WARNING TO ESTATE AGENTS

DO NOT USE THIS CONTRACT FOR SALES OF 'OFF THE PLAN' PROPERTIES
UNLESS IT HAS BEEN PREPARED BY A LEGAL PRACTITIONER

Contract of Sale of Real Estate*

Part 1 of the form of contract published by the Law Institute of Victoria Limited and The Real Estate Institute of Victoria Ltd

Property address **Lot 2 / 12-14 ZEALANDIA ROAD EAST, CROYDON NORTH VIC 3136**

The vendor agrees to sell and the purchaser agrees to buy the property, being the land and the goods, for the price and on the terms set out in this contract.

The terms of this contract are contained in the -

- particulars of sale; and
- special conditions, if any; and
- general conditions

in that order of priority.

SIGNING OF THIS CONTRACT

WARNING: THIS IS A LEGALLY BINDING AGREEMENT. YOU SHOULD READ THIS CONTRACT BEFORE SIGNING IT.

Purchasers should ensure that, prior to signing this contract, they have received –

- a copy of the section 32 statement required to be given by a vendor under section 32 of the *Sale of Land Act* 1962 in accordance with Division 2 of Part II of that Act; and
- a copy of the full terms of this contract.

The authority of a person signing -

- under power of attorney; or
- as director of a corporation; or
- as agent authorised in writing by one of the parties -

must be noted beneath the signature.

Any person whose signature is secured by an estate agent acknowledges being given by the agent at the time of signing a copy of the terms of this contract.

SIGNED BY THE PURCHASER: ....

.... on ..../ .... /2021

Print names(s) of person(s) signing: ....

....

State nature of authority, if applicable: ....

This offer will lapse unless accepted within [ ] clear business days (3 clear business days if none specified)

SIGNED BY THE VENDOR: ....

.... on ..../ .... /2021

Print name(s) of person(s) signing: **Ryan Andrew De Vincentis and Jason Michael De Vincentis**

State nature of authority, if applicable: ....

The **DAY OF SALE** is the date by which both parties have signed this contract.

IMPORTANT NOTICE TO PURCHASERS

Cooling-off period (Section 31 of the *Sale of Land Act* 1962)

You may end this contract within 3 clear business days of the day that you sign the contract if none of the exceptions listed below applies to you.

You must either give the vendor or the vendor's agent **written** notice that you are ending the contract or leave the notice at the address of the vendor or the vendor's agent to end this contract within this time in accordance with this cooling-off provision.

You are entitled to a refund of all the money you paid EXCEPT for $100 or 0.2% of the purchase price (whichever is more) if you end the contract in this way.

EXCEPTIONS: The 3-day cooling-off period does not apply if:

- you bought the property at or within 3 clear business days **before or after** a publicly advertised auction;
- the property is used primarily for industrial or commercial purposes; or
- the property is more than 20 hectares in size and is used primarily for farming; or
- you and the vendor have previously signed a contract for the sale of the same land in substantially the same terms; or
- you are an estate agent or a corporate body.

*This contract is approved by the Law Institute of Victoria Limited, a professional association within the meaning of the *Legal Profession Act* 2004, under section 53A of the *Estate Agents Act* 1980.

NOTICE TO PURCHASERS OF PROPERTY OFF-THE-PLAN

Off-the-plan sales (Section 9AA(1A) of the *Sale of Land Act* 1962)

You may negotiate with the vendor about the amount of the deposit moneys payable under the contract of sale, up to 10 per cent of the purchase price.

A substantial period of time may elapse between the day on which you sign the contract of sale and the day on which you become the registered proprietor of the lot.

The value of the lot may change between the day on which you sign the contract of sale of that lot and the day on which you become the registered proprietor.

Particulars of sale

Vendor's estate agent

Name:	O'Brien Real Estate Blackburn		
Address:			
Email:			
Tel:	Mob:	Fax:	Ref:

Vendor

Name:	Ryan Andrew De Vincentis and Jason Michael De Vincentis
Address:	62 Partridge Way, Mooroolbark VIC 3138
ABN/ACN:	
Email:	

Vendor's legal practitioner or conveyancer

Name:	Williams & Lay			
Address:	13 Castella Street, Lilydale VIC 3140 3140			
Email:	leah@williamslay.com.au			
Tel:	03 9737 6100	Fax: 03 9737 6155	DX:	Ref: LC:21/9253

Purchaser

Name:	
Address:	
ABN/ACN:	
Email:	

Purchaser's legal practitioner or conveyancer

Name:				
Address:				
Email:				
Tel:		Fax:	DX:	Ref:

Land (general conditions 3 and 9)

The land is described in the table below –

Part of Parent Certificate of Title reference				being lot	on proposed plan
Volume	04544	Folio	688	2	PS910020V

OR

described in the copy of the Register Search Statement and the document or part document referred to as the diagram location in the Register Search Statement, as attached to the section 32 statement if no title or plan references are recorded in the table above or as described in the section 32 statement if the land is general law land.

The land includes all improvements and fixtures.

Property address

The address of the land is: Lot 2 / 12-14 Zealandia Road East, Croydon North VIC 3136

Goods sold with the land (general condition 2.3(f)) (list or attach schedule)

All fixtures and fittings of a permanent nature

Payment (general condition 11)

Price	$			
Deposit	$	by	(of which $	has been paid)
Balance	$	payable at settlement		

GST (general condition 13)

The price includes GST (if any) unless the words '**plus GST**' appear in this box

If this sale is a sale of land on which a 'farming business' is carried on which the parties consider meets requirements of section 38-480 of the GST Act or of a 'going concern' then add the words **'farming business'** or **'going concern'** in this box

If the margin scheme will be used to calculate GST then add the words **'margin scheme'** in this box

Settlement (general condition 10)

is due on

unless the land is a lot on an unregistered plan of subdivision, in which case settlement is due on the later of:

- the above date; or
- 14 days after the vendor gives notice in writing to the purchaser of registration of the plan of subdivision.
- 14 days after the vendor gives notice in writing to the purchaser of the issue of the Occupancy Permit.

Lease (general condition 1.1)

At settlement the purchaser is entitled to vacant possession of the property unless the words '**subject to lease'** appear in this box in which case refer to general condition 1.1.

If **'subject to lease**' then particulars of the lease are*:

(*only complete the one that applies. Check tenancy agreement/lease **before** completing details)

☐ *residential tenancy agreement for a fixed term ending on

OR

☐ *periodic residential tenancy agreement determinable by notice

OR

☐ *lease for a term ending on with options to renew, each of years.

Terms contract (general condition 23)

If this contract is intended to be a terms contract within the meaning of the *Sale of Land Act* 1962 then add the words **'terms contract'** in this box and refer to general condition 23 and add any further provisions by way of special conditions.

Loan (general condition 14)

The following details apply if this contract is subject to a loan being approved.

Lender:

Loan amount: Approval date:

This contract does not include any special conditions unless the words '**special conditions**' appear in this box

special conditions

Special Conditions

A SPECIAL CONDITION OPERATES IF THE BOX NEXT TO IT IS CHECKED OR THE PARTIES OTHERWISE AGREE IN WRITING.

Instructions: *It is recommended that when adding further special conditions:*
- *each special condition is numbered;*
- *the parties initial each page containing special conditions;*
- *a line is drawn through any blank space remaining on this page; and*
- *attach additional pages if there is not enough space.*

☒ **Special condition 1 – Payment**

General condition 11 is replaced with the following:

11. PAYMENT

11.1 The purchaser must pay the deposit:
(a) to the vendor's licensed estate agent; or
(b) if there is no estate agent, to the vendor's legal practitioner or conveyancer; or
(c) if the vendor directs, into a special purpose account in an authorised deposit-taking institution in Victoria specified by the vendor in the joint names of the purchaser and the vendor.

11.2 If the land sold is a lot on an unregistered plan of subdivision, the deposit:
(a) must not exceed 10% of the price; and
(b) must be paid to the vendor's estate agent, legal practitioner or conveyancer and held by the estate agent, legal practitioner or conveyancer on trust for the purchaser until the registration of the plan of subdivision.

11.3 The purchaser must pay all money other than the deposit:
(a) to the vendor, or the vendor's legal practitioner or conveyancer; or
(b) in accordance with a written direction of the vendor or the vendor's legal practitioner or conveyancer.

11.4 Payments may be made or tendered:
(a) up to $1,000 in cash; or
(b) by cheque drawn on an authorised deposit-taking institution; or
(c) by electronic funds transfer to a recipient having the appropriate facilities for receipt.
However, unless otherwise agreed:
(d) payment may not be made by credit card, debit card or any other financial transfer system that allows for any chargeback or funds reversal other than for fraud or mistaken payment, and
(e) any financial transfer or similar fees or deductions from the funds transferred, other than any fees charged by the recipient's authorised deposit-taking institution, must be paid by the remitter.

11.5 At settlement, the purchaser must pay the fees on up to three cheques drawn on an authorised deposit-taking institution. If the vendor requests that any additional cheques be drawn on an authorised deposit-taking institution, the vendor must reimburse the purchaser for the fees incurred.

11.6 Payment by electronic funds transfer is made when cleared funds are received in the recipient's bank account.

11.7 Before the funds are electronically transferred the intended recipient must be notified in writing and given sufficient particulars to readily identify the relevant transaction.

11.8 As soon as the funds have been electronically transferred the intended recipient must be provided with the relevant transaction number or reference details.

11.9 Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any missing or mistaken payment and to recover the missing or mistaken payment.

11.10 For the purpose of this general condition 'authorised deposit-taking institution' means a body corporate for which an authority under section 9(3) of the *Banking Act 1959 (Cth)* is in force.

☒ **Special condition 2 – Acceptance of title**

General condition 12.4 is added:

12.4 Where the purchaser is deemed by section 27(7) of the *Sale of Land Act* 1962 to have given the deposit release authorisation referred to in section 27(1), the purchaser is also deemed to have accepted title in the absence of any prior express objection to title.

☒ **Special condition 3 – Tax invoice**

General condition 13.3 is replaced with the following:

13.3 If the vendor makes a taxable supply under this contract (that is not a margin scheme supply) and:
(a) the price includes GST; or
(b) the purchaser is obliged to pay an amount for GST in addition to the price (because the price is "plus

GST" or under general condition 13.1(a), (b) or (c)),

the purchaser is not obliged to pay the GST included in the price, or the additional amount payable for GST, until a tax invoice has been provided.

☒ **Special condition 4 – Adjustments**

General condition 15.3 is added:

15.3 The purchaser must provide copies of all certificates and other information used to calculate the adjustments under general condition 15, if requested by the vendor.

☒ **Special condition 5 - Foreign resident capital gains withholding**

General condition 15A is added:

15A. FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING

15A.1 Words defined or used in Subdivision 14-D of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* have the same meaning in this general condition unless the context requires otherwise.

15A.2 Every vendor under this contract is a foreign resident for the purposes of this general condition unless the vendor gives the purchaser a clearance certificate issued by the Commissioner under section 14-220 (1) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The specified period in the clearance certificate must include the actual date of settlement.

15A.3 This general condition only applies if the purchaser is required to pay the Commissioner an amount in accordance with section 14-200(3) or section 14-235 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* ("the amount") because one or more of the vendors is a foreign resident, the property has or will have a market value not less than the amount set out in section 14-215 of the legislation just after the transaction, and the transaction is not excluded under section 14-215(1) of the legislation.

15A.4 The amount is to be deducted from the vendor's entitlement to the contract consideration. The vendor must pay to the purchaser at settlement such part of the amount as is represented by non-monetary consideration.

15A.5 The purchaser must:
(a) engage a legal practitioner or conveyancer ("representative") to conduct all the legal aspects of settlement, including the performance of the purchaser's obligations under the legislation and this general condition; and
(b) ensure that the representative does so.

15A.6 The terms of the representative's engagement are taken to include instructions to have regard to the vendor's interests and instructions that the representative must:
(a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner and as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this general condition if the sale of the property settles;
(b) promptly provide the vendor with proof of payment; and
(c) otherwise comply, or ensure compliance, with this general condition;
despite:
(d) any contrary instructions, other than from both the purchaser and the vendor; and
(e) any other provision in this contract to the contrary.

15A.7 The representative is taken to have complied with the requirements of general condition 15A.6 if:
(a) the settlement is conducted through the electronic conveyancing system operated by Property Exchange Australia Ltd or any other electronic conveyancing system agreed by the parties; and
(b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.

15A.8 Any clearance certificate or document evidencing variation of the amount in accordance with section 14-235(2) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* must be given to the purchaser at least 5 business days before the due date for settlement.

15A.9 The vendor must provide the purchaser with such information as the purchaser requires to comply with the purchaser's obligation to pay the amount in accordance with section 14-200 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The information must be provided within 5 business days of request by the purchaser. The vendor warrants that the information the vendor provides is true and correct.

15A.10 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of late payment of the amount.

☒ **Special condition 5A – GST withholding**

[Note: the box should be checked if the property sold is or may be new residential premises or potential residential land, whether or not failing within the parameters of section 14-250 of Schedule 1 of the Taxation Administration Act 1953 (Cth)]

General condition 15B is added:

15B. GST WITHHOLDING

15B.1 Words and expressions defined or used in Subdivision 14-E of Schedule 1 to the *Taxation Administration Act*

1953 (Cth) or in *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* have the same meaning in this general condition unless the context requires otherwise. Words and expressions first used in this general condition and shown in italics and marked with an asterisk are defined or described in at least one of those Acts.

15B.2 This general condition 15B applies if the purchaser is required to pay the Commissioner an **amount* in accordance with section 14-250 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* because the property is **new residential premises* or **potential residential land* in either case falling within the parameters of that section, and also if the sale attracts the operation of section 14-255 of the legislation. Nothing in this general condition 15B is to be taken as relieving the vendor from compliance with section 14-255.

15B.3 The amount is to be deducted from the vendor's entitlement to the contract **consideration* and is then taken to be paid to the vendor, whether or not the vendor provides the purchaser with a GST withholding notice in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The vendor must pay to the purchaser at settlement such part of the amount as is represented by non-monetary consideration.

15B.4 The purchaser must:

(a) engage a legal practitioner or conveyancer ("representative") to conduct all the legal aspects of settlement, including the performance of the purchaser's obligations under the legislation and this general condition; and

(b) ensure that the representative does so.

15B.5 The terms of the representative's engagement are taken to include instructions to have regard to the vendor's interests relating to the payment of the amount to the Commissioner and instructions that the representative must:

(a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner and as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this general condition on settlement of the sale of the property;

(b) promptly provide the vendor with evidence of payment, including any notification or other document provided by the purchaser to the Commissioner relating to payment; and

(c) otherwise comply, or ensure compliance, with this general condition;

despite:

(d) any contrary instructions, other than from both the purchaser and the vendor; and

(e) any other provision in this contract to the contrary.

15B.6 The representative is taken to have complied with requirements of general condition 15B.5 if:

(a) settlement is conducted through the electronic conveyancing system operated by Property Exchange Australia Ltd or any other electronic conveyancing system agreed by the parties; and

(b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.

15B.7 The purchaser may at settlement give the vendor a bank cheque for the amount in accordance with section 16-30 (3) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*, but only if:

(a) so agreed by the vendor in writing; and

(b) the settlement is not conducted through an electronic settlement system described in general condition 15B.6.

However, if the purchaser gives the bank cheque in accordance with this general condition 15B.7, the vendor must:

(c) immediately after settlement provide the bank cheque to the Commissioner to pay the amount in relation to the supply; and

(d) give the purchaser a receipt for the bank cheque which identifies the transaction and includes particulars of the bank cheque, at the same time the purchaser gives the vendor the bank cheque.

15B.8 The vendor must provide the purchaser with a GST withholding notice in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* at least 14 days before the due date for settlement.

15B.9 A party must provide the other party with such information as the other party requires to:

(a) decide if an amount is required to be paid or the quantum of it, or

(b) comply with the purchaser's obligation to pay the amount,

in accordance with section 14-250 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The information must be provided within 5 business days of a written request. The party providing the information warrants that it is true and correct.

15B.10 The vendor warrants that:

(a) at settlement, the property is not new residential premises or potential residential land in either case falling within the parameters of section 14-250 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* if the vendor gives the purchaser a written notice under section 14-255 to the effect that the purchaser will not be required to make a payment under section 14-250 in respect of the supply, or fails to give a written notice as required by and within the time specified in section 14-255 ; and

(b) the amount described in a written notice given by the vendor to the purchaser under section 14-255 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* is the correct amount required to be paid under section 14-250 of the legislation.

15B.11 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount, except to the extent that:

(a) the penalties or interest arise from the vendor's failure, including breach of a warranty in general condition 15B.10; or

(b) the purchaser's reasonable belief that the property is neither new residential premises nor potential residential land requiring the purchaser to pay an amount to the Commissioner in accordance with section 14-250 (1) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*.

The vendor is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount if either exception applies.

15B.12 This general condition will not merge on settlement.

☒ **Special condition 6 – Service**

General condition 17 is replaced with the following:

17. SERVICE

17.1 Any document required to be served by or on any party may be served by or on the legal practitioner or conveyancer for that party.

17.2 A document being a cooling off notice under section 31 of the *Sale of Land Act* 1962 or a notice under general condition 14.2 (ending the contract if the loan is not approved) may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.

17.3 A document is sufficiently served:
- (a) personally, or
- (b) by pre-paid post, or
- (c) in any manner authorized by law or by the Supreme Court for service of documents, including any manner authorised for service on or by a legal practitioner, whether or not the person serving or receiving the document is a legal practitioner, or
- (d) by email.

17.4 Any document properly sent by:
- (a) express post is taken to have been served on the next business day after posting, unless proved otherwise;
- (b) priority post is taken to have been served on the fourth business day after posting, unless proved otherwise;
- (c) regular post is taken to have been served on the sixth business day after posting, unless proved otherwise;
- (d) email is taken to have been served at the time of receipt within the meaning of section 13A of the *Electronic Transactions (Victoria) Act 2000*.

17.5 The expression 'document' includes 'demand' and 'notice', and 'service' includes 'give' in this contract.

☒ **Special condition 7 – Notices**

General condition 21 is replaced with the following:

21. NOTICES

21.1 The vendor is responsible for any notice, order, demand or levy imposing liability on the property that is issued or made before the day of sale, and does not relate to periodic outgoings.

21.2 The purchaser is responsible for any notice, order, demand or levy imposing liability on the property that is issued or made on or after the day of sale, and does not relate to periodic outgoings.

21.3 The purchaser may enter the property to comply with that responsibility where action is required before settlement.

☒ **Special condition 8 – Electronic conveyancing**

8.1 Settlement and lodgment of the instruments necessary to record the purchaser as registered proprietor of the land will be conducted electronically in accordance with the *Electronic Conveyancing National Law*. The parties may subsequently agree in writing that this special condition 8 applies even if the box next to it is not checked. This special condition 8 has priority over any other provision to the extent of any inconsistency.

8.2 A party must immediately give written notice if that party reasonably believes that settlement and lodgment can no longer be conducted electronically. Special condition 8 ceases to apply from when such a notice is given.

8.3 Each party must:
- (a) be, or engage a representative who is, a subscriber for the purposes of the *Electronic Conveyancing National Law*,
- (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 *Electronic Conveyancing National Law*, and
- (c) conduct the transaction in accordance with the *Electronic Conveyancing National Law*.

8.4 The vendor must open the Electronic Workspace ("workspace") as soon as reasonably practicable. The inclusion of a specific date for settlement in a workspace is not of itself a promise to settle on that date. The workspace is an electronic address for the service of notices and for written communications for the purposes of any electronic transactions legislation.

8.5 The vendor must nominate a time of the day for locking of the workspace at least 7 days before the due date for settlement.

8.6 Settlement occurs when the workspace records that:

(a) the exchange of funds or value between financial institutions in accordance with the instructions of the parties has occurred; or
(b) if there is no exchange of funds or value, the documents necessary to enable the purchaser to become registered proprietor of the land have been accepted for electronic lodgment.

8.7 The parties must do everything reasonably necessary to effect settlement:
(a) electronically on the next business day, or
(b) at the option of either party, otherwise than electronically as soon as possible –
if, after the locking of the workspace at the nominated settlement time, settlement in accordance with special condition 8.6 has not occurred by 4.00 pm, or 6.00 pm if the nominated time for settlement is after 4.00 pm.

8.8 Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any missing or mistaken payment and to recover the missing or mistaken payment.

8.9 The vendor must before settlement:
(a) deliver any keys, security devices and codes ("keys") to the estate agent named in the contract,
(b) direct the estate agent to give the keys to the purchaser or the purchaser's nominee on notification of settlement by the vendor, the vendor's subscriber or the Electronic Network Operator;
(c) deliver all other physical documents and items (other than the goods sold by the contract) to which the purchaser is entitled at settlement, and any keys if not delivered to the estate agent, to the vendor's subscriber or, if there is no vendor's subscriber, confirm in writing to the purchaser that the vendor holds those documents, items and keys at the vendor's address set out in the contract, and
give, or direct its subscriber to give, all those documents and items and any such keys to the purchaser or the purchaser's nominee on notification by the Electronic Network Operator of settlement.

8.10 The vendor must, at least 7 days before the due date for settlement, provide the original of any document required to be prepared by the vendor in accordance with general condition 6.

☒ **Special condition 9 – Additional**

9.1 If the property is offered for sale by public auction, subject to the vendor's reserve price, the Rules for the conduct of the auction shall be as set out in the Schedules to the Sale of Land Regulations 2005 or any rules prescribed by regulation which modify or replace those Rules.

9.2 The Purchaser having been supplied with the Statement required by Section 32(2)(c) of the Sale of Land (Amendment) Act 1982 purchases subject to any restrictions imposed pursuant to any planning schemes or interim development orders affecting the said land.

9.3 The property in any chattels sold by this Contract shall not pass to the Purchaser until payment in full of the purchase price.

9.4 The Purchaser acknowledges that the Vendor's Agent has acted only as Agent of the Vendor and no information representation or warranty of the Vendor or his Agent was made with the intention or knowledge that it would be relied upon and that no such information representation or warranty has in fact been relied upon and it is further agreed that this Contract of Sale and the original Vendor's Statement (a copy of which is included in this Contract of Sale) are the sole and full repository of the agreement between the Vendor, his Agent and the Purchaser.

9.5 If the Purchaser shall be or include a company, the company will forthwith upon execution of this Contract procure the execution by each of its directors of the Guarantee annexed to that part of this Contract to be held by the Vendor.

9.6 The Vendor gives notice to the Purchaser that, if the Purchaser fails to complete the purchase of the property on the due date under the Contract, the Purchaser will be required to pay, in addition to interest payable on the balance of the purchase monies under the Contract, the following losses and expenses (Compensation) which the Vendor may incur:
(a) The cost of obtaining bridging finance to complete the Vendor's purchase of another property, and interest charged on such bridging finance;
(b) Interest payable by the Vendor under any existing mortgage over the property calculated from the due date for Settlement;
(c) Accommodation expenses necessarily incurred by the Vendor;
(d) Legal costs and expenses as between solicitor and Vendor on a full indemnity basis;
(f) Penalties payable by the Vendor through any delay in completion of the Vendor's purchase of another property; and
(g) any further costs, damages or loss whatsoever sustained by the Vendor as a result of the Purchaser's failure to complete as aforesaid.

9.7 The Vendor's right to receive payment of the losses and expenses referred to in the Special Conditions shall be in addition to the rights conferred on the Vendor pursuant to General Condition 28.4.

9.8 The purchaser expressly acknowledges and agrees that;
(a) the Vendor shall not be required to complete Settlement unless an amount equivalent to the Compensation being claimed by the Vendor is tendered by the Purchaser at Settlement; and
(b) Compensation will continue to accrue until settlement is effected.

9.9 The Purchaser warrants that either –
(a) The Purchaser has prior to entering into this Contract obtained from the Treasurer the relevant approval to purchase residential real estate under the Act; or
(b) The provisions of the Act do not require the Purchaser to obtain approval to purchase residential real estate under the Act.

If there is a breach of the warranty contained in this Special Condition (whether intentional or not) the Purchaser must indemnity and compensate the Vendor for any loss, damage or cost which the Vendor incurs as a result of the breach.

The warranty and indemnity do not merge on completion of this Contract.

For the purposes of this Special Condition –
(a) “Act” means the Foreign Acquisitions and Takeovers Act 1975 (Cth).
(b) “Treasurer” means the Treasurer of the Commonwealth of Australia.

☒ **Off the Plan Special Conditions**

OFF THE PLAN SPECIAL CONDITIONS

1 Plan of Subdivision and Identity of Land

1.1 The Vendor may make any amendments and alterations to the Plan of Subdivision which are necessary to obtain the certification or registration of the Plan of Subdivision or which the Vendor considers to be reasonably necessary.

1.2 The Vendor will notify the Purchaser within a reasonable time of any variation or alteration to the Plan of Subdivision, which, in the Vendor's reasonable opinion, materially and detrimentally affects the Purchaser.

1.3 The Purchaser acknowledges that it has read and understood the Existing Permit (in its form as at the Day of Sale);

1.4 Subject to the purchasers' rights under the Sale of Land Act 1962, the Purchaser may not make any Claim or Object, nor require the Vendor to take or refrain from taking any action, in relation to any matters referred to in this Special Condition.

2 Conditions precedent to settlement

2.1 This Contract is subject to and conditional upon the Plan of Subdivision being registered by the Registrar before the end of the Registration Period.

2.2 If the Plan of Subdivision is not registered before the end of the Registration Period, either the Vendor or the Purchaser may, at any time after the end of the Registration Period but only before the Plan of Subdivision is registered, terminate this Contract by written notice served on the other.

2.3 If this Contract is terminated under Special Conditions 2.2:

(a) any money paid by the Purchaser on account of the Price will be refunded to the Purchaser (less all bank & government charges, fees and taxes) and the Purchaser will not be entitled to any compensation from the Vendor for any losses, costs, fees or other expenses paid or incurred by the Purchaser in relation to this Contract;

(b) and the Purchaser will not be entitled to any compensation from the Vendor in respect of any losses, costs, fees or other expenses paid or incurred by the Purchaser in relation to this Contract.

2.4 Subject to the Purchaser's rights under the *Sale of Land Act* 1962, the Purchaser will not Object or Claim any compensation because of anything connected with registration of or failure to obtain registration of the Plan of Subdivision.

3 Matters to which Property is subject

3.1 The Purchaser buys the Property subject to:

(a) the encumbrances shown in the Vendor's Statement, including those that may be created or come into existence after the Day of Sale;

(b) any easements (whether express or implied) affecting the Land by virtue of any Act;

(c) any Restrictions imposed on the Property by:

(i) any Act, order, regulation, by-law or planning scheme affecting the Property; or

(ii) any governmental, semi-governmental or judicial entity.

(d) any easement or other right held or claimed by any statutory authority or supply authority or company.

3.2 The Purchaser will not Object or Claim any compensation because of anything contemplated by or occurring pursuant to Special Condition 3.

4 Vendor's rights to create further Encumbrances and Restrictions

4.1 The Purchaser acknowledges and agrees that as at the Day of Sale and the Settlement Date not all of the Additional Encumbrances may have been entered into, granted or finalised.

4.2 Subject to the Purchaser's rights under section 9AC of the *Sale of Land Act* 1962**,** the Vendor can enter into, grant or finalise any Additional Encumbrances on or after the Day of Sale to ensure the provision of services to the Property or other Lots on the Plan of Subdivision, to enable certification or registration of the Plan of Subdivision, where necessary for the Development and proper functioning of the site or to better comply with this Contract.

4.3 The Purchaser must execute any acknowledgement, covenant, transfer of the land, easements or covenants required by the Vendor under which the Purchaser:

(a) agrees to accept and observe an Additional Encumbrances; and
(b) acknowledges that the Additional Encumbrances runs with the relevant Land.

4.4 Subject to the Purchaser's rights under the *Sale of Land Act* 1962, the Purchaser will not Object or Claim any compensation because of anything contemplated by or occurring pursuant to Special Condition4.2.

5 Section 173 Agreement

5.1 The Purchaser acknowledges that pursuant to the provisions of the Planning Permit the Vendor may be obliged to enter into one or more Section 173 Agreements pursuant to the *Planning and Environment Act 1987* (**Agreement**).

5.2 The Purchaser further acknowledges that if the Vendor is so required, the Vendor shall provide the Purchaser will a copy of the Agreement as soon as possible and the Purchaser hereby acknowledges that such Agreement will be registered as an encumbrance on the title to the property. The Purchaser shall not make any claim or objection arising out of the Agreement and shall not be entitled to refuse or delay Settlement nor be entitled to any compensation or reduction in the Price.

6 Location of Easements

6.1 The Purchaser agrees that section 10(1) of the *Sale of Land Act* 1962 will not apply in respect to the final location of any easements shown on the Plan of Subdivision.

6.2 For the purposes of section 9AB of the *Sale of Land Act* 1962, the Purchaser acknowledges and agrees that:

(a) in any construction on the land contained in the Plan of Subdivision, the Vendor may carry out Works that will affect the natural surface level of the land including:

(i) excavation Worksrelating to the Land arising our of filling and/or raising and/or leveling the Land;
(ii) the removal of waste from the Land and any remediation works required to satisfy EPA requirements and the requirements of any other Authority;
(iii) the installation of services.

(b) the Vendor may be directed by the municipal authority or a public authority to carry out Works which will affect the natural surface levels of the Land or the balance of the land in the Plan of Subdivision after the Day of Sale.

7 Works affecting the natural surface of the land

The Vendor is aware that works affecting the natural surface level of the property or any land abutting the property which is in the same subdivision as the property may be required to be carried out the Day of Sale but before certification of the Plan of Subdivision, but does not at the Day of Sale have details of those works. The Purchaser shall not make any requisition or objection, delay settlement or claim any compensation in respect of any works affecting the natural surface level of the property of any land abutting the property which is in the same subdivision as the property disclosed to the Purchaser in accordance with Section 9AB of the Sale of Land Act 1962.

8 Caveat

The Purchaser shall not take any action so as to prevent or delay the registration of the Plan of Subdivision and in particular shall not lodge or allow any person claiming through him or acting on his behalf, or to lodge any Caveat pursuant to the Transfer of Land Act over the land in the Plan of Subdivision or any part of that land until after the date of registration of the Plan of Subdivision. In the event that the Purchaser breaches this Special Condition the Purchaser shall pay to the Vendor on demand all damages suffered by the Vendor as a result of the lodgement of the Caveat or of any action by the Purchaser which delays the registration of the Plan of Subdivision which includes, without limitation, any interest payable by the Vendor to any Mortgagee having an interest in any part of the land contained in the Plan of Subdivision for the period during which registration of the Plan of Subdivision is delayed. The Purchaser appoints the Vendor and the Vendor's Solicitors jointly and severally to be its attorneys for the purpose of withdrawing any such Caveat lodged by the Purchaser including the execution of a Withdrawal of

Caveat pursuant to the Transfer of Land Act. It is acknowledged that this Special Condition is an essential term of this Contract and shall not be affected by the rescission of this Contract by either party and the rights conferred under this Special Condition shall be in addition to any Common Law or other rights which the Vendor may have.

9 Adjustments

9.1 All Outgoings in respect of the Property will be adjusted between the Vendor and the Purchaser on the basis that they have been paid (even if they have not been paid) as from the Settlement Date.

9.2 The Purchaser is responsible for all unpaid Outgoings accruing as and from the Settlement Date which were not adjusted or payable by the Vendor under this Special Condition.

9.3 If the Land is not separately rated, then the Purchaser must adjust that Outgoing on the basis that it has been paid and the Outgoing will be apportioned between the Vendor and Purchaser in the same proportion as the lot liability of the Land bears to the total lot liability on the Plan, land tax will be adjusted to include the Vendor's proportionable liability in respect of the Lots on the Plan of Subdivision.

9.4 The Vendor will pay the Outgoings when they are due to be paid and the Purchaser shall not require any Outgoing to be paid on an earlier date.

9.5 Where the land tax has been assessed and is due prior to Settlement Date, the Purchaser will accept evidence of payment of an assessment which includes the Land, as proof of the Vendor having discharged its obligation to pay land tax for the Land.

9.6 The Vendor must connect all services to the property, an bear the cost of that.

9.7 Connection and supply of all services and the infrastructure shall not be deemed as an adjustment, the Vendor shall provide all infrastructure for the supply of all services to the property and shall be responsible for all costs associated with the provision of infrastructure and installation of all services, no costs shall be passed onto the Purchaser for any costs associated with the infrastructure costs and supply of all services to the property. Services shall include the supply of electricity, gas, water, sewerage, telephone and internet services (including "NBN").

10 Access

The Purchaser shall not have access to the building except with the prior written approval of the Vendor, which approval may be withheld at the Vendor's absolute discretion provided that the Purchaser shall be entitled to inspect the Property on one occasion within fourteen (14) days prior to the day of settlement, subject to issue of Occupancy Permit. Notwithstanding, the Purchaser's lender may inspect the property after issue of the Occupancy Permit to undergo a valuation inspection for the purpose of obtaining finance.

11 Purchaser not entitled to delay settlement

In the event that at the Settlement Date any dispute arises as to the quality or standard of the finish of the Works or the Property hereby sold then the Purchaser shall not be entitled to delay or postpone settlement as a consequence thereof or to request or demand the holding back or retention of any part of the residue of the price payable as security for the satisfactory completion of the Works and the Purchaser shall proceed to and with settlement as required by this Contract.

12 Assignment of warranties

The Vendor hereby assigns to the Purchaser from the Settlement Date the benefit of any manufacturer's warranties given in favour of the Vendor in respect of the Chattels subject to the terms of such warranties and any act, statue or rule of law which may prohibit or limit the Vendor's right in respect of such assignments.

13 Deleted

14 Deleted

15 Deleted

16 Environmental Indemnity

16.1 The Purchaser accepts the condition of the Land including, without limitation, the presence of any Contaminant or Substance in, on, under or emanating from the Land.

16.2 The Purchaser acknowledges that the Vendor makes no representation or warranty about compliance of the Land with Environmental Law.

16.3 The Purchaser must not Object or Claim for compensation because of:

(a) the use, presence or escape of any Contaminant or Substance on or from the Land; or
(b) the physical condition of the Land, including the soil, groundwater and sub-surface or any contamination of them:

(i) renders the Land unsuitable or unfit for any use or Development; or
(ii) renders the Land, the Vendor, the Purchaser, the owner, or the occupier liable for any Claim or requirement imposed by any person, competent body or Authority or under any legislation whether now or at any time in the future.

16.4 From the Day of Sale, the Purchaser will assume all liability and responsibility for any Contaminant or Substance in, on, under or emanating from the Land or any process or facility undertaken on the Land at any time whether before or after the Day of Sale, and the Purchaser will be liable for and releases the Vendor from all liability and indemnifies the Vendor against:

(a) any Claim for the use, presence, removal, storage, disposal or escape of any Contaminant or Substance on or from the Land; or
(b) any requirement imposed by any Authority or legislation:

(i) for the use, presence or escape of any Contaminant or Substance on or from the Land, or
(ii) requiring the remediation of the Land; or
(iii) requiring the removal of any Contaminant or Substance from the Land; or
(iv) requiring any works or treatment or activity to be carried out on the Land; or
(v) to remediate any other property onto, above or into which a Contaminant or Substance has travelled from and through the Land.

16.5 The Purchaser indemnifies and will keep the Vendor indemnified against any Claim which the Vendor suffers, incurs or becomes liable for with respect to the presence of any Contaminant or Substance which may give rise to or become a Contaminant brought or allowed on, emitted on or from or incorporated in on, under or emanating from the Land at any time.

16.6 The Purchaser must comply with any notice or order relating to the Land made or issued under any laws relating to the Environment.

16.7 This Special Condition 16 will not merge on settlement of this Contract and each indemnity given continues after settlement. The Vendor can enforce any indemnity before incurring any cost or expense.

17 Nomination

17.1 Notwithstanding General Condition 18, the Purchaser may nominate an additional or substitute Purchaser if this Contract specifies that the Property is sold to the Purchaser “and/or Nominee”.

17.2 The Purchaser remains liable under this Contract even if an additional or substitute purchaser is nominated.

17.3 The Purchaser indemnifies and keeps the Vendor indemnified against any and all Claims, Outgoings or payments which the Vendor suffers, incurs or is liable for with respect to stamp duty payable in relation to this Contract and the nomination of any additional or substituted purchaser or purchasers.

17.4 The Purchaser and each additional or substitute Purchaser unconditionally and irrevocably guarantees to the Vendor each of the Purchaser and substitute purchasers’ obligations under this Contract including the payment of any Balance of the Price, any other amounts payable under this Contract and the performance of the obligations under this Contract by the Purchaser and any additional or substitute purchaser.

18 Stamp Duty: Purchasers Buying Unequal Interests

18.1 If there is more than one purchaser, it is the Purchasers' responsibility to ensure this Contract correctly records at the Day of Sale the proportions in which they are buying the Property ("the Proportions").

18.2 If the Proportions recorded in the Transfer differ from those recorded in this Contract, it is the Purchasers' responsibility to pay any additional duty which may be assessed as a result of the variation.

18.3 The Purchasers fully indemnify the Vendor, the Vendor's agent and the Vendor's legal practitioners against any Claims which may be made against any or all of them in relation to any additional duty payable as a result of the proportions in the Transfer differing from those in this Contract.

18.4 This Special Condition 18 will not merge on settlement of this Contract and each indemnity given continues after settlement. The Vendor can enforce any indemnity before incurring any cost or expense.

19 Guarantees and Joint Purchasers

19.1 If the Purchaser is or includes a corporation, that is not listed on the Australian Stock Exchange:

(a) where that corporation is not a wholly owned subsidiary of a corporation that is listed on the Australian Stock Exchange, the Purchaser must cause the Guarantee and Indemnity to be executed by all directors of the Purchaser corporation on the Day of Sale or within such period after the Day of Sale as the Vendor may allow; or

(b) where that corporation is a wholly owned subsidiary of a corporation listed on the Australian Stock Exchange, the Purchaser must cause the Guarantee and Indemnity to be executed by the listed corporation on the Day of Sale or within such period after the Day of Sale as the Vendor may allow.

19.2 Despite anything else in this Contract, if there is more than one Purchaser, this Contract will bind all of them jointly and each of them severally.

19.3 If the Purchaser does not comply with this Special Condition, the Vendor may rescind the Contract.

19.4 If any of the aforesaid representations are false or the signatory breaches any one or more of them, the signatory shall be personally liable for the due performance of the Purchaser's obligations under the Contract.

20 Entire Agreement, Acknowledgements and Indemnities

20.1 This Contract contains the entire agreement between the parties as at the Day of Sale.

20.2 Subject to any provision to the contrary in this Contract the Purchaser shall indemnify and keep indemnified the Vendor against all Claims of any nature whatsoever which the Vendor may suffer, sustain or incur in connection with or relating to any liability, Claims, howsoever arising made or incurred on or subsequent to the Settlement Date or from events or occurrences happening or arising on or subsequent to the Settlement Date out of or in respect to the Property or any act, matter or thing occurring thereon.

20.3 The Purchaser acknowledges that prior to execution of this Contract and any document relating to this sale, the Purchaser received a statement in writing under section 32 of the *Sale of Land Act* 1962 from the Vendor, which complies with the requirements of section 32 of the *Sale of Land Act* 1962. The Purchaser warrants that it will not Object or Claim about any matter included in the Vendor's Statement.

20.4 Each party to this Contract shall execute and deliver all such documents, instruments and writings and shall do or procure to be done all such acts and things necessary or desirable or reasonable to give effect to this Contract.

20.5 Any provision of this Contract, which is capable of, taking effect after completion of this Contract, shall not merge on completion but rather shall continue in full force and effect.

21 Definitions and Interpretation

21.1 In this Contract the following words have these meanings unless the context provides otherwise:

Additional Encumbrances means any easements, encumbrances, licences, occupational rights, covenants, grants or create other like rights or restrictions (including, without limitation, positive covenants under agreements pursuant to section 173 of the *Planning and Environment Act* 1987.

Authority means any Commonwealth, state, regional and local government or other regulatory authority, body or agency, and any court or tribunal or statutory corporation or any employee or agent of any of them.

Building Surveyor means the building surveyor appointed by the Vendor (if any to inspect the Works).

Business Day means any day which is not a Saturday, Sunday or a proclaimed public holiday in the State of Victoria.

Claim means any claim, action, demand, proceeding, judgment, damage, loss (including consequential loss), charge, outgoing, payment, cost, expense or liability however incurred or suffered or brought or made or recovered against any person however arising (whether or not presently ascertained, immediate, future or contingent or in the nature of incidental, special, exemplary or consequential damages) including, but not limited to loss of profits or revenue, interference with business operations or loss of tenants, lenders, investors or buyers or inability to use the Property.

Common Property means all the common property, if any created by registration of the Plan of Subdivision.

Contaminant means a solid, liquid, gas, odour, electric or magnetic field or Substance or property of any Substance which makes or may make the Land unsafe, unfit or harmful for habitation or occupation by any person or cause damage to the Land or does not satisfy the contamination criteria or standards published or adopted by the relevant environmental Authority and Contamination has the same meaning.

Contract means this contract of sale and includes all enclosures and annexure.

Development means the buildings and works proposed to be developed in accordance with the Existing Permit.

Environment includes the air, water, ground water, sub strata and the ground.

Environmental Law means a law regulating the Environment, including, without limitation, to the extent applicable, any law about the use of land, planning, heritage, pollution of air or water, noise, soil or ground water contamination or pollution, chemicals, use of dangerous goods, asbestos, building regulation, public and occupational health and safety, fire and safety, or the enforcement or administration of those laws whether that law arises under statute or the common law or under any permit, notice, decree, order or directive of any Authority or otherwise.

Existing Permit means planning permit number M/2021/1041 issued 22 February 2022 (a copy is contained in the Vendor's Statement) as amended from time to time.

General Condition(s) means the standard form of contract general conditions annexed to this contract.

Guarantee and Indemnity means guarantee and indemnity contained in Annexure A to this Contract.

GST means GST within the meaning of the GST Act.

GST Act means the goods and services tax system which is Australian law under the *A New Tax System (Goods and Services Tax) Act* 1999 and associated legislation or any amendment or replacement of that Act or legislation.

Interest means the interest (if any) that accrues on the deposit less the taxes, charges and fees charged on, or attracted by, the deposit or by the interest earned on it.

Land means the land sold pursuant to this Contract.

Lot or Lots means a lot or lots on the Plan of Subdivision.

Object means to make any Claim against the Vendor (before or after the Settlement Date) to seek to withhold all or part of the Price, raise any objection, requisition, rescind or terminate this Contract or seek to delay, or avoid Settlement of this Contract;

Outgoings means all rates, taxes, assessments, land tax, levies, fire insurance premiums, fees or insurance premiums or other expenses levied in respect of the Property.

Planning Permit means the Existing Permit, any planning, building or heritage permit issued or to be issued by the Council or other relevant authority in respect of the Development and includes any amendments or variations thereof.

Particulars of Sale means the particulars of sale attached to and forming part of this Contract.

Plan of Subdivision means the proposed draft unregistered plan of subdivision no. PS910020V a copy of which is contained in the Vendor's Statement, and includes the Restrictions noted on the Plan of Subdivision and any amendments or alterations made to the Plan of Subdivision.

Planning Permission means the Planning Permit for the use, development and subdivision of the Development contemplated by this Contract and as varied by the vendor under this Contract. Planning Permission includes all endorsements, consents, approvals and requirements under:

(a) A Planning Permit;
(b) an approval for the Development by the relevant Authority;
(c) the Subdivision Act.

to the Vendor's satisfaction (in its sole and unfettered discretion).

Planning Permission Date means the date that the Plan of Subdivision is registered.

Plans and Specifications means the plans and specifications set out in the Vendor's Statement.

Property means the property described in the Land panel in the Particulars of Sale sold pursuant to this Contract. The terms Land, Lot, Property and Unit are used intermittently throughout this Contract, however, they all mean the property sold pursuant to this Contract.

Registration Period means the date being 18 months after the Day of Sale.

Registrar means the Registrar of Titles of Victoria.

Restriction means a restriction or encumbrance created in accordance with Special Condition 4or as noted or registered on the Plan of Subdivision and/or title.

Settlement Date means the day in which settlement occurs.

Substance includes without limitation any form of organic or inorganic matter whether in solid, liquid or gaseous form including without limitation any asbestos.

Vendor means the Vendor under this Contract and Vendor's Statement its successors in title, legal personal representatives and permitted assigns.

Vendor's Statement means the statement given by the Vendor under section 32 of the Sale of Land Act 1962, a copy of which is annexed to this Contract.

Works means all building and construction works required to construct the Development, generally in accordance with the Plans and Specifications and the Planning Permit, consistent with the provisions of this Contract.

21.2 In this Contract, unless the context requires otherwise:

(a) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any statutory instrument issued under, that legislation or legislative provision;
(b) the singular includes the plural and vice versa;
(c) a reference to an individual or person includes a corporation, firm, authority, government or governmental authority and vice versa;
(d) a reference to any gender includes all genders;
(e) a reference to a party to this Contract includes that party's executors, administrators, successors and permitted assigns;
(f) a reference to a condition, annexure or schedule is a reference to a condition, annexure or schedule of this Contract;
(g) where time in the Contract is relevant, time remains the essence of this Contract despite any waiver given or indulgence granted by the Vendor to the Purchaser; and
(h) "including" and similar expressions are not words of limitation.

21.3 In this Contract, headings are for convenience of reference only and do not affect interpretation.

If a provision of this Contract are judged void or voidable, invalid, unenforceable or illegal but would not be void, voidable, invalid, unenforceable or illegal if it were read down and it is capable of being read down, by a Court of competent jurisdiction including, but not limited to, due to the operation of the *Owners Corporations Act*, the *Trade Practices Amendment (Australian Consumer Law) Act (No. 1) 2010 (Cth)* or the *Fair Trading Amendment (Unfair Contract Terms) Act 2010* (Vic), then the provision must be read down. If, despite being read down, a provision is still void, voidable, unenforceable or illegal and the provision would not be void, voidable, invalid, unenforceable or illegal if words were severed, then those words must be severed. In any other case, the whole provision must be severed. If any event under this Special Condition occurs, then the remainder of this Contract continues in full force and effect.

General Conditions

Part 2 being Form 2 prescribed by the former *Estate Agents (Contracts) Regulations* 2008

Title

1. ENCUMBRANCES

1.1 The purchaser buys the property subject to:

(a) any encumbrance shown in the section 32 statement other than mortgages or caveats; and

(b) any reservations in the crown grant; and

(c) any lease referred to in the particulars of sale.

1.2 The purchaser indemnifies the vendor against all obligations under any lease that are to be performed by the landlord after settlement.

1.3 In this general condition 'section 32 statement' means a statement required to be given by a vendor under section 32 of the *Sale of Land Act* 1962 in accordance with Division 2 of Part II of that Act.

2. VENDOR WARRANTIES

2.1 The vendor warrants that these general conditions 1 to 28 are identical to the general conditions 1 to 28 in the standard form of contract of sale of real estate prescribed by the former Estate Agents (Contracts) Regulations 2008 for the purposes of section 53A of the *Estate Agents Act* 1980**.**

2.2 The warranties in general conditions 2.3 and 2.4 replace the purchaser's right to make requisitions and inquiries.

2.3 The vendor warrants that the vendor:

(a) has, or by the due date for settlement will have, the right to sell the land; and

(b) is under no legal disability; and

(c) is in possession of the land, either personally or through a tenant; and

(d) has not previously sold or granted any option to purchase, agreed to a lease or granted a pre-emptive right which is current over the land and which gives another party rights which have priority over the interest of the purchaser; and

(e) will at settlement be the holder of an unencumbered estate in fee simple in the land; and

(f) will at settlement be the unencumbered owner of any improvements, fixtures, fittings and goods sold with the land.

2.4 The vendor further warrants that the vendor has no knowledge of any of the following:

(a) public rights of way over the land;

(b) easements over the land;

(c) lease or other possessory agreement affecting the land;

(d) notice or order affecting the land which will not be dealt with at settlement, other than the usual rate notices and any land tax notices;

(e) legal proceedings which would render the sale of the land void or voidable or capable of being set aside.

2.5 The warranties in general conditions 2.3 and 2.4 are subject to any contrary provisions in this contract and disclosures in the section 32 statement required to be given by the vendor under section 32 of the *Sale of Land Act* 1962 in accordance with Division 2 of Part II of that Act.

2.6 If sections 137B and 137C of the *Building Act* 1993 apply to this contract, the vendor warrants that:

(a) all domestic building work carried out in relation to the construction by or on behalf of the vendor of the home was carried out in a proper and workmanlike manner; and

(b) all materials used in that domestic building work were good and suitable for the purpose for which they were used and that, unless otherwise stated in the contract, those materials were new; and

(c) domestic building work was carried out in accordance with all laws and legal requirements, including, without limiting the generality of this warranty, the *Building Act* 1993 and regulations made under the *Building Act* 1993.

2.7 Words and phrases used in general condition 2.6 which are defined in the *Building Act* 1993 have the same meaning in general condition 2.6.

3. IDENTITY OF THE LAND

3.1 An omission or mistake in the description of the property or any deficiency in the area, description or measurements of the land does not invalidate the sale.

3.2 The purchaser may not:

(a) make any objection or claim for compensation for any alleged misdescription of the property or any deficiency in its area or measurements; or

(b) require the vendor to amend title or pay any cost of amending title.

4. SERVICES

4.1 The vendor does not represent that the services are adequate for the purchaser's proposed use of the property and the vendor advises the purchaser to make appropriate inquiries. The condition of the services may change between the day of sale and settlement and the vendor does not promise that the services will be in the same condition at settlement as they were on the day of sale.

4.2 The purchaser is responsible for the connection of all services to the property after settlement and the payment of any associated cost.

5. CONSENTS

The vendor must obtain any necessary consent or licence required for the sale. The contract will be at an end and all money paid must be refunded if any necessary consent or licence is not obtained by settlement.

6. TRANSFER

The transfer of land document must be prepared by the purchaser and delivered to the vendor at least 10 days before settlement. The delivery of the transfer of land document is not acceptance of title. The vendor must prepare any document required for assessment of duty on this transaction relating to matters that are or should be within the knowledge of the vendor and, if requested by the purchaser, must provide a copy of that document at least 3 days before settlement.

7. RELEASE OF SECURITY INTEREST

7.1 This general condition applies if any part of the property is subject to a security interest to which the *Personal Property Securities Act* 2009 (Cth) applies.

7.2 For the purposes of enabling the purchaser to search the Personal Property Securities Register for any security interests affecting any personal property for which the purchaser may be entitled to a release, statement, approval or correction in accordance with general condition 7.4, the purchaser may request the vendor to provide the vendor's date of birth to the purchaser. The vendor must comply with a request made by the purchaser under this condition if the purchaser makes the request at least 21 days before the due date for settlement.

7.3 If the purchaser is given the details of the vendor's date of birth under condition 7.2, the purchaser must

(a) only use the vendor's date of birth for the purposes specified in condition 7.2; and

(b) keep the date of birth of the vendor secure and confidential.

7.4 The vendor must ensure that at or before settlement, the purchaser receives—

(a) a release from the secured party releasing the property from the security interest; or

(b) a statement in writing in accordance with section 275(1)(b) of the *Personal Property Securities Act* 2009 (Cth) setting out that the amount or obligation that is secured is nil at settlement; or

(c) a written approval or correction in accordance with section 275(1)(c) of the *Personal Property Securities Act* 2009 (Cth) indicating that, on settlement, the personal property included in the contract is not or will not be property in which the security interest is granted.

7.5 Subject to general condition 7.6, the vendor is not obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of personal property—

(a) that—

(i) the purchaser intends to use predominantly for personal, domestic or household purposes; and

(ii) has a market value of not more than $5000 or, if a greater amount has been prescribed for the purposes of section 47(1) of the *Personal Property Securities Act* 2009 (Cth), not more than that prescribed amount; or

(b) that is sold in the ordinary course of the vendor's business of selling personal property of that kind.

7.6 The vendor is obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of personal property described in general condition 7.5 if—

(a) the personal property is of a kind that may or must be described by serial number in the Personal Property Securities Register; or

(b) the purchaser has actual or constructive knowledge that the sale constitutes a breach of the security agreement that provides for the security interest.

7.7 A release for the purposes of general condition 7.4(a) must be in writing.

7.8 A release for the purposes of general condition 7.4(a) must be effective in releasing the goods from the security interest and be in a form which allows the purchaser to take title to the goods free of that security interest.

7.9 If the purchaser receives a release under general condition 7.4(a) the purchaser must provide the vendor with a copy of the release at or as soon as practicable after settlement.

7.10 In addition to ensuring that a release is received under general condition 7.4(a), the vendor must ensure that at or before settlement the purchaser receives a written undertaking from a secured party to register a financing change statement to reflect that release if the property being released includes goods of a kind that are described by serial number in the Personal Property Securities Register.

7.11 The purchaser must advise the vendor of any security interest that is registered on or before the day of sale on the Personal Property Securities Register, which the purchaser reasonably requires to be released, at least 21 days before the due date for settlement.

7.12 The vendor may delay settlement until 21 days after the purchaser advises the vendor of the security interests that the purchaser reasonably requires to be released if the purchaser does not provide an advice under general condition 7.11.

7.13 If settlement is delayed under general condition 7.12 the purchaser must pay the vendor—

(a) interest from the due date for settlement until the date on which settlement occurs or 21 days after the vendor receives the advice, whichever is the earlier; and

(b) any reasonable costs incurred by the vendor as a result of the delay—

as though the purchaser was in default.

7.14 The vendor is not required to ensure that the purchaser receives a release in respect of the land. This general condition 7.14 applies despite general condition 7.1.

7.15 Words and phrases which are defined in the *Personal Property Securities Act* 2009 (Cth) have the same meaning in general condition 7 unless the context requires otherwise.

8. BUILDER WARRANTY INSURANCE

The vendor warrants that the vendor will provide at settlement details of any current builder warranty insurance in the vendor's possession relating to the property if requested in writing to do so at least 21 days before settlement.

9. GENERAL LAW LAND

9.1 This general condition only applies if any part of the land is not under the operation of the *Transfer of Land Act* 1958.

9.2 The vendor is taken to be the holder of an unencumbered estate in fee simple in the land if there is an unbroken chain of title starting at least 30 years before the day of sale proving on the face of the documents the ownership of the entire legal and equitable estate without the aid of other evidence.

9.3 The purchaser is entitled to inspect the vendor's chain of title on request at such place in Victoria as the vendor nominates.

9.4 The purchaser is taken to have accepted the vendor's title if:

(a) 21 days have elapsed since the day of sale; and

(b) the purchaser has not reasonably objected to the title or reasonably required the vendor to remedy a defect in the title.

9.5 The contract will be at an end if:

(a) the vendor gives the purchaser a notice that the vendor is unable or unwilling to satisfy the purchaser's objection or requirement and that the contract will end if the objection or requirement is not withdrawn within 14 days of the giving of the notice; and

(b) the objection or requirement is not withdrawn in that time.

9.6 If the contract ends in accordance with general condition 9.5, the deposit must be returned to the purchaser and neither party has a claim against the other in damages.

9.7 General condition 10.1 should be read, in respect of that part of the land which is not under the operation of the *Transfer of Land Act* 1958, as if the reference to 'registered proprietor' is a reference to 'owner'.

Money

10. SETTLEMENT

10.1 At settlement:

(a) the purchaser must pay the balance; and

(b) the vendor must:

(i) do all things necessary to enable the purchaser to become the registered proprietor of the land; and

(ii) give either vacant possession or receipt of rents and profits in accordance with the particulars of sale.

10.2 The vendor's obligations under this general condition continue after settlement.

10.3 Settlement must be conducted between the hours of 10.00a.m. and 4.00p.m. unless the parties agree otherwise.

11. PAYMENT

11.1 The purchaser must pay the deposit:

(a) to the vendor's licensed estate agent; or

(b) if there is no estate agent, to the vendor's legal practitioner or conveyancer; or

(c) if the vendor directs, into a special purpose account in an authorised deposit-taking institution in Victoria specified by the vendor in the joint names of the purchaser and the vendor.

11.2 If the land sold is a lot on an unregistered plan of subdivision, the deposit:

(a) must not exceed 10% of the price; and

(b) must be paid to the vendor's estate agent, legal practitioner or conveyancer and held by the estate agent, legal practitioner or conveyancer on trust for the purchaser until the registration of the plan of subdivision.

11.3 The purchaser must pay all money other than the deposit:

(a) to the vendor, or the vendor's legal practitioner or conveyancer; or

(b) in accordance with a written direction of the vendor or the vendor's legal practitioner or conveyancer.

11.4 At settlement, payments may be made or tendered:

(a) in cash; or

(b) by cheque drawn on an authorised deposit-taking institution; or

(c) if the parties agree, by electronically transferring the payment in the form of cleared funds.

11.5 For the purpose of this general condition 'authorised deposit-taking institution' means a body corporate in relation to which an authority under section 9(3) of the *Banking Act* 1959 (Cth) is in force.

11.6 At settlement, the purchaser must pay the fees on up to three cheques drawn on authorised deposit-taking institution. If the vendor requests that any additional cheques be drawn on an authorised deposit-taking institution, the vendor must reimburse the purchaser for the fees incurred.

12. STAKEHOLDING

12.1 The deposit must be released to the vendor if:

(a) the vendor provides particulars, to the satisfaction of the purchaser, that either-

(i) there are no debts secured against the property; or

(ii) if there are any debts, the total amount of those debts does not exceed 80% of the sale price; and

(b) at least 28 days have elapsed since the particulars were given to the purchaser under paragraph (a); and

(c) all conditions of section 27 of the *Sale of Land Act* 1962 have been satisfied.

12.2 The stakeholder must pay the deposit and any interest to the party entitled when the deposit is released, the contract is settled, or the contract is ended.

12.3 The stakeholder may pay the deposit and any interest into court if it is reasonable to do so.

13. GST

13.1 The purchaser does not have to pay the vendor any GST payable by the vendor in respect of a taxable supply made under this contract in addition to the price unless the particulars of sale specify that the price is 'plus GST'. However the purchaser must pay to the vendor any GST payable by the vendor:

(a) solely as a result of any action taken or intended to be taken by the purchaser after the day of sale, including a change of use; or

(b) if the particulars of sale specify that the supply made under this contract is of land on which a 'farming business' is carried on and the supply (or part of it) does not satisfy the requirements of section 38-480 of the GST Act; or

(c) if the particulars of sale specify that the supply made under this contract is of a going concern and the supply (or a part of it) does not satisfy the requirements of section 38-325 of the GST Act.

13.2 The purchaser must pay to the vendor any GST payable by the vendor in respect of a taxable supply made under this contract in addition to the price if the particulars of sale specify that the price is 'plus GST'.

13.3 If the purchaser is liable to pay GST, the purchaser is not required to make payment until provided with a tax invoice, unless the margin scheme applies.

13.4 If the particulars of sale specify that the supply made under this contract is of land on which a 'farming business' is carried on:

(a) the vendor warrants that the property is land on which a farming business has been carried on for the period of 5 years preceding the date of supply; and

(b) the purchaser warrants that the purchaser intends that a farming business will be carried on after settlement on the property.

13.5 If the particulars of sale specify that the supply made under this contract is a 'going concern':

(a) the parties agree that this contract is for the supply of a going concern; and

(b) the purchaser warrants that the purchaser is, or prior to settlement will be, registered for GST; and

(c) the vendor warrants that the vendor will carry on the going concern until the date of supply.

13.6 If the particulars of sale specify that the supply made under this contract is a 'margin scheme' supply, the parties agree that the margin scheme applies to this contract.

13.7 This general condition will not merge on either settlement or registration.

13.8 In this general condition:

(a) 'GST Act' means *A New Tax System (Goods and Services Tax) Act* 1999 (Cth); and

(b) 'GST' includes penalties and interest.

14. LOAN

14.1 If the particulars of sale specify that this contract is subject to a loan being approved, this contract is subject to the lender approving the loan on the security of the property by the approval date or any later date allowed by the vendor.

14.2 The purchaser may end the contract if the loan is not approved by the approval date, but only if the purchaser:

(a) immediately applied for the loan; and

(b) did everything reasonably required to obtain approval of the loan; and

(c) serves written notice ending the contract on the vendor within 2 clear business days after the approval date or any later date allowed by the vendor; and

(d) is not in default under any other condition of this contract when the notice is given.

14.3 All money must be immediately refunded to the purchaser if the contract is ended.

15. ADJUSTMENTS

15.1 All periodic outgoings payable by the vendor, and any rent and other income received in respect of the property must be apportioned between the parties on the settlement date and any adjustments paid and received as appropriate.

15.2 The periodic outgoings and rent and other income must be apportioned on the following basis:

(a) the vendor is liable for the periodic outgoings and entitled to the rent and other income up to and including the day of settlement; and

(b) the land is treated as the only land of which the vendor is owner (as defined in the *Land Tax Act* 2005); and

(c) the vendor is taken to own the land as a resident Australian beneficial owner; and

(d) any personal statutory benefit available to each party is disregarded in calculating apportionment.

Transactional

16. TIME

16.1 Time is of the essence of this contract.

16.2 Time is extended until the next business day if the time for performing any action falls on a Saturday, Sunday or bank holiday.

17. SERVICE

17.1 Any document sent by—

(a) post is taken to have been served on the next business day after posting, unless proved otherwise;

(b) email is taken to have been served at the time of receipt within the meaning of section 13A of the *Electronic Transactions (Victoria) Act* 2000.

17.2 Any demand, notice, or document required to be served by or on any party may be served by or on the legal practitioner or conveyancer for that party. It is sufficiently served if served on the party or on the legal practitioner or conveyancer:

(a) personally; or

(b) by pre-paid post; or

(c) in any manner authorised by law or the Supreme Court for service of documents, including any manner authorised for service on or by a legal practitioner; or

(d) by email.

17.3 This general condition applies to the service of any demand, notice or document by or on any party, whether the expression 'give' or 'serve' or any other expression is used.

18. NOMINEE

The purchaser may nominate a substitute or additional transferee, but the named purchaser remains personally liable for the due performance of all the purchaser's obligations under this contract.

19. LIABILITY OF SIGNATORY

Any signatory for a proprietary limited company purchaser is personally liable for the due performance of the purchaser's obligations as if the signatory were the purchaser in the case of a default by a proprietary limited company purchaser.

20. GUARANTEE

The vendor may require one or more directors of the purchaser to guarantee the purchaser's performance of this contract if the purchaser is a proprietary limited company.

21. NOTICES

The purchaser is responsible for any notice, order, demand or levy imposing liability on the property that is issued or made on or after the day of sale that does not relate to periodic outgoings. The purchaser may enter the property to comply with that responsibility where action is required before settlement.

22. INSPECTION

The purchaser and/or another person authorised by the purchaser may inspect the property at any reasonable time during the 7 days preceding and including the settlement day.

23. TERMS CONTRACT

23.1 If this is a 'terms contract' as defined in the *Sale of Land Act* 1962:

(a) any mortgage affecting the land sold must be discharged as to that land before the purchaser becomes entitled to possession or to the receipt of rents and profits unless the vendor satisfies section 29M of the *Sale of Land Act* 1962; and

(b) the deposit and all other money payable under the contract (other than any money payable in excess of the amount required to so discharge the mortgage) must be paid to a legal practitioner or conveyancer or a licensed estate agent to be applied in or towards discharging the mortgage.

23.2 While any money remains owing each of the following applies:

(a) the purchaser must maintain full damage and destruction insurance of the property and public risk insurance noting all parties having an insurable interest with an insurer approved in writing by the vendor;

(b) the purchaser must deliver copies of the signed insurance application forms, the policies and the insurance receipts to the vendor not less than 10 days before taking possession of the property or becoming entitled to receipt of the rents and profits;

(c) the purchaser must deliver copies of any amendments to the policies and the insurance receipts on each amendment or renewal as evidence of the status of the policies from time to time;

(d) the vendor may pay any renewal premiums or take out the insurance if the purchaser fails to meet these obligations;

(e) insurance costs paid by the vendor under paragraph (d) must be refunded by the purchaser on demand without affecting the vendor's other rights under this contract;

(f) the purchaser must maintain and operate the property in good repair (fair wear and tear excepted) and keep the property safe, lawful, structurally sound, weatherproof and free from contaminations and dangerous substances;

(g) the property must not be altered in any way without the written consent of the vendor which must not be unreasonably refused or delayed;

(h) the purchaser must observe all obligations that affect owners or occupiers of land;

(i) the vendor and/or other person authorised by the vendor may enter the property at any reasonable time to inspect it on giving 7 days written notice, but not more than twice in a year.

24. LOSS OR DAMAGE BEFORE SETTLEMENT

24.1 The vendor carries the risk of loss or damage to the property until settlement.

24.2 The vendor must deliver the property to the purchaser at settlement in the same condition it was in on the day of sale, except for fair wear and tear.

24.3 The purchaser must not delay settlement because one or more of the goods is not in the condition required by general condition 24.2, but may claim compensation from the vendor after settlement.

24.4 The purchaser may nominate an amount not exceeding $5,000 to be held by a stakeholder to be appointed by the parties if the property is not in the condition required by general condition 24.2 at settlement.

24.5 The nominated amount may be deducted from the amount due to the vendor at settlement and paid to the stakeholder, but only if the purchaser also pays an amount equal to the nominated amount to the stakeholder.

24.6 The stakeholder must pay the amounts referred to in general condition 24.5 in accordance with the determination of the dispute, including any order for payment of the costs of the resolution of the dispute.

25. BREACH

A party who breaches this contract must pay to the other party on demand:

(a) compensation for any reasonably foreseeable loss to the other party resulting from the breach; and

(b) any interest due under this contract as a result of the breach.

Default

26. INTEREST

Interest at a rate of 2% per annum plus the rate for the time being fixed by section 2 of the *Penalty Interest Rates Act* 1983 is payable on any money owing under the contract during the period of default, without affecting any other rights of the offended party.

27. DEFAULT NOTICE

27.1 A party is not entitled to exercise any rights arising from the other party's default, other than the right to receive interest and the right to sue for money owing, until the other party is given and fails to comply with a written default notice.

27.2 The default notice must:

(a) specify the particulars of the default; and

(b) state that it is the offended party's intention to exercise the rights arising from the default unless, within 14 days of the notice being given -

(i) the default is remedied; and

(ii) the reasonable costs incurred as a result of the default and any interest payable are paid.

28. DEFAULT NOT REMEDIED

28.1 All unpaid money under the contract becomes immediately payable to the vendor if the default has been made by the purchaser and is not remedied and the costs and interest are not paid.

28.2 The contract immediately ends if:

(a) the default notice also states that unless the default is remedied and the reasonable costs and interest are paid, the contract will be ended in accordance with this general condition; and

(b) the default is not remedied and the reasonable costs and interest are not paid by the end of the period of the default notice.

28.3 If the contract ends by a default notice given by the purchaser:

(a) the purchaser must be repaid any money paid under the contract and be paid any interest and reasonable costs payable under the contract; and

(b) all those amounts are a charge on the land until payment; and

(c) the purchaser may also recover any loss otherwise recoverable.

28.4 If the contract ends by a default notice given by the vendor:

(a) the deposit up to 10% of the price is forfeited to the vendor as the vendor's absolute property, whether the deposit has been paid or not; and

(b) the vendor is entitled to possession of the property; and

(c) in addition to any other remedy, the vendor may within one year of the contract ending either:

(i) retain the property and sue for damages for breach of contract; or

(ii) resell the property in any manner and recover any deficiency in the price on the resale and any resulting expenses by way of liquidated damages; and

(d) the vendor may retain any part of the price paid until the vendor's damages have been determined and may apply that money towards those damages; and

(e) any determination of the vendor's damages must take into account the amount forfeited to the vendor.

28.5 The ending of the contract does not affect the rights of the offended party as a consequence of the default.

GUARANTEE AND INDEMNITY

TO: The withinnamed and described Vendor
(hereinafter called "the Vendor")

IN CONSIDERATION of the Vendor having at the request of the person whose name address and description are set forth in the Schedule hereto (hereinafter called "the Guarantor") agreed to sell the land described in the within Contract of Sale to the withinnamed Purchaser (hereinafter called "the Purchaser") the Guarantor HEREBY GUARANTEES to the Vendor the due and punctual payment by the Purchaser of the purchase money and interest payable thereon as detailed in the said Contract of Sale and all other monies that are payable or may become payable pursuant thereto (hereinafter called "the monies hereby secured") AND ALSO the due performance and observance by the Purchaser of all and singular the covenants provisions and stipulations contained or implied in the said Contract of Sale and on the part of the Purchaser to be performed and observed AND THE GUARANTOR HEREBY EXPRESSLY ACKNOWLEDGES AND DECLARES that it has examined the said Contract of Sale and has access to a copy thereof and further that this Guarantee is given upon and subject to the following conditions:-

A. THAT in the event of the Purchaser failing to pay the Vendor as and when due the monies referred to in the within Contract the Guarantor will immediately pay such monies to the Vendor.

B. THAT in the event of the Purchaser failing to carry out or perform any of its obligations under the said Contract the Guarantor will immediately carry out and perform the same.

C. THE Guarantor shall be deemed to be jointly and severally liable with the Purchaser (in lieu of being merely a surety for it) for the payment of the purchase moneys interest and all other monies if any payable pursuant to the within Contract in the performance of the obligations herein contained and it shall not be necessary for the Vendor to make any claim or demand on or to take any action or proceedings against the Purchaser before calling on the Guarantor to pay the moneys or to carry out and perform the obligations herein contained.

D. THAT no time or other indulgence whatsoever that may be granted by the Vendor to the Purchaser shall in any manner whatsoever affect a liability of the Guarantor hereunder and the liability of the Guarantor shall continue to remain in full force and effect until all monies owing to the Vendor have been paid and all obligations have been performed.

S C H E D U L E

Vendor: Ryan Andrew De Vincentis and Jason Michael De Vincentis

Purchaser:

Guarantor:

IN WITNESS WHEREOF the said Guarantors have set their hands and seals

this day of 2022.

SIGNED SEALED AND DELIVERED by	)
	)
the said Guarantor	)
	)
in Victoria in the presence of:	)

DATED 2022

RYAN ANDREW DE VINCENTIS AND JASON MICHAEL DE VINCENTIS

and

and

GUARANTEE & INDEMNITY

Williams & Lay
13 Castella Street
LILYDALE VIC 3140

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