN	BRICK - OPTION 2 AUSTRAL BRICKS URBAN ONE SILVER	PRIMARY COLOUR - OPTION 1 DULUX DIEKAU S14-H1	PRIMARY COLOUR - OPTION 2 DULUX FLOODED SILWORT S14-H2	PRIMARY COLOUR - OPTION 1 DULUX FLOODED SILWORT S14-H2	PRIMARY COLOUR - OPTION 2 DULUX FLOODED SILWORT S14-H2
BRICK - OPTION 1 URBAN ONE CHIFFIN	BRICK - OPTION 2 AUSTRAL BRICKS URBAN ONE SILVER	FEATURE COLOUR DULUX TRISTAN S14-F5	FEATURE COLOUR DULUX BAKU S14-H7	ROOF / FASCIA / GUTTER OPTION 1 COLOURBOND WOODLAND GREY	ROOF / FASCIA / GUTTER OPTION 2 COLOURBOND SURMIST

Scheme 4

BRICK - OPTION 1 URBAN ONE CHIFFIN	BRICK - OPTION 2 AUSTRAL BRICKS URBAN ONE SILVER	FEATURE COLOUR OPTION 1 DULUX WHITE MYSTERY S14-D1	FEATURE COLOUR OPTION 2 DULUX RECKLESS GREY SG6H5	ROOF / FASCIA / GUTTER OPTION 1 COLOURBOND WOODLAND GREY	ROOF / FASCIA / GUTTER OPTION 2 COLOURBOND SURMIST
BRICK - OPTION 1 URBAN ONE CHIFFIN	BRICK - OPTION 2 AUSTRAL BRICKS URBAN ONE SILVER	PRIMARY COLOUR - OPTION 1 DULUX WHITE MYSTERY S14-D1	PRIMARY COLOUR - OPTION 2 MY CHINCILLA SG6H2	PRIMARY COLOUR - OPTION 1 DULUX WHITE MYSTERY S14-D1	PRIMARY COLOUR - OPTION 2 MY CHINCILLA SG6H2
BRICK - OPTION 1 URBAN ONE CHIFFIN	BRICK - OPTION 2 AUSTRAL BRICKS URBAN ONE SILVER	FEATURE COLOUR DULUX RECKLESS GREY SG6H5	FEATURE COLOUR DULUX RECKLESS GREY SG6H5	ROOF / FASCIA / GUTTER OPTION 1 COLOURBOND WOODLAND GREY	ROOF / FASCIA / GUTTER OPTION 2 COLOURBOND SURMIST

SECTION 2 - BUILT FORM

Garages

- Garages must be integrated into the main built form and are to be setback a minimum of 1m behind the main building front wall (excluding portico).
- Garage doors must be of a modern contemporary style. No glazing permitted.
- Maximum width of your garage is nominally 6m.
- Minimum internal garage dimensions are 5.7m deep and 5.7m wide.
- Minimum two car internal garage and minimum two off road visitor car space (in driveway and wholly within the lot boundary).
- Triple garages are not encouraged and will only be permitted on a case by case basis on merit by the Design Committee.
- Carports or shade-sails are not permitted.
- The side parking of boats/caravan must be screened and not highly visible from the Primary Street. Each case will be assessed on merit by the Design Committee.

Front Entry Door

- Your home's front door must be well defined and/or visible from the Primary Street.
- Your entry door must be nominal 1200mm wide with minimum 20% glazing, or:
- Nominal 1000mm wide door combined with a minimum 200mm wide sidelight.

Privacy & Cross Viewing

It is important to take into consideration privacy for both you and your neighbour when designing your home. This is achieved by one or more of the following measures:

- Obscure glazing to all bathrooms and toilets.
- 1.7m high sill levels above floor level.
- External screens.
- 1.8m high dividing fence for ground floor windows.
- Where a direct view from a verandah or deck exists into the private open space of an adjoining home, the outlook must be screened by privacy screens that have openings that make it not more than 25% transparent.

This is applicable to facades adjoining other lot boundaries. This is not applicable to any facade facing the primary street and/or secondary street (for corner lots).

- Other combinations may be approved on merit if they achieve a positive addition to the Facade of your home.

Security & Insect Screens

- The style of any screen visible from a Public Area must be of a simple profile. Hexagonal or ornate historical styles are not permitted.
- Frames and screens must match the colour of the door or window frames or be dark grey or black in order to reduce their visual impact.
- Security shutters or security blinds over windows are not permitted if visible from a Public Area.

External Services & Waste Recycling

- If you have a rainwater tank it must be located away from or screened from view from all Public Areas.
- Meter boxes must be painted to match the external wall colour to which they are attached.
- TV aerials are to be installed inside the roof cavity or designed and located so that they are not visible from Public Areas.
- Radio masts or satellite dishes are to be designed and located so that they are not visible from Public Areas.
- Storage tanks for solar hot water systems, roof and wall mounted air conditioning units, air conditioning condensers, clothes drying facilities, garbage bins and service yards are not to be visible from Public Areas.
- Garbage bin pads are mandatory and are to be located so that they are not visible from Public Areas.

Schedule 2 - Pre-approved External Materials

Render



Scyon™ Axon™ cladding
James Hardie



Scyon™ Stria™ cladding
James Hardie



Scyon™ Matrix™ cladding
James Hardie



Bricks
Austral Bricks



Urban One - Chiffon



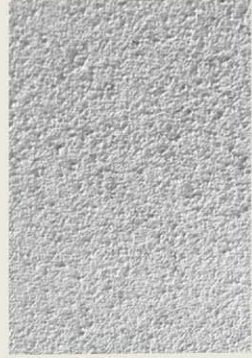
Urban One - Silver



Urban One - Pepper



Urban One - Grecian Gold



Feature Timber Cladding

SECTION 3 - LANDSCAPING

High quality landscaping softens the Facade of your home and is essential to increasing the overall aesthetic of the streetscape. A lush and well-maintained streetscape will ensure that Ashford has a consistent premium look and feel throughout the development.

Landscape (Planting)

All landscaping to areas of your lot visible from Public Areas must be approved by the Design Committee. You must submit a detailed landscaping plan as part of your covenant approval.

- In the Queensland climate, water can be a precious commodity. To conserve water and ensure that your landscaping looks healthy all year round we encourage the use of drought tolerant plant species. Example planting selections can be seen in Schedule 3.
- To ensure Ashford streetscapes are presented as best as possible Mirvac has included three Pre-Approved Landscaping Designs to assist you. Please refer to Figure 9, 10, 11 & 12 on pages 21, 22, 23 & 24. Should you wish to implement an alternate design this will be assessed on merit by the Design Committee.
- Your landscaping design must incorporate a mix of trees, shrubs/hedging, ground covers and high quality turf.

- The planting theme to be adopted is generally of a native, sub-tropical, contemporary or architectural character. All trees, shrubs, and ground covers must be selected for their appropriateness according to their proposed location.
- Planted gardens beds must be provided to a minimum of 40% of the available landscaping area on the Primary Street frontage.

- Garden beds should be planted with an appropriate number of shrubs/hedging and groundcovers that present highly at the time of planting.
- Your landscaping must include one advanced tree min 100L/1.8m at the time of planting, located on the primary street frontage.
- Garden beds should be edged with concrete, smooth face galvanised steel, masonry, hardwood but not round timber or logs. Edging must be dug to be in line with turf level.
- High quality mulch must be used with a minimum depth of 75mm.
- High quality turf must be used to the remainder of the soft landscaping area.
- Artificial turf is not permitted.
- Your landscaping must be completed as part of the construction of your home. Completing your landscaping in a timely manner ensures that the appearance of the development is maintained.

Landscaping (Materials)

- Landscape materials should be robust, easily maintained and present well to Public Areas.
- Colours of the materials should compliment the external colours and materials of your home.
- Example landscaping materials and finishes can be seen in Schedule 4.



Schedule 3 - Example Planting Palette Selections - Trees



01



02



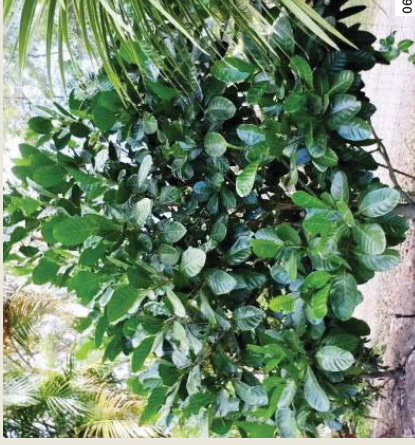
03



04



05



06



08



09



10



07



11

TREES

Code	Scientific name	Common Name
01	<i>Cyathea cooperi</i>	Australian Tree Fern
02	<i>Elaeocarpus eumundi</i>	Smooth-leaved Quandong
03	<i>Elaeocarpus reticulatus</i>	Blueberry Ash
04	<i>Flindersia australis</i>	Crows Ash
05	<i>Livistona australis</i>	Fan Palm
06	<i>Randia fitzalanii</i>	Native Gardenia
07	<i>Syzygium tierneyanum</i>	Lilly Pilly
08	<i>Tristaniopsis 'Luscious'</i>	Water Gum
09	<i>Waterhousia floribunda</i>	Weeping Lilly Pilly
10	<i>Herpallia pendula</i>	Tulipwood
11	<i>Cupaniopsis</i>	Tuckeroo

Schedule 3 - Example Planting Palette Selections - Shrubs

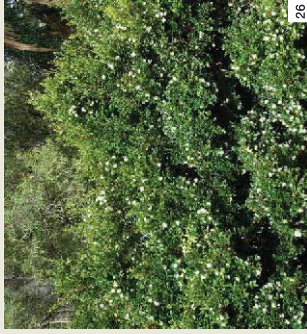
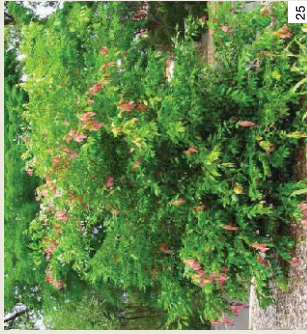
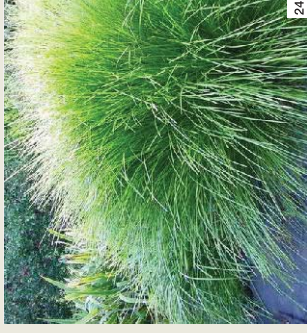


SHRUBS

Code	Scientific name	Common Name
01	<i>Alocasia brisbanensis</i>	Cunjevoi
02	<i>Alpinia caerulea</i> 'Redback'	Native Ginger
03	<i>Alpinia nutans</i>	Dwarf Cardamom
04	<i>Baeckea virgata</i> 'La Petite'	La Pettit
05	<i>Banksia robur</i>	Swamp Banksia
06	<i>Blechnum cartilagineum</i>	Soft Water Fern
07	<i>Carissa grandiflora</i>	Natal Plum
08	<i>Carissa macrocarpa</i>	Desert Star
09	<i>Cordylina stricta</i>	Native Cordyline
10	<i>Crassula ovata</i>	Jade Plant
11	<i>Dianella revoluta</i> 'Little Revoluta'	Little Rev
12	<i>Doryanthes palmeri</i>	Giant Spear Lily
13	<i>Ficus microcarpa</i> 'Green Island'	Green Island Fig
14	<i>Grevillea</i> 'Cooroora Cascade'	Cooroora Cascade
15	<i>Grevillea lanigera</i> 'Mt Tamboritha'	Mt Tamboritha Grevillea
16	<i>Grevillea rosmarinifolia</i>	Rosemary Grevillea

Schedule 3 - Example Planting Palette Selections - Shrubs

SHRUBS		
Code	Scientific name	Common Name
17	<i>Isolepis cernua</i>	Low Bulrush
18	<i>Isolepis nodosa</i>	Knobby Club Rush
19	<i>Leptospermum 'Pink Cascade'</i>	Pink Cascade
20	<i>Liriope muscari 'Evergreen Giant'</i>	Lilyturf
21	<i>Liriope muscari 'Stripey White'</i>	Variegated Lilyturf
22	<i>Lomandra confertifolia 'Crackerjack'</i>	Lomandra Crackerjack
23	<i>Lomandra hystrix</i>	Slender Mat Rush
24	<i>Lomandra confertifolia 'Tilga'</i>	Lomandra Tilga
25	<i>Syzygium cascade</i>	Cascade
26	<i>Syzygium australe 'Resilience'</i>	Resilience Lilly Pilly
27	<i>Westringia fruticosa 'Jervis Gem'</i>	Coastal Rosemary



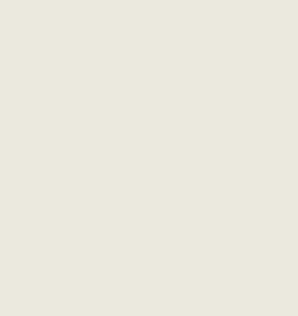
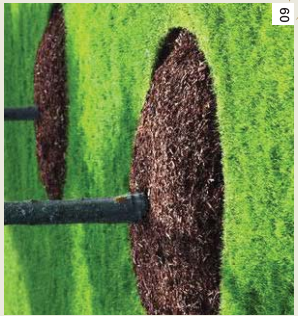
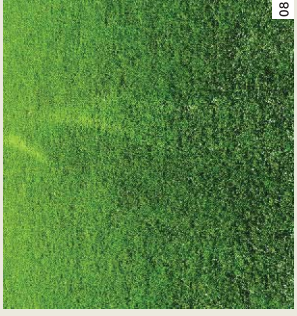
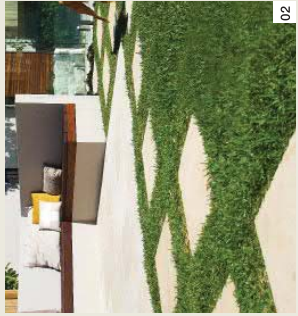
Schedule 3 - Example Planting Palette Selections - Groundcovers



Code	Scientific name	Common Name
01	<i>Acacia cognata dwarf</i>	Green Mist Wattle
02	<i>Casuarina glauca 'Cousin It'</i>	Cousin It
03	<i>Cissus antarctica</i>	Kangaroo Vine
04	<i>Cissus alata 'Ellen Danica'</i>	Oak Leaf Ivy
05	<i>Ficus pumila</i>	Climbing Fig
06	<i>Goodenia ovata</i>	Hop goodenia
07	<i>Myoporum parvifolium</i>	Creeping Boobialla
08	<i>Pandorea jasminoides</i>	Bower Vine
09	<i>Phyllanthus minutiflora</i>	Phyllanthus
10	<i>Plectranthus australis</i>	Swedish Ivy
11	<i>Viola hederacea</i>	Native Violet
12	<i>Zoysia tenuifolia</i>	Korean Carpet Grass

Schedule 4 - Landscaping Materials and Finishes

HARD SURFACE FINISHES	
01	Paving Finish 1 Concrete Broom Finish Neutral Colours
02	Paving Finish 2 Tiles Large Module
03	Paving Finish 3 (side yard access) Concrete Steppers 600mm x 600mm Square Stepper
04	Cobblestone Finish (accent only) Cobblestones between paving finishes Cobble Setts
05	Gravel Finish (side yard access) Decorative Gravel 20-40mm River Pebble Stones
06	Driveway Finish 1 Exposed Aggregate Concrete Neilson Eclipse Finish or similar
07	Driveway Finish 2 Exposed Aggregate Concrete Neilson Manning Finish or similar
SOFT SURFACE FINISHES	
08	Turf Type "Wintergreen" Green Couch Where it connects with Road Verge
09	Mulch Type Cypress Mulch Brown or Black only
10	Edge Finish Timber Edge 25mm (min width) Natural Treated Timber
FURNITURE	
11	Letterbox Modern Architectural Design
12	Letterbox Masonry Built-in
13	Arbour Timber Arbour Natural Timber, Charcoal or Black Finish



Schedule 4 - Landscaping Materials and Finishes

ENTRANCE PATH

Accepted



- Plain or neutral toned brushed concrete finish.
- Uniform colour.



- Cobblestone banding around finished concrete, paver or tile.



- Approved tile or paver finish and size



- Approved groundcover planting between finished hard surface.

Not Accepted



- Extensive concrete or multi-coloured concrete on entry paths or driveways.



- Irregular sized paving and / or tiling in gravel surface.



- Irregular banding and material choices between hard surface.
- Inconsistent or non-uniform width of hard surface path.



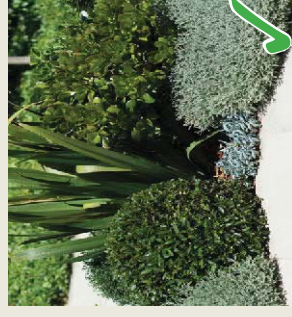
- Irregular or non-uniform offset of hard surface path.
- Overgrown groundcover planting which grows or settles above hard surface finish.

OTHER FINISHES

Accepted



- Small hedging or planting in front yard.



- Soft-planting to the extent of lot boundary



- Approved turf

Not Accepted



- Fencing to the extent of lot boundary



- Edging to the extent of lot boundary



- Grass species other than specified by Landscape Architect

SECTION 3 - LANDSCAPING

Retaining Walls

- A Retaining Wall is defined as any retaining structure higher than 200mm.
- All Retaining Walls must be constructed as part of the construction of your home.
- Retaining Walls must be constructed in accordance with the below:
 - Pre-approved Retaining Wall materials are referenced in Figure 3 and Figure 4.
 - Concrete sleeper and treated pine is not permitted in any location visible from any Public Area. It may be used for inter-lot retaining, however must not be visible from any Public Area. Refer to Figure 5 & 6.
 - Retaining Walls may need to be certified by a Registered Professional Engineer. You are required to meet the Local Authorities requirements with regard to this matter.
 - Retaining Wall construction must include a suitable drainage system to deliver sub-surface water below the wall to the local storm water system.
 - Retaining Wall heights must not exceed 1.5m without constructing a horizontal offset including a minimum 1m planting zone between each section of the retaining wall to soften the visual impact.
 - Retaining Walls constructed by Mirvac on any lots cannot be removed or altered without written permission from Mirvac. Any damage to these fences must be repaired to the original standard by the land owner(s).

Figure 3 - Painted rendered block wall: Colour must compliment your house design



Figure 5 - Concrete Sleeper Retaining Wall



Figure 6 - Treated Pine Retaining Wall

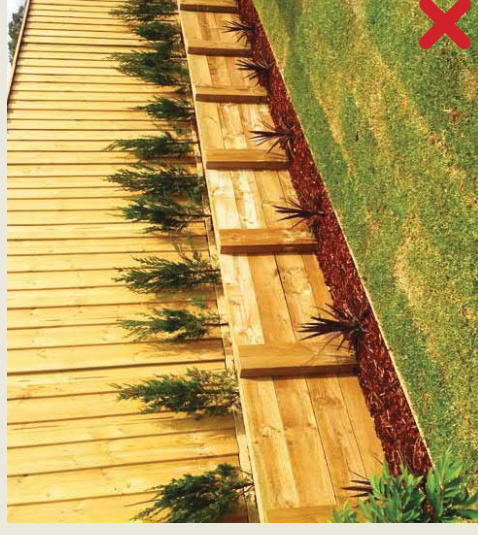


Figure 4 - Charcoal coloured smooth faced masonry block

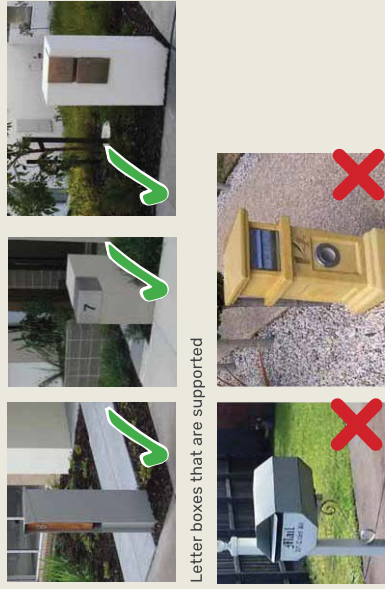


SECTION 3 - LANDSCAPING

Letterboxes

- Letter boxes are a repeating element in the streetscape that with consistent detailing and careful selection will help to visually link the individual homes on a street to provide a coherent streetscape character.
- The letter box must be clearly in view at the front of the property, positioned adjacent to the street boundary next to the driveway or similar. The property number must clearly be displayed on the letter box which must be located within your property.
- Letter boxes must be contemporary in style keeping within modern aesthetic and constructed from masonry or timber. Letter boxes can also be incorporated as part of your front masonry fence. See Figure 7 below.
- Please ensure details of your letterbox as outlined above are included within your covenant application. This will form part of your covenant approval.

Figure 7 - Letterbox Design



Letter boxes that are supported

Letter boxes that are not supported

Driveways & Entry Paths

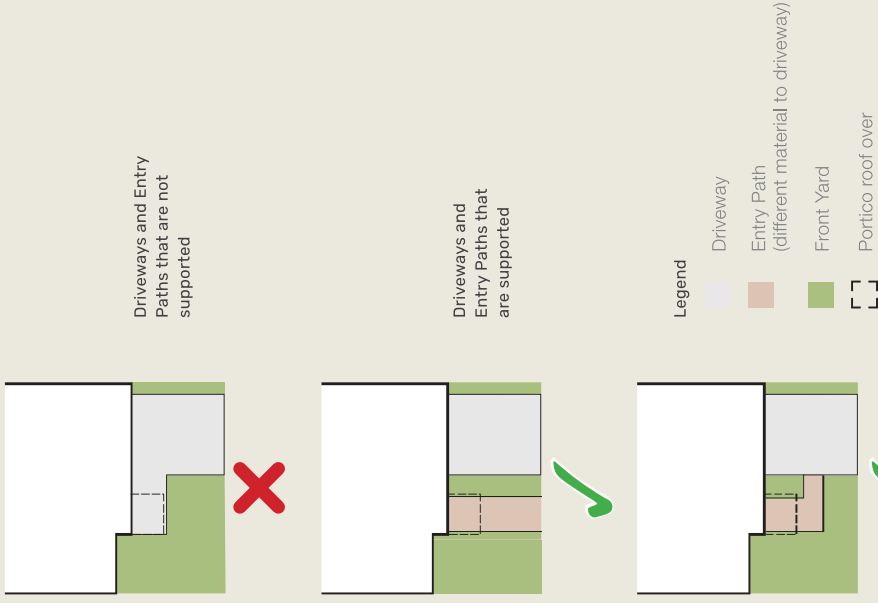
Well thought out driveway and entry path design is essential to increasing the overall aesthetic of your home and the general streetscape. To ensure this is achieved the following guidelines must be followed:

- Only one driveway is permitted per lot.
- Acceptable materials include coloured concrete or exposed aggregate concrete which must compliment the external colour scheme of your home. This must be provided and approved as part of your covenant application.
- The main pedestrian entry path to your home must be constructed from a permanent hard surface such as hardwood timber, stone, tiles etc that is a different material to your driveway. Please refer to Figure 8 opposite for pre-approved driveway and entry path designs.
- It is essential that your builder complies with Council's approval requirements for your driveway. If your driveway is not constructed correctly Council may require you to remove it and reconstruct it.

Sheds

- Sheds should not be visible from any public roads or Public Areas.
- Sheds must be painted to suit the colour scheme of the home.
- Reflective materials are not permitted on your shed.
- Sheds must be less than 12m².
- Sheds must be less than 2.1m in height.

Figure 8 - Driveways & Entry Paths



Driveways and Entry Paths that are not supported

Driveways and Entry Paths that are supported

Legend

- Driveway
- Entry Path (different material to driveway)
- Front Yard
- Portico roof over

SECTION 3 - LANDSCAPING

Option A (Enclosed Yard)
Figure 9



Legend

- 1** Letterbox
- 2** Boundary Hedging
- 3** Feature Tree (min install height of 1800mm)
- 4** Side Gate (1500mm setback behind building line)
- 5** Midstorey Planting (900-1200mm)
- 6** Groundcovers
- 7** Turf
- 8** Driveway
- 9** Entry Path
- 10** Porch
- 11** Gravel
- 12** Footpath (Where applicable)
- 13** Verge (Where applicable)

SECTION 3 - LANDSCAPING

Option B (Open Yard)

Figure 10



ENTRY PATH TO CONTINUE AND
CONNECT WITH STREET FOOTPATH
(WHERE APPLICABLE)

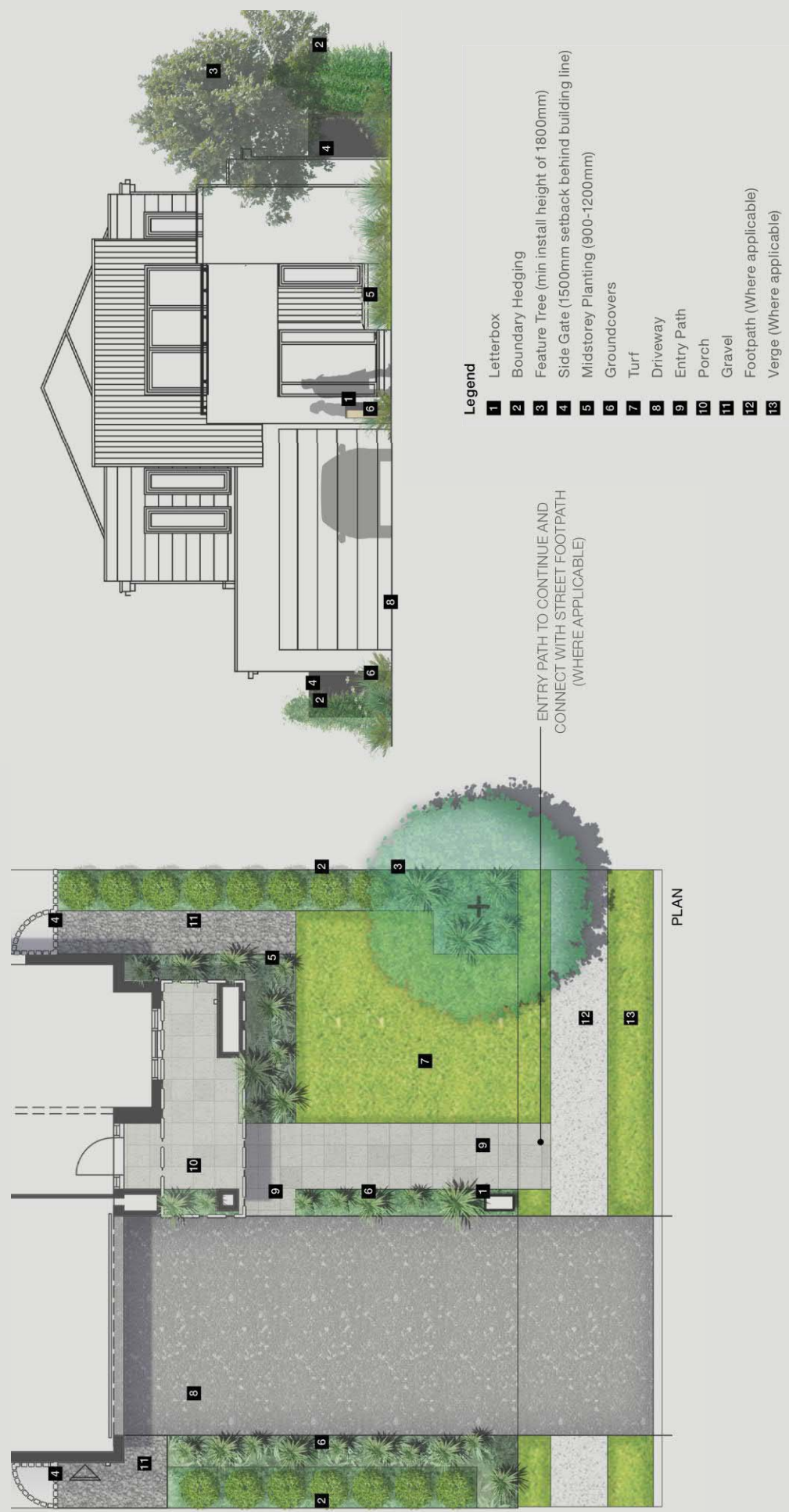
Legend

- 1 Letterbox
- 2 Boundary Hedging
- 3 Feature Tree (min install height of 1800mm)
- 4 Side Gate (1500mm setback behind building line)
- 5 Midstorey Planting (900-1200mm)
- 6 Groundcovers
- 7 Turf
- 8 Driveway
- 9 Entry Path
- 10 Porch
- 11 Gravel
- 12 Steppers
- 13 Footpath (Where applicable)
- 14 Verge (Where applicable)

SECTION 3 - LANDSCAPING

Option C (Open Yard Large)

Figure 11



SECTION 3 - LANDSCAPING

Option D (Enclosed Entrance with Open Yard)
Figure 12



Legend

- 1 Letterbox
- 2 Boundary Hedging
- 3 Feature Tree (min install height of 1800mm)
- 4 Side Gate (1500mm setback behind building line)
- 5 Midstorey Planting (900-1200mm)
- 6 Groundcovers
- 7 Turf
- 8 Driveway
- 9 Entry Path
- 10 Porch
- 11 Gravel
- 12 Steppers
- 13 Footpath (Where applicable)
- 14 Verge (Where applicable)

SECTION 3 - LANDSCAPING

Indicative Landscaping Plan

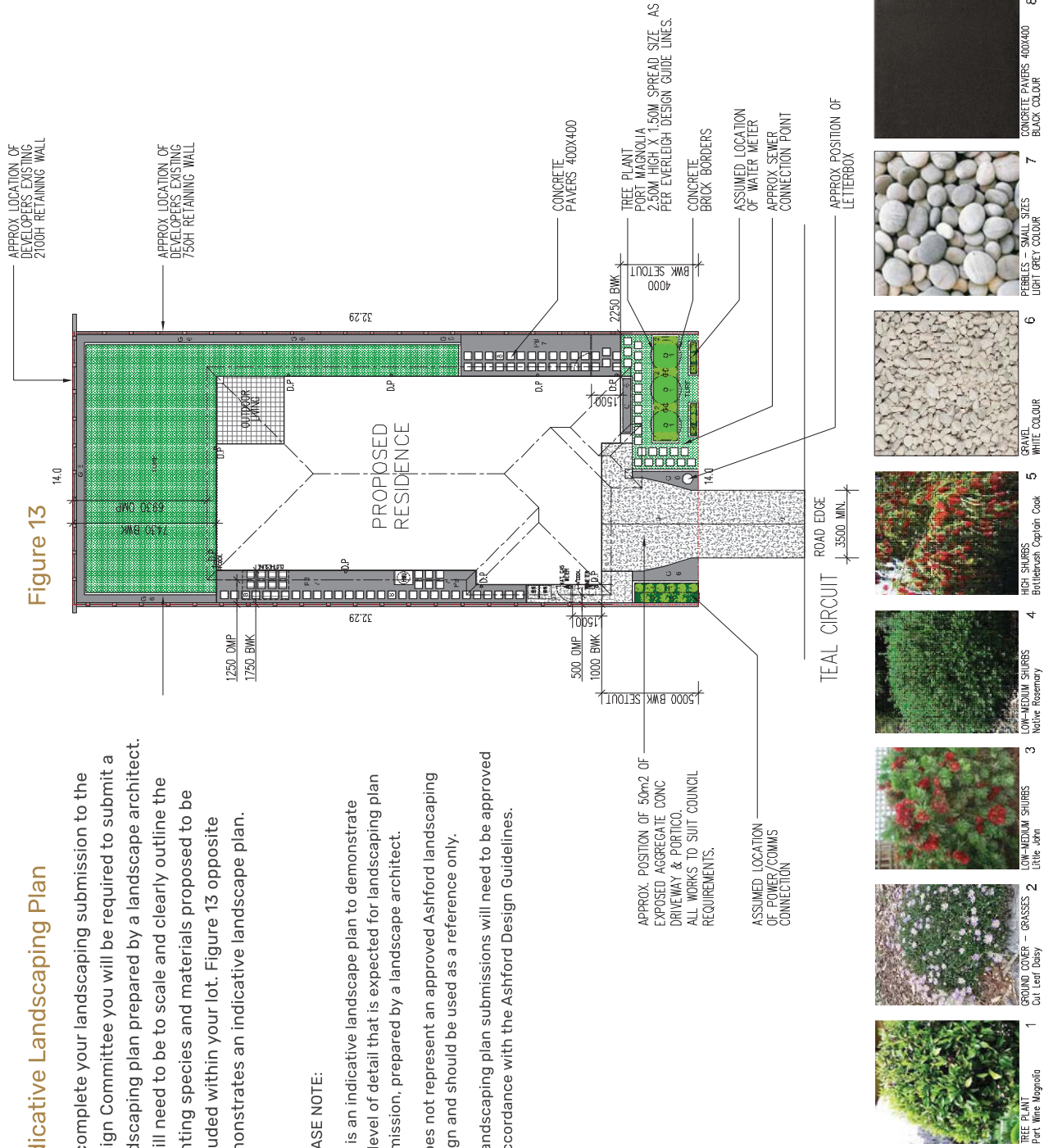
To complete your landscaping submission to the Design Committee you will be required to submit a landscaping plan prepared by a landscape architect. It will need to be to scale and clearly outline the planting species and materials proposed to be included within your lot. Figure 13 opposite demonstrates an indicative landscape plan.

PLEASE NOTE:

This is an indicative landscape plan to demonstrate the level of detail that is expected for landscaping plan submission, prepared by a landscape architect.

It does not represent an approved Ashford landscaping design and should be used as a reference only.

All landscaping plan submissions will need to be approved in accordance with the Ashford Design Guidelines.



SECTION 4 - FENCING

Fencing is an important part of forming the streetscape at Ashford. Any fences that are visible from the street or Public Area contribute towards the overall aesthetic of the development. Ashford residents are required to choose a quality fence design that compliments the innovative architecture of your home.

Fences General

- Only approved fences of the types and materials shown in Fencing Types on pages 28-29 are permitted. Any other proposed materials will be assessed on merit by the Design Committee.
- It is important that fencing takes into consideration public safety through passive surveillance. This can be achieved through ensuring that Public Areas such as streets and walkways can be overlooked from your house.
- Fences constructed by Mirvac on any lots cannot be removed or altered without written permission from Mirvac. Any damage to these fences must be repaired to the original standard by the land owner(s).
- Fences visible from Public Areas must be maintained on an ongoing basis in accordance with the recommended maintenance instructions provided by the timber treatment supplier.
- All lots are required to have side and back boundary fences.
- All fences to your lot must be approved by the Design Committee.

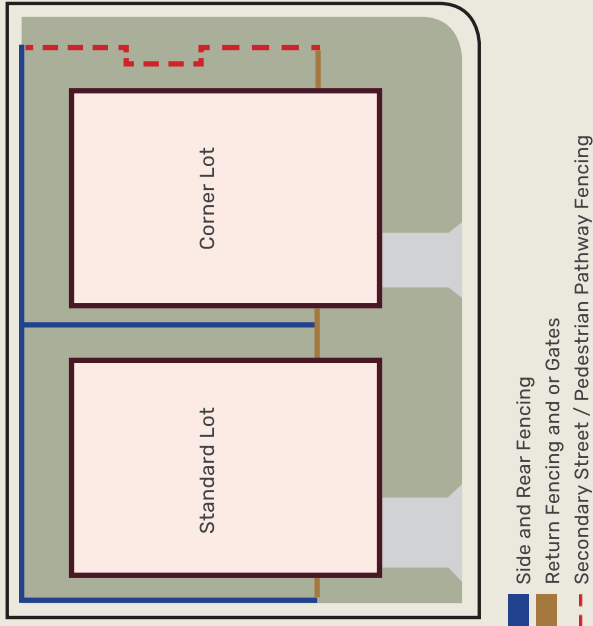


SECTION 4 - FENCING

Fencing Locations

To assist you in understanding the specified fencing locations the diagram below has been prepared. Refer Figure 14 below.

Figure 14 Fencing Locations



Return Fencing

- Must be Fence Type 2 or 3 and a maximum of 1.8m in height or
- Must be positioned at least 1m behind the front building alignment of the Primary Street frontage.

Side and Rear Fencing

- Must be Fence Type 1 and 1.8m in height.
- Must be a high quality built fence with no spacing between palings to ensure privacy between lots.

Fencing Facing Secondary or Pedestrian Pathway

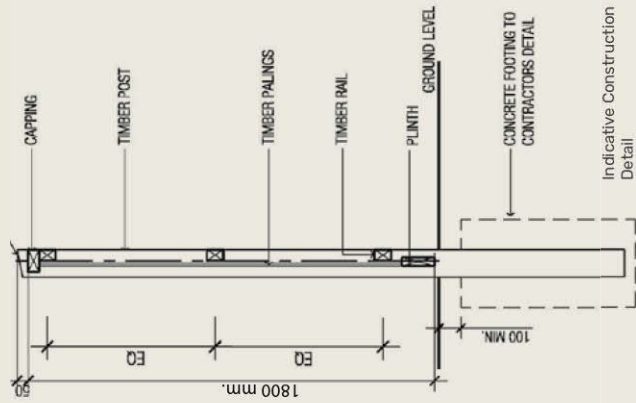
Unless constructed by Mirvac, the fencing must adhere to the following:

- Must be Fence Type 2.
- Must not extend past the front building alignment of the Primary Street frontage.
- Fences more than 10m in length must be offset further from the boundary to allow for planting alcove(s) by a minimum 0.3m alignment variation over a minimum length of 3m. Appropriate landscaping must be included within this alcove area.

SECTION 4 - FENCING

Fencing Types

Type 1 - Timber Paling Fence



Indicative Construction Detail



Indicative Image

Type 2 - Dressed Hardwood Vertical Battens

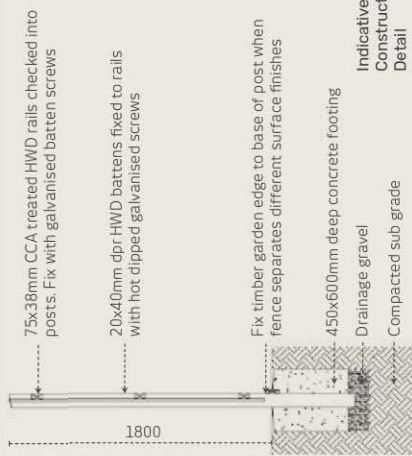
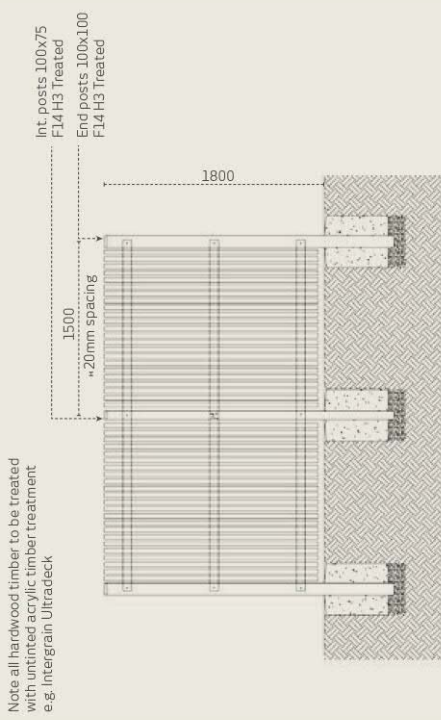
Must be treated with untinted acrylic timber treatment eg. Intergrain UltraDeck. This is to be regularly maintained in accordance with product guidelines. Please note fencing cannot be painted.



Indicative Image



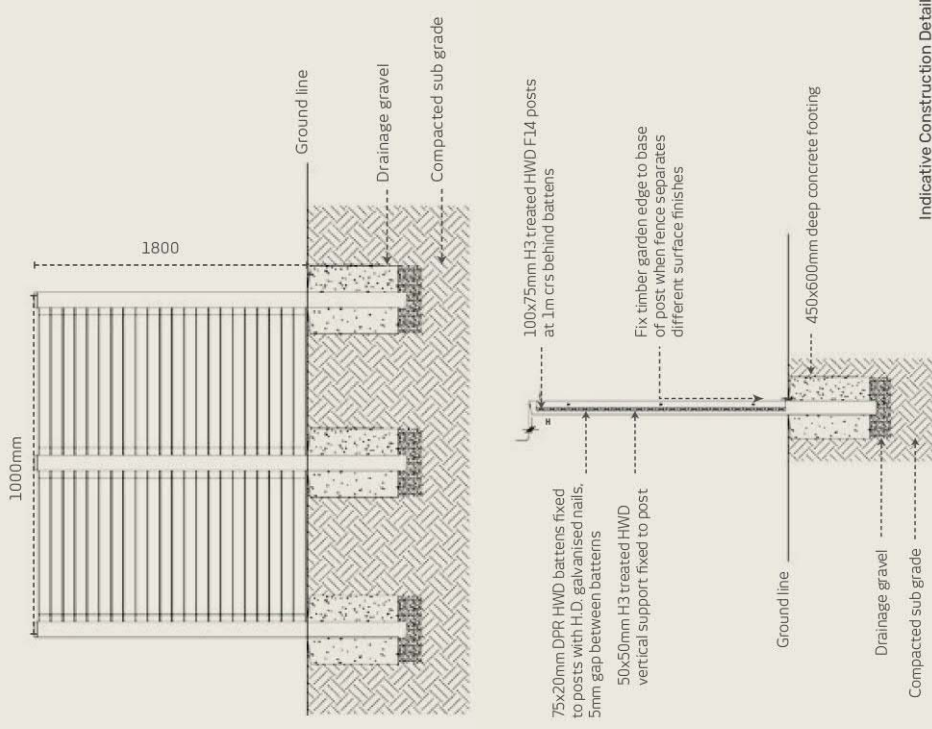
Indicative Image



SECTION 4 - FENCING

Type 3 - Dressed Hardwood Horizontal Battens

Must be treated with untinted acrylic timber treatment eg. Intergrain UltraDeck. This is to be regularly maintained in accordance with product guidelines. Please note fencing cannot be painted.



SECTION 5 - CONSTRUCTION OBLIGATIONS

- Your building site must be clean and safe at all times.
- You are responsible for maintaining your site prior to construction commencing – including mowing, slashing all grass and trimming all grass edges. Your grass must not exceed 150mm in height. Please note that sites that are yet to be constructed on must be grassed (i.e. you cannot leave your building pad stripped for long periods.
- Your builder must provide a skip bin or enclosure on site to contain rubbish for the duration of the construction period. Leaving rubbish on any lot visible from Public Areas is not permitted.
- Bins and site facilities should be clear of all neighbouring properties, roads, footpaths, reserves and all other Public Areas at all times.
- The road and verge in front of your lot including the concrete footpath, kerb, street trees and services such as water meters, telecommunication boxes and electrical pillars are assets owned by Council or service authorities. They have been constructed to the required standards and Council and other service authorities have recorded them as correctly constructed prior to your house building commencing. These assets cannot be altered, including changing the ground levels, without the correct approval from Council. Mirvac and Council inspects these assets at completion of your home to ensure no damage or alteration has occurred. Please ensure you make your builder aware that they will need to rectify any damage to these assets as Mirvac is unable to return your Covenant Bond until we have received clearance to do so from Council or relevant authority.
- Where Mirvac has constructed a fence, entry statement or retaining wall, it is to be maintained by the owner to the standard to which it was constructed.



SECTION 6 - SUSTAINABLE LIVING RECOMMENDATIONS

Mirvac considers sustainability and innovation to be key components in delivering cohesive communities that are safe, encourage healthy and active lifestyles and result in lower household expenses.

Please note the following items within Section 6 are not mandatory and are intended to be used as a guide only.

Energy Consumption and Greenhouse Gas-Emission Reduction

- Mirvac encourages all homes to achieve a 7 Star NatHERS rating. This may be achieved through incorporation of the following elements where necessary:
 - Maximising opportunities for cross ventilation and provide high level operable windows in multi-level homes to allow for heat removal.
 - Shading designed to restrict solar access to the living spaces in summer, whilst allowing beneficial solar access in winter.
 - Increased rating of the wall and ceiling insulation to the required specification.
 - Treated glazing or double glazing where necessary.
 - Draft sealing (weather seals on external doors etc.) where necessary.
 - Sealed exhaust fans where necessary.

In addition to achieving a 6 Star rating on the building fabric, Mirvac encourage house designs to include the following energy saving features:

- Gas boosted solar hot water or electric heat pump hot water systems.
- Gas or induction cook tops.
- LED light fittings throughout the home.
- Exterior lighting fitted with motion sensors.
- Low energy use appliances (aim for energy ratings greater than 4 star).
- Energy efficient air conditioning systems (aim for a COP greater than 3).

- Standby 'Green Switch' or Smart home automation to reduce energy whilst the home is unoccupied.
- Solar photovoltaic electricity systems with battery storage.

Water Conservation and Reuse

- To assist in achieving an overall reduction in household water usage, Mirvac recommends that homes incorporate the following measures:
 - Rainwater tanks for toilet flushing and irrigation.
 - Dishwasher and washing machines with a 4 Star or greater WELS rating.
 - Tapware and toilets with a 4 Star or greater WELS rating.
 - Showers with a 3 Star WELS rating.
 - Purchasers are encouraged to consider water efficient landscape design, soil mix, and plant selections, with a target of a minimum of 70% of planted species to be drought tolerant.

SECTION 6 - SUSTAINABLE LIVING RECOMMENDATIONS

Materials and Waste

- Maximise the use of standard sizes of materials wherever possible to minimise wastage.
- Mirvac recommends the use of low-impact construction materials;
- For masonry consider low impact options, such as recycled or carbon neutral bricks.
- For lightweight construction, consider the use of natural or innovative materials such as timber, structural insulated panels or Hebel for a reduced environmental impact and good thermal performance qualities.
- Internal Finishes;
 - Consider the use of flooring, joinery and plasterboard that is environmentally certified by independent certification schemes such as GECA, EcoSpecifier or the Carpet Institute of Australia.
 - Select high quality, durable finishes with long warranty periods.
- To reduce the airborne chemicals within your home consider the following products;
 - Engineered wood products, such as kitchen cabinetry and wardrobes, with low or zero formaldehyde (rated as E1 or E0).
 - Paints, adhesives and carpets rated to have low levels of volatile organic compounds (VOCs).
- To reduce waste to landfill during the operation of your home, consider;

- Installing a dual bin in the kitchen joinery to make recycling as easy as disposing of general waste.
- The use of a worm farm or composting bin to reduce food waste and provide fertiliser for your gardens.

Landscaping

- The use of permeable surfaces is encouraged to maximise opportunities for natural infiltration and groundwater recharge.
- The use of waterwise plant species, waterwise irrigation and mulching of garden beds is encouraged to reduce water use.
- The planting of trees offering shade for the house and outdoor living areas and contributing to bird habitat is encouraged.
- The use of locally native plant species is encouraged to increase biodiversity.
- Consider the use of herbs, vegetables and fruit trees to create a productive garden. Please note this is to be located in areas not visible from Public Areas.

Smart Technology

- Consider the use of smart home automation to make your life easier and future proof your home. Systems available include:
 - Smart Security systems.
 - Smart intercom and access controls.
 - Smart controls of lighting, blinds, air conditioning and appliances.
 - Audio Visual systems.
- Smart monitoring.
- Consider the use of smart meters to help track your energy consumption and reduce your bills even further.
- Smart home automation.

DEFINITIONS

Building Approval	Building approval, also called 'certification' is required for development that involves carrying out building work under the Planning Act 2016 (PA), as well as under specific building legislation.
Corner Lots	Lots bordering two streets.
Covenant Bond	A Covenant Bond of \$3,500 has been incorporated into the sales contract for all properties within Ashford. The fully refundable Covenant Bond serves to ensure that well designed, quality homes are brought to life to make this an attractive community to be proud of.
Covenant Application	Your application to Mirvac in accordance with the Ashford Design Guidelines.
Facade	Elevation of a building visible from a Public Area.
Design Committee	The committee appointed by Mirvac as authorised to assess Covenant Applications under these Ashford Design Guidelines.
Ashford Building Envelope Guide	A guide compiled by Mirvac to assist you in determining if your desired home can fit on a specific individual lot. This can be found on the Ashford Information Portal at ashford.mirvac.com/portal .
Ashford Design Guidelines	This document.
Primary Facade	The primary Facade is the elevation facing the Primary Street.
Primary Street	The street fronting your lot where the lot has only one street frontage; or for lots with two or more street frontages the street which your home's front door faces.
Public Area	Any land vested to, or under the control of the Brisbane City Council. E.g. roads, verges /nature strips, parks, public access ways, etc. This also includes the Kedron Brook.
Retaining Wall	Any retaining structure higher than 200mm.
Secondary Street	Applies to lots with more than one street frontage and is the street(s) which is not the Primary Street.
Standard Lots	Lots that have one street frontage.

Ashford

RESIDENCES

Sales Suite
50 Ashmore Street
Everton Park 4053

Find out more
ashford.mirvac.com
(07) 3859 5880



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DEED POLL - ASHFORD RESIDENCES

TO: **Mirvac Queensland Pty Limited ACN 060 411 207**

(“Developer”)

FROM:

[insert New Owner’s name]

[insert New Owner’s name]

[insert New Owner’s address]

[insert New Owner’s address]

(“New Owner”)

LAND: Lot

Ashford Residences, Ashmore Street,
Everton Park QLD 4053

BACKGROUND

- A. The New Owner is buying or has agreed to buy the Land.
- B. The Land forms part of a quality residential community being developed or being developed by the Developer known collectively as **Ashford Residences** (the **Estate**). Accordingly, it is necessary and in the interest of all owners of land in the Estate that the Developer exercises supervision and control so as to ensure quality in respect of the design and construction standard of dwellings, other improvements and landscaping in the Estate and other matters generally.
- C. The New Owner is required by the terms of the contract that the New Owner has entered into to buy the Land, to enter into this Deed Poll.

OPERATIVE PART

1. The New Owner represents to and warrants in favour of the Developer as follows:
 - (a) the New Owner agrees to abide by the terms of the Housing Covenants **attached (Housing Covenants)** as though the New Owner was the “Buyer” and the Developer was the “Seller” referred to in the Housing Covenants; and
 - (b) the New Owner agrees not to sell, transfer, dispose of, lease or in any other way part with possession of the Land without first obtaining a covenant from any disponee in favour of the Developer on the same terms of this Deed Poll.
2. The New Owner acknowledges that it is bound by the terms of the Housing Covenants and is responsible for all costs incurred by the Developer in the enforcement or attempted enforcement of the Housing Covenants and that it will be subject to legal action for rectification costs, damages, legal costs (on a solicitor and own client basis) for any breach of the Housing Covenants.
3. The New Owner acknowledges that the Developer, in its total discretion, has and reserves the right to vary, exclude or elect not to enforce any of the Housing Covenants and/or interpret the Housing Covenants and the intent of the Housing Covenants for any land in the Estate.
4. The New Owner acknowledges that:
 - (a) the Estate may be developed progressively by the Developer; and
 - (b) this involves or will involve (amongst other things) the progressive carrying out of various works and the making of town planning and building applications of various types to Authorities (**Applications**).
5. The New Owner must not:
 - (a) make or maintain any Objection either alone or jointly with others against or do anything which may adversely affect any of the Applications;
 - (b) Object in relation to any dust, noise or traffic interference which results from the carrying out of and works within the Estate;
 - (c) do or omit anything which would prevent the Developer from completing the Estate or selling allotments in the Estate; and
 - (d) Object if the Developer does not complete construction of any other land included in the Estate or does not continue to develop any of the land owned by the Developer.

6. To facilitate the progressive development of the Estate, the New Owner irrevocably grants the Developer and any nominees of the Developer including any Authority and NBN Co and any supplies for NBN Co (Nominee) (including any employee, contractor, consultant or agent of the Developer) a licence to enter and remain on the Land as is reasonably required by the Developer or its Nominee to undertake works of any kind necessary or incidental to install or establish utility infrastructure and utility services and connections, thereto, including the following works:
- (a) to complete and/or rectify any works required by the approvals granted to the Developer for the development for the Estate (of which the Land forms part) including but not limited to civil works and the connection of services to the Land;
 - (b) the installation of pit and pipe works and network infrastructure;
 - (c) excavation and general earthworks;
 - (d) the construction of common areas, including roads;
 - (e) the construction of such improvements and facilities as may be considered necessary by the Developer to establish utility services and connections thereto; and
 - (f) the construction of services infrastructure whether public or private including without limitation, connections for sewerage, gas, electricity, communications, water or any other lawful service available to the public,

all of which are collectively called the **Utility Infrastructure Works**.

7. The licence fee is \$1.00 payable by the Developer to the New Owner if demanded by the New Owner.
8. The Developer or its Nominee may bring onto the Estate (including the Land) any machinery, tools, equipment, vehicles and workmen to facilitate the carrying out of the Utility Infrastructure Works, provided that the Developer does not unreasonably interfere with the New Owner's enjoyment of the Land.
9. The covenants and acknowledgements in this Deed Poll given by the New Owner to any Nominee are made and given for the benefit of the Nominee pursuant to section 55 of the Property Law Act 1974 in consideration of the Developer consenting to the sale of the Land to the New Owner.
10. The New Owner acknowledges that it has no right to Object if the Developer or a Nominee exercise their rights or have a right to exercise their rights pursuant to this Deed Poll.
11. The Developer must:
- (a) so far as reasonably possible cause minimal disturbance to any occupant of the Land; and
 - (b) repair any damage caused to the Land,
- as a result of the Developer or its Nominee (excluding NBN Co whom the Developer has no control over) exercising its rights under this Deed Poll.
12. The New Owner must not Object to the continuation of civil or construction works within the Estate which may disrupt or inconvenience the New Owner or an occupier of dwelling on the Land.
13. If the Developer has installed any fencing or entry feature on the Land then the New Owner covenants with the Developer that the New Owner will maintain in a good condition such fence or entry feature.
14. Notwithstanding any provision in the Neighbourhood Disputes (Dividing Fences and Trees) Act 2011, the Developer need not contribute to the cost of building any dividing fence between the Land and any adjoining land owned by the Developer or to the cost of relocating any fence. The New Owner waives any right to claim contribution from the Developer. The New Owner acknowledge that this clause is an agreement made between adjoining owners about a dividing fence for the purposes of section 10 of the Neighbourhood Disputes (Dividing Fences and Trees) Act 2011 (Qld).
15. The New Owner must not sell, transfer, assign or otherwise dispose of the Land without first delivering to the Developer a deed poll executed by the future buyer, transferee, assignee or disponent in favour of the Developer containing covenants in the same terms (mutatis mutandis) as this Deed Poll including an obligation for each further buyer, transferee, assignee or disponent to obtain a further deed poll from any subsequent buyer, transferee, assignee or disponent.
16. The New Owner indemnifies the Developer for any costs or damages the Developer suffers or may suffer as a result of any future buyer, transferee, assignee or disponent not being bound to the terms of this Deed Poll due a breach of the New Owner of this Deed Poll.
17. For the purposes of this Deed Poll:
- (a) **Authority** means any body, government, person or otherwise having or exercising control over the approval of, carrying out of, use or operation of the Land or the Estate or any services to be provided to the Land or the Estate, including, but not limited to, the Local Government and the department of Economic Development Queensland.
 - (b) **Object** or **Objection** means to object generally and includes:
 - (i) object to a variation, change or substitution;

- (ii) claim compensation;
- (iii) require the Developer to carry out any works to the Land;
- (iv) withhold a consent;
- (v) make any claim, demand, appeal or suit of any nature; or
- (vi) seek an injunction.

- 18. Queensland Law applies to this Deed Poll. The New Owner submits to the jurisdiction of the courts of Queensland.
- 19. This Deed Poll takes effect from the date the New Owner has effected settlement of the contract to buy the Land.
- 20. The New Owner must give to the Developer a copy of this signed and witnessed Deed Poll.

DATED THIS _____ 20____.

SIGNED AS A DEED POLL

SIGNED, SEALED AND DELIVERED by the)
New Owner in the presence of:)

New Owner's Signature

Witness

THE NEW OWNER'S SIGNATURE MUST BE WITNESSED

SIGNED, SEALED AND DELIVERED by the)
New Owner in the presence of:)

New Owner's Signature

Witness

THE NEW OWNER'S SIGNATURE MUST BE WITNESSED

DEED POLL
ANNEXURE "A" – HOUSING COVENANTS

(Follows this page)

[NOTE: Insert Housing Covenants AND Residential Design Standards and Guidelines behind this page when on-selling and preparing this Deed Poll for signing]

DEED OF GUARANTEE AND INDEMNITY

Parties:

MIRVAC QUEENSLAND PTY LTD ACN 060 411 207	(Seller)
The Guarantor named in the Reference Schedule (in the Contract)	(Guarantor)
Contract for the sale and purchase of the Property to be made between the Seller and the Buyer named in the Reference Schedule (in the Contract)	(Contract)

It is agreed:

1. The Guarantor:
 - 1.1 has requested that the Seller enter into the Contract;
 - 1.2 enters into this Guarantee and Indemnity in consideration for the Seller agreeing to:
 - (a) enter into the Contract at the request of the Guarantor; and
 - (b) pay the Guarantor \$1.00 within 10 Business Days after written demand by the Guarantor to the Seller; and
 - 1.3 acknowledges the receipt of valuable consideration from the Seller for the Guarantor incurring obligations under this Guarantee and Indemnity.
1. The Seller agrees to enter into the Contract at the request of the Guarantor.
2. The Guarantor acknowledges that, under the Contract:
 - 2.1 the Seller may effect a Dealing in favour of another person (**Third Party**); and
 - 2.2 if the Seller effects a Dealing, and the Contract is novated or assigned to the Third Party, the Buyer will be bound to perform the Buyer's obligations under the Contract in favour of the Third Party.
3. The Guarantor unconditionally and irrevocably guarantees:
 - 3.1 to the Seller the due and punctual performance by the Buyer of all of its obligations under the Contract (irrespective of when they are to be performed); and
 - 3.2 if the Contract is novated to the Third Party, the due and punctual performance by the Buyer of all of its obligations under any substitute contract for the sale and purchase of the Property that comes in effect as a result of a Dealing and novation (**Substitute Contract**) (irrespective of when they are to be performed); and
 - 3.3 if the Contract is assigned to the Third Party, the due and punctual performance by the Buyer of all of its obligations under the Contract (irrespective of when they are to be performed).
4. The Guarantor, as a separate undertaking, unconditionally and irrevocably indemnifies the Seller and any Third Party against all liability, damages, costs, expenses and losses of any kind and however arising (including penalties, fines, interest, duties, fees, taxes or legal fees on a full indemnity basis) which the Seller or any Third Party may suffer as a result of or arising directly or indirectly out of:
 - 4.1 any default, breach or non-compliance by the Buyer of the Contract or a Substitute Contract (**Relevant Contract**);
 - 4.2 a breach by the Buyer of any acknowledgement, promise, representation, warranty or the like by the Buyer in a Relevant Contract or otherwise, including any promise, representation, warranty or the like which was incorrect or misleading when made;
 - 4.3 the Buyer having no obligations or being relieved of any obligations or any obligations of the Buyer becoming unenforceable under a Relevant Contract; or
 - 4.4 making, enforcing and doing anything in connection with this Guarantee and Indemnity.
5. The Guarantor agrees that the Guarantor's liability and obligations under this Guarantee and Indemnity are not affected by any:
 - 5.1 termination of a Relevant Contract as a result of any default or breach by the Buyer;
 - 5.2 insolvency, bankruptcy, death, incompetency or winding up of the Buyer or of any Guarantor;
 - 5.3 assignment or novation of a Relevant Contract by the Buyer or the Seller or a Third Party;
 - 5.4 grant of time or other concession to the Buyer by the Seller or a Third Party or to the Seller or a Third Party by the Buyer;
 - 5.5 compromise, waiver, variation or novation of any of the rights of the Seller or a Third Party against the Buyer under a Relevant Contract;
 - 5.6 delay by the Seller or a Third Party in exercising its rights or if the Seller or a Third Party does not sue the Buyer;

- 5.7 acquiescence, acts, omissions or mistakes on the part of the Seller or a Third Party;
 - 5.8 purported rights of the Seller or a Third Party against the Buyer under a Relevant Contract being invalid, void or unenforceable for any reason including by operation of law or statute;
 - 5.9 future variations or alterations to a Relevant Contract agreed between the parties to it, regardless of whether or not the Guarantor has first consented to the variation or alteration and regardless of any prejudice to the Guarantor arising from that variation or alteration;
 - 5.10 other person who was named, intended or required to enter into this Guarantee and Indemnity not having done so or not having done so effectively;
 - 5.11 waiver or other indulgence or the discharge or release of a Buyer or any other person from any obligation;
 - 5.12 guarantee and indemnity from any other person who has entered into this Guarantee and Indemnity not being, for any reason whatsoever, enforceable; or
 - 5.13 other acts, omission, thing or matter whatsoever which, but for this provision, might in any way operate to release or otherwise exonerate or discharge the Guarantor from any of its obligations as surety.
6. This Guarantee and Indemnity:
- 6.1 extends to cover the Buyer's obligations under a Relevant Contract:
 - (a) regardless of any compromise, waiver or variation of any rights against the Buyer under the Relevant Contract; and
 - (b) as amended, varied or replaced, whether with or without the consent of the Guarantor, even if the amendment, variation or replacement imposes additional obligations on the Buyer, beyond those presently in the Relevant Contract; and
 - 6.2 is a continuing guarantee and indemnity and, despite Settlement, remains in full force and effect for as long as the Buyer has any liability or obligation under the Relevant Contract and until all of those liabilities or obligations have been fully discharged.
7. The Guarantor represents to the Seller (and for the benefit of any Third Party) that before the Guarantor entered into this Guarantee and Indemnity the Guarantor read and understood this Guarantee and Indemnity, the Contract and any other associated documents and had taken or been given the opportunity to take legal and other advice the Guarantor considered necessary.
8. If the Seller or a Third Party novates, transfers or assigns its interest in a Relevant Contract in favour of any person or entity (**Assignee**), the benefit of the Guarantor's obligations and indemnities under this Guarantee and Indemnity are assigned to the Assignee and the Guarantor must enter into any document that the Seller or a Third Party or Assignee may reasonably require to confirm the assignment. The Seller or a Third Party may assign the benefit of the Guarantor's obligations and indemnities under this Guarantee and Indemnity without affecting or discharging the Guarantor's liability as surety in any way.
9. The Seller or a Third Party does not have to sue the Buyer or enforce any rights against any person before claiming under this Guarantee and Indemnity.
10. This Guarantee and Indemnity binds each Guarantor individually and all of them jointly.
11. This Guarantee and Indemnity is a separate, collateral instrument to the Relevant Contracts.
12. The liability of the Guarantor is not discharged by payment to the Seller or a Third Party which is later avoided by law. If that occurs, the respective rights and obligations of the Seller or a Third Party and the Guarantor will be restored as if the payment had not been made.
13. Money paid to the Seller or a Third Party by the Guarantor must be applied first against payment of costs, charges and expenses under clause 4, then against other obligations under this Guarantee and Indemnity.
14. If there is any ambiguity in this Guarantee and Indemnity, it is to be interpreted in favour of the Seller or a Third Party. Any void, voidable or illegal term of this Guarantee and Indemnity is to be read down or severed leaving the balance operable.
15. The Guarantor acknowledges and agrees that this Guarantee and Indemnity was signed by the Guarantor before the Seller signed the Contract.
16. This Guarantee and Indemnity may be executed, exchanged and delivered in any manner permitted under the Contract for the execution and exchange of that document (including electronically).
17. **This Guarantee and Indemnity takes effect, is signed and delivered as a deed. The validity of this Guarantee and Indemnity as an agreement between the Seller and the Guarantor is not affected in any way if this Guarantee and Indemnity does not take effect as a deed.**

WARNING: The Guarantor is agreeing to be legally liable for the performance of the Buyer under the Relevant Contracts.

SIGNED SEALED AND DELIVERED AS A DEED)
by Guarantor 1 named in the Reference Schedule in)
the presence of:)

.....

Witness

(witness required unless signed electronically)

.....

SIGNATURE – GUARANTOR 1

By placing my signature above, I warrant that I am in the Guarantor named in the Reference schedule.

SIGNED SEALED AND DELIVERED AS A DEED)
by Guarantor 2 named in the Reference Schedule in)
the presence of:)

.....

Witness

(witness required unless signed electronically)

.....

SIGNATURE – GUARANTOR 2

By placing my signature above, I warrant that I am in the Guarantor named in the Reference schedule.

SIGNED SEALED AND DELIVERED AS A DEED)
by Guarantor 3 named in the Reference Schedule in)
the presence of:)

.....

Witness

(witness required unless signed electronically)

.....

SIGNATURE – GUARANTOR 3

By placing my signature above, I warrant that I am in the Guarantor named in the Reference schedule.

SIGNED SEALED AND DELIVERED AS A DEED by)
a duly authorised attorney of **MIRVAC QUEENSLAND**)
PTY LTD ACN 060 411 207 in the presence of:)

.....

Witness

(witness required unless signed electronically)

.....

SIGNATURE – ATTORNEY OF SELLER

.....

SIGNATURE – ATTORNEY OF SELLER

SPECIAL CONDITIONS
(Insert any Special Conditions here)

Buyer 1 Sign

Buyer 3 Sign

Buyer 2 Sign

Seller Sign