

## Special Conditions

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### 1. Additional definitions and interpretation

#### 1.1 Additional definitions

In these special conditions unless otherwise indicated by the context or subject matter:

**Additional Special Conditions** mean the additional conditions (if any) contained in **Annexure A**.

**Authority** means any government, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency, Minister, statutory body or entity having jurisdiction in relation to the Property.

**Business Day** means any day (except a Saturday or Sunday or public holiday) on which banks are open for business in Melbourne.

**Claim** means any claim, demand or cause of action (whether made at law, in equity or tort or under statute) in connection with any loss, liability, cost, compensation, damage or expense or seeking any order or remedy.

**Construction Commencement Date** means the date that is 12 months after the Settlement Date.

**Construction Completion Date** means the date that is 24 months after the Settlement Date.

**Design Essentials** mean the document or documents titled "Design Essentials" and/or "Design Guidelines" or words to that effect, which may comprise one or more separate documents attached to this contract at **Annexure C**.

**Development Activities** means:

- (1) any works by the Vendor or intended to be carried out by the Vendor to develop the Estate including:
  - (a) any works to subdivide land forming part of the Estate;
  - (b) any demolition or construction works including works ancillary to or associated with those works;
  - (c) any works to install infrastructure including services in the Estate;
  - (d) any landscaping works including works ancillary to or associated with the landscaping works;
  - (e) any other works to develop the Estate, which are considered necessary or desirable by the Vendor; and

(2) any works by purchasers of land or other third parties within the Estate.

**Estate** means the proposed residential community or larger residential community from time to time of which the Land forms part, known as 'Cloverton'.

**General Conditions** mean Part 2 of the standard form of contract prescribed by the Estate Agents (Contracts) Regulations 2008.

**Guarantee** means the guarantee and indemnity attached to this contract at **Annexure E**.

**Guarantor** means the persons (if any) listed in the Guarantee.

**Lot** means a lot on the Plan.

**MCP** means the memorandum of common provisions registered, or to be registered, by the registrar of titles which is incorporated in the Plan by reference and attached in the Vendor's Statement.

**NBN Building Ready Specifications** means the specifications governing the building requirements for connecting a dwelling house to the national broadband fibre optic network as may be provided by the Vendor or as otherwise available at the website [www.nbnco.com.au](http://www.nbnco.com.au).

**Network Infrastructure** means the physical infrastructure which will support the proposed national broadband fibre optic network.

**Object** means delay or attempt to delay settlement, make or assert a Claim, rescind or terminate or attempt to rescind or terminate this contract or withhold or require a retention of all or part of the Price.

**Purchaser's Plans and Specifications** means the Purchaser's plans and specifications for any dwelling or structure (including any associated works) to be constructed on the Property by the Purchaser.

**Plan** means the plan to be Registered, generally in accordance with proposed plan of subdivision No.PS. 807666U to create title for the Land (with or without any changes permitted under this contract).

**Planning Permit** means any planning permit from the relevant Authority including any approvals, certificates, licences, permits, consents and authorisations, which is required or which the Vendor considers necessary or desirable to obtain to carry out the Subdivision Works and register the Plan, as may be amended from time to time.

**Planning Restriction** means any restriction on the use or development of the Land under any planning scheme, statute, regulation, local law or permit condition or imposed by any authority empowered to control the use or development of the Land.

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

**Privacy Policy** means the Stockland Privacy Policy which can be viewed at [www.stockland.com.au/privacy-policy.htm](http://www.stockland.com.au/privacy-policy.htm).

**Property** means the Land and all improvements on the Land.

**Registered** means registered by the registrar of titles (or equivalent status) at the Victorian Land Registry.

**Registration** means the Plan has been approved by all relevant Authorities and Registered.

**Registration Sunset Date** means the date which is 36 months after the Day of Sale.

**Re-sale Deed** means the deed poll attached to this contract at **Annexure D**.

**Retaining Structures** means any retaining wall (including associated footing systems), batters, benching, steps or other retaining structures and associated works such as drainage.

**Security Interest** means all security interests registered over the personal property (as defined under the PPSA) of the Vendor on the personal property securities register established under the PPSA.

**Selling and Leasing Activities** comprises any activity connected with or relating to the marketing, selling or leasing of any part of the Estate and includes:

- (1) the placement and maintenance within the Estate (but not on the Property after settlement) of:
  - (a) signs, advertisements, boards, writing, plates, signals, illuminations, banners and insignia; and
  - (b) stalls or associated facilities for the use of salespersons;
- (2) any event or function held within the Estate (but not on the Land after completion); and
- (3) the use of homes by either the vendor or builders as display or demonstration homes, located either within a display village or in any other part of the Estate.

**Settlement Date** means the date on which this contract completes.

**Subdivision Works** means any works which an Authority requires to be undertaken or the Vendor considers necessary (acting reasonably) before the Plan can be approved and Registered.

**Surface Levels Plan** means the plan in **Annexure B** showing any works affecting the natural surface of the Land.

**Victorian Land Registry** means Land Use Victoria (or equivalent from time to time).

## 1.2 Additional Interpretation

Unless otherwise indicated by the context or subject matter:

- (a) a heading may be used to assist in interpretation but is not legally binding;

- (b) a reference to the Property or any other thing includes the whole or any part of the Property or any other thing;
- (c) a reference to a party includes the party's successors and permitted assigns;
- (d) an obligation imposed by this contract on more than one person binds them jointly and severally;
- (e) where a word or phrase is defined, its other grammatical forms have corresponding meanings;
- (f) **person** includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (g) a reference to a document (including this contract) is to that document as varied, novated, ratified or replaced from time to time;
- (h) a reference to a party, clause, schedule, exhibit, attachment or Annexure is a reference to a party, clause, schedule, exhibit, attachment or Annexure to or of this contract, and a reference to this contract includes all schedules, exhibits, attachments and annexures to it;
- (i) **includes** in any form is not a word of limitation; and
- (j) a reference to **\$** or **dollar** is to Australian currency.

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## 2. General Conditions

### 2.1 Amendments

- (a) General Condition 1.1(a) is amended by inserting "and any encumbrance referred to in or arising out of any special condition in this contract of sale" after "caveats".
- (b) General Condition 1.1(b) is amended by inserting "exceptions, conditions and restrictions" after "reservations".
- (c) General Condition 3 is amended by adding a sub-clause 3.3 as follows 'The Purchaser admits that the Land is identical with the land described in the title particulars set out in the Particulars of Sale'.
- (d) General Condition 6 is amended by deleting '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.'
- (e) General Condition 10.3 is amended by inserting "at the offices of the Vendor's Representative or other place nominated by them in Melbourne" after "conducted" and replacing '4.00pm' with '3.30pm'.

- (f) General Condition 11.1(b) is deleted and replaced with "to the Stakeholder".
- (g) General Condition 11.2(b) is deleted and replaced with the following:

"(b) must be paid to the vendor's licensed estate agent or the Stakeholder and held by the estate agent or the Stakeholder on trust for the purchaser until Registration occurs."
- (h) Despite General Condition 17, notices may not be served on the Vendor or the Vendor's Representative by email.
- (i) Each reference in the General Conditions to "vendor's legal practitioner or conveyancer" includes a reference to the Vendor's Representative.
- (j) In the General Conditions, 'Stakeholder' means Galliot & Co of PO Box 675, Pascoe Vale, VIC 3044 or such other stakeholder appointed by the Vendor from time to time.

## 2.2 Deletions

General Conditions 7, 11.4(c), 13, 14, 18, 20, 24.4, 24.5 and 24.6 are deleted.

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## 3. Priority of conditions

- (a) This contract is subject to the Additional Special Conditions (if any).
- (b) To the extent there is any inconsistency between the Additional Special Conditions, the Special Conditions and the General Conditions then:
  - (i) the Additional Special Conditions prevail over the Special Conditions and the General Conditions; and
  - (ii) the Special Conditions prevail over the General Conditions.

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## 4. Finance

### 4.1 Contract conditional on finance

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.

### 4.2 Purchaser to give notice

Within 2 Business Days after the approval date (**Finance Information Date**) the Purchaser must either:

- (a) give notice to the Vendor that the loan application has not been approved and provide evidence of such non-approval; or

- (b) give notice to the Vendor that the loan has been approved and provide a copy of the approval letter (**Evidence of Finance**).

#### **4.3 Purchaser's right to end contract**

The Purchaser may end this contract if it gives notice under special condition 4.2(a) but only if the Purchaser:

- (a) immediately applied for the loan;
- (b) did everything reasonably required to obtain approval of the loan;
- (c) serves written notice ending the contract on the Vendor by the Finance Information Date or any later date allowed by the Vendor in writing; and
- (d) is not in default under any condition of this contract when the notice is given.

#### **4.4 Termination by Vendor**

If the Purchaser does not:

- (a) terminate the contract under special condition 4.3; or
- (b) comply with special condition 4.2(b),

the Vendor may:

- (d) by notice in writing to the Purchaser given at any time within 30 days after the Finance Information Date, end this contract with immediate effect; or
- (e) by notice in writing to the Purchaser given at any time before the earlier of:
  - (i) the Settlement Date; and
  - (ii) the date the Purchaser gives Evidence of Finance to the Vendor,

inform the Purchaser that the Vendor intends to end this contract if the Purchaser does not give Evidence of Finance to the Vendor by the date that is at least 30 days after the date the notice is given.

If the Vendor gives notice to the Purchaser under special condition 4.4(d) and the Purchaser does not give Evidence of Finance to the Vendor by the date required in the notice, the Vendor may, by further notice in writing to the Purchaser given at any time end this contract with immediate effect.

#### **4.5 Deposit**

If:

- (a) the Purchaser terminates this contract under special condition 4.3; or
- (b) the Vendor ends this contract under special condition 4.4,

the Deposit must be immediately refunded to the Purchaser less the amount of any bank or government charges.

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## **5. Purchaser's representations and warranties**

### **5.1 Capacity**

The Purchaser represents and warrants that it:

- (a) has full power and authority to enter into, implement and perform its obligations under this contract;
- (b) subject to special condition 4, has the financial capacity to perform its obligations arising out of this contract;
- (c) does not require the consent of any third party to this contract or to perform its obligations; and
- (d) is purchasing the Property on its own behalf as principal or as trustee and not as agent for a third party.

### **5.2 Purchaser as trustee**

If the Purchaser enters into this contract as trustee, the Purchaser:

- (a) is bound by this contract both as trustee and in its personal capacity;
- (b) must take steps to ensure the assets of the trust are available to remedy or meet a Claim regarding any breach by the purchaser under this contract;
- (c) must if the Vendor demands it, assign to the Vendor the Purchaser's rights of indemnity as against the assets of the trust;
- (d) warrants that:
  - (i) it has the power and authority to enter into this contract and bind the trust; and
  - (ii) entry into this contract is due administration of the trust; and
- (e) must provide a copy of the trust instrument to the Vendor within 2 business days of request.

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## **6. Entire agreement**

### **6.1 No warranty, representation or reliance**

The Purchaser acknowledges that:

- (a) this contract represents the whole of the agreement reached between the parties and no other terms, conditions or covenants shall be implied in this contract or arise between the parties by way of collateral or other agreements or by reason of any alleged warranty or representation given or made by one party to the other at the time of or prior to the execution of this contract;
- (b) it has not been induced to enter into this contract by any warranty or representation, verbal or otherwise, made by or on behalf of any other party which is not included in this contract;
- (c) despite the terms of this special condition, if any warranty or representation has been made by the Vendor or its agent, then the Purchaser confirms, by execution of this contract, that the Purchaser has placed no reliance on such warranty or representation in executing this contract; and
- (d) the Land is sold for the Price and the Purchaser is not entitled to any rebate, discount or the benefit of any promotional offer unless it is specifically stated in this contract or in a document which varies this contract which has been executed by the Vendor.

## **6.2 No Claim by Purchaser**

The Purchaser must not Object in respect of the matters dealt with in this special condition 6.

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## **7. Director's guarantees**

- (a) Where the Purchaser is a corporation (other than a corporation listed on the Australian Stock Exchange), the Purchaser must cause all of its directors to sign the Guarantee when signing this contract.
- (b) The Vendor may terminate by giving the Purchaser a written notice if the Purchaser fails to comply with special condition 7(a) and the provisions of General Condition 28 (as applicable) will apply upon termination of this contract.

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## **8. Registration of Plan**

### **8.1 Application of special condition**

This special condition 8 applies only if, at the Day of Sale, the Land is a lot on an unregistered plan of subdivision.

### **8.2 Contract conditional on Registration**

- (a) This contract is conditional upon Registration occurring by the Registration Sunset Date.



- (b) The Vendor must, at its cost, take reasonable steps to satisfy the condition in special condition 8.2(a) (if they have not already been satisfied as at the Day of Sale) 8.2(a) by the Registration Sunset Date.
- (c) The Vendor must give the Purchaser a written notice of Registration within a reasonable time after Registration occurs.

### 8.3 Vendor may change Plan

- (a) Subject to section 9AC of the *Sale of Land Act 1962*, the Vendor may alter, amend or vary the Plan in accordance with any requirement of the Vendor or the registrar of titles including by registering an easement, covenant or any other restriction over the Property.
- (b) Subject to section 9AC of the *Sale of Land Act 1962*, the Purchaser unconditionally and irrevocably releases the Vendor from all Claims that the Purchaser has or may have against the Vendor arising out of or in connection with the matters referred to in this special condition 8.3(a).

### 8.4 Amendments to Plan

- (a) The Purchaser may avoid this contract at any time before the Plan is Registered if any amendment to the Plan is made which restricts or limits the use of the Land unless the amendment results from any recommendation of an Authority.
- (b) Special condition 8.4(a) and section 10(1) of the *Sale of Land Act 1962* do not apply in respect of the final location of an easement shown on the Plan.

### 8.5 Lot Numbering

- (a) The Purchaser will accept as identical with the Land, the lot on the Plan corresponding to the Land once the Plan is Registered.
- (b) The Purchaser may not Object in respect of:
  - (i) any minor alterations (that is, variations which will not materially affect the Land) between the Land as inspected by the Purchaser and the corresponding lot shown on the Plan as Registered; or
  - (ii) any material change in the number, size or shape of any lots on the Plan (except the Land).

### 8.6 Termination of contract

- (a) The Vendor may terminate this contract by giving the Purchaser a written notice where:
  - (i) an Authority fails to grant any Planning Permit;
  - (ii) an Authority grants any Planning Permit on conditions which are not satisfactory to the Vendor; or

- (iii) the Vendor reasonably considers any Planning Permit will not be obtained on conditions satisfactory to the Vendor.
- (b) If Registration does not occur by the Registration Sunset Date (irrespective of whether the Plan is subsequently deemed to be Registered before the Registration Sunset Date or have priority against other instruments from lodgement) either party may terminate this contract by notice in writing to the other at any time after the Registration Sunset Date and notice of Registration is given by the Vendor.
- (c) If this contract is terminated pursuant to special conditions 8.6(a) and 8.6(b), the Deposit will be refunded to the Purchaser and neither party will have any further Claim against the other because of the termination.

#### **8.7 No caveat by purchaser until Plan Registered**

Until the Plan has been Registered, the Purchaser must not lodge a caveat at the Victorian Land Registry claiming any interest in the Land.

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### **9. Works affecting natural surface level**

#### **9.1 Disclosure of works**

The Vendor discloses to the Purchaser that there are no works affecting the natural surface level of the Land or any land abutting the Land which is in the same subdivision as the Land which to the Vendor's knowledge have been carried out on that land after the certification of the Plan and before the Day of Sale or are at the Day of Sale being carried out or proposed to be carried out on that land except any works which may be disclosed on the Surface Levels Plan.

#### **9.2 Vendor may do works**

The Vendor may undertake works affecting the natural surface level of the Land in accordance with the Surface Levels Plan by cutting, excavating, grading, levelling, placing fill or placing soil on the Land, removing soil from the Land or by carrying out any other works on the Land.

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### **10. Planning**

#### **10.1 Purchase subject to restrictions**

The Purchaser buys the Property subject to any Planning Restriction.

#### **10.2 Restrictions not defects in title**

A Planning Restriction does not constitute a defect in the Vendor's title to the Property or affect the validity of this contract.

### 10.3 No objection

The Purchaser will not Object because of any Planning Restriction.

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## 11. Vendor's right to terminate

### 11.1 Incapacity of Purchaser

If the Purchaser being a natural person, dies or becomes incapable because of unsoundness of mind to manage the Purchaser's own affairs, then the Vendor may terminate this contract by giving the Purchaser a written notice and the Deposit will be refunded to the Purchaser upon termination of this contract.

### 11.2 Insolvency of Purchaser

Without affecting any of the Vendor's other rights or remedies, if the Purchaser being a corporation:

- (a) goes into liquidation or provisional liquidation or an application is made for it to be wound up;
- (b) has a receiver, manager, receiver and manager, administrator, controller (as defined in section 9 of the Corporations Act 2001 (Cth)) or similar officer appointed to it or any of its assets;
- (c) makes an assignment for the benefit of or enters into an arrangement or composition with its creditors;
- (d) is insolvent or presumed insolvent under the Corporations Act 2001 (Cth) or stops payment of any of its debts; or
- (e) anything occurs in connection with the Purchaser under the law of any applicable jurisdiction (other than under the Bankruptcy Act 1966) having a substantially similar effect to the events specified in this clause 11.2,

the Purchaser is regarded as not having complied with this contract in an essential respect and the Vendor can terminate this contract and the provisions of General Condition 28 (as applicable) will apply upon termination of this contract.

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## 12. Adjustment of outgoings

### 12.1 General

General Condition 15.2 shall be read so that if the Land is not rated separately as at the Settlement Date, then the amount of any rates, taxes, assessments or other outgoings shall be apportioned between the Vendor and the Purchaser on the basis of the area which the Land bears to the total area of the land the subject of those rates, taxes, assessments or other outgoings.

## 12.2 Payment of periodic outgoings

- (a) The Vendor undertakes to pay all periodic outgoings by the due date for payment whether that occurs before or after the Settlement Date.
- (b) Periodic outgoings shall be apportioned between the Vendor and the Purchaser on the basis that the Vendor has paid each of them for the rating year in which the Settlement Date falls irrespective of whether they have actually been paid.
- (c) The Purchaser may not delay settlement on the ground that there are periodic outgoings unpaid on the Settlement Date.
- (d) General Condition 15.2 shall be read subject to this special condition.

## 12.3 Land tax if settlement delayed

- (a) If the Purchaser is in breach of this contract by not completing this contract on the Settlement Date, and, if as a result that breach, settlement of this contract takes place on a date that is after 31 December in the year that settlement of this contract was due to take place then:
  - (i) the Purchaser's breach will result in an increase of the Vendor's land tax assessment for the year following the year that settlement of this contract was due to take place as a result of the Property continuing to be included in the Vendor's total landholdings in the State of Victoria; and
  - (ii) the additional land tax that the Vendor will incur in accordance with this special condition is a reasonably foreseeable loss incurred by the Vendor which was a direct result of the Purchaser's breach of this contract in respect of which the Vendor is entitled to compensation from the Purchaser.
- (b) If this special condition applies then on the Settlement Date, in addition to the balance of the Price and any other money payable to the Vendor under this contract, the Purchaser must pay to the Vendor as compensation on account of the additional land tax being incurred by the Vendor, an amount equal to 2.25% of the Price.
- (c) If the additional land tax payable by the Vendor under special condition 12.3(a)(ii) is:
  - (i) less than the amount paid by the Purchaser under special condition 12.3(b), the Vendor must refund the difference to the Purchaser; or
  - (ii) more than the amount paid by the Purchaser under special condition 12.3(b), the Purchaser must pay the difference to the Vendor, within 7 days of being served with a written demand for such payment from the other party.

## 12.4 Fencing Notices

- (a) General Condition 21 obliges the Purchaser to comply with any notice to fence served on the Vendor after the Day of Sale (and the Vendor must give the Purchaser a copy of the notice).
- (b) Despite General Condition 21, the Vendor may elect to comply with a notice to fence served on the Vendor after the Day of Sale by paying 50% of the cost of construction of a dividing fence. If the Vendor does so, the Purchaser must allow the amount paid by the Vendor as an increase to the Price under General Condition 15.2.

## 12.5 Preparation of Statement of Adjustments

- (a) If, at the Day of Sale, the Land is a lot on an unregistered plan of subdivision, the Vendor must prepare the statement of adjustments and deliver these to the Purchaser or its solicitor not later than 5 Business Days prior to the Settlement Date.
- (b) If, at the Day of Sale, the Land is a lot on a registered plan of subdivision, the Purchaser must prepare the statement of adjustments and deliver these to the Vendor or its solicitor not later than 5 Business Days prior to the Settlement Date.

## 12.6 Purchaser to confirm Statement of Adjustments

The Purchaser or the Vendor (as the case may be) must confirm to the Vendor within 2 Business Days of receiving the statement of adjustments under special condition 12.5 that it either accepts or queries the contents of that statement.

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## 13. Design Essentials and use

### 13.1 Design Essentials

- (a) The Purchaser acknowledges the Property forms part of the Estate.
- (b) The Purchaser agrees to be bound by the Design Essentials (including any addendums) as if they were repeated in this special condition 13 in full.
- (c) The Vendor has no obligations to enforce and may vary, relax or waive any of the requirements under the Design Essentials in relation to other land sold by the Vendor. The Purchaser acknowledges the Vendor's rights under this special condition 13 and must not Object.
- (d) The Design Essentials will remain in force until the later of:
  - (i) the date that is 36 months from the Settlement Date; and
  - (ii) the settlement date for the sale of the last lot in the Estate (as determined by the Vendor).

- (e) The expiry of the Design Essentials does not affect any breach of the Design Essentials as at the expiry date.
- (f) To the extent there is any inconsistency between the Design Essentials and this contract, the Design Essentials prevail.

### 13.2 Construction of a dwelling house

- (a) The Purchaser must:
  - (i) substantially commence the construction of a dwelling house on the Land on or before the Construction Commencement Date;
  - (ii) following commencement of construction, continually progress construction of the dwelling house in a timely manner;
  - (iii) ensure the Property is kept clean, presentable and safe at all times until construction is completed;
  - (iv) complete construction of the dwelling house and all fencing on or before the Construction Completion Date;
  - (v) complete landscaping of the Land on or before the date 12 months from completion of construction of the dwelling house.
- (b) For the purposes of special condition 13.2(a):
  - (i) **substantially commence** means erection of the footings and slab; and
  - (ii) **complete** and **completion** means issue of an occupancy permit.

### 13.3 National Broadband Network

- (a) The Purchaser must adopt and ensure compliance with the NBN Building Ready Specifications and appropriate building wiring specifications when constructing a dwelling house on the Land.
- (b) The Purchaser acknowledges that:
  - (i) the NBN Building Ready Specifications must be complied with to enable the Property to be connected to the Network Infrastructure; and
  - (ii) failure to comply with the NBN Building Ready Specifications will either:
    - (A) prevent connection to the Network Infrastructure; or
    - (B) require the Purchaser to incur additional costs in order to connect to the Network Infrastructure.

### 13.4 Re-sale Deed obligation

- (a) The Purchaser acknowledges that this contract includes obligations which continue after settlement, including under special condition 13.2 and other

provisions concerning the construction of a dwelling house on the Land and the Design Essentials.

- (b) The Purchaser agrees that, having regard to the Purchaser's continuing obligations referred to in special condition 13.4(a), the Purchaser must not sell, transfer, assign or otherwise dispose of the Property or its interest in the Property prior to completion of construction of a dwelling house on the Land in accordance with this contract, without first:
- (i) giving the Vendor at least 10 Business Days' written notice; and
  - (ii) delivering to the Vendor the Re-sale Deed signed by:
    - (A) the new purchaser, transferee, assignee or donee; and
    - (B) if the new purchaser, transferee, assignee, donee is a corporation (other than a corporation listed on the Australian Stock Exchange), the directors of the new purchaser, transferee assignee or donee as guarantors,
- in favour of the Vendor agreeing to comply with the Design Essentials and the Purchaser's obligations under this special condition 13 and any other continuing obligations of the Purchaser under this contract.
- (c) The Purchaser must ensure the Re-sale Deed is completed and that a copy of the Design Essentials is attached at Annexure A of the Re-sale Deed.
- (d) The Re-sale Deed must be prepared by the Purchaser and executed in triplicate. If the Purchaser requests the Vendor to prepare the Re-sale Deed and the Vendor agrees the Purchaser must meet the Vendor's reasonable costs of doing so.
- (e) The Purchaser must not erect any "For Sale" or similar sign or banner on the Property at any time prior to the date which is 6 months after the Settlement Date.

### **13.5 Indemnity**

The Purchaser is liable for and indemnifies the Vendor on demand against all Claims arising from or in connection with any default or failure by the Purchaser to comply with its obligations under special conditions 13.1, 13.2, 13.3 and 13.4.

### **13.6 Purchaser charges Land**

In order to better secure the performance of the obligations of the Purchaser under this special condition 13 the Purchaser charges its interest in the Land once acquired in favour of the Vendor.

### **13.7 Caveat**

The Purchaser acknowledges that the Vendor may lodge a Caveat at the Victorian Land Registry claiming an interest in the Land pursuant to the charge once the Land has been acquired by the Purchaser.

### **13.8 Withdrawal of Caveat**

Within 10 Business Days of a request to do so by the Purchaser, the Vendor must provide a withdrawal of the caveat lodged by it under special condition 13.7 if the Purchaser has complied with all of its obligations under this special condition 13.

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## **14. Vendor's works**

### **14.1 Subdivision Works**

To the extent that they have not already been performed or completed as at the date of this contract:

- (a) the Vendor undertakes, at its cost, to perform or cause to be performed the Subdivision Works; and
- (b) the Vendor may carry out the Subdivision Works on the Land and surrounding land prior to settlement.

### **14.2 Purchaser's acknowledgements**

The Purchaser acknowledges and agrees that:

- (a) the Vendor has no control over the siting or location of service pits, service markers, man-holes, telephone or electricity poles or electricity substations; and
- (b) the Subdivision Works may include construction of Retaining Structures on the Land; and
- (c) the Subdivision Works or other works in connection with the Vendor's development of the Estate may not be fully completed by the Settlement Date and the Purchaser grants the Vendor (including any employees, officers, contractors and consultants of the Vendor) a licence to access the Land after the Settlement Date to complete such works and the Purchaser must not Object.

### **14.3 No objection by Purchaser**

The Purchaser must not Object in relation to any Subdivision Works or any matters referred to in special condition 14.2.



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## 15. Retaining Structures

### 15.1 Application of special condition

This special condition 15 applies if the Retaining Structures:

- (a) have been constructed on the Property (whether wholly or partially) by or on behalf of the Vendor as at the Day of Sale; or
- (b) will be constructed on the Property by or on behalf of the Vendor after the Day of Sale.

### 15.2 Purchaser's obligations

The Purchaser must:

- (a) not do anything or cause anything to be done to affect the structural integrity of the Retaining Structures;
- (b) keep and maintain the Retaining Structures on the Land in a sound structural condition; and
- (c) repair any damage to the Retaining Structures including any damage to drains or disturbance to backfill caused by the construction of structures (including any fencing) above, adjacent to or near the Retaining Structures.

### 15.3 No representation or warranty

If the Purchaser submits the Purchaser's Plans and Specifications to the Vendor for its review and approval, the Purchaser acknowledges and agrees that:

- (a) the Vendor is only reviewing the Purchaser's Plans and Specifications for the purpose of checking the Purchaser's compliance with the Design Essentials and for no other purpose;
- (b) if the Vendor gives its approval to the Purchaser's Plans and Specifications or provides any assistance or information to the Purchaser in relation to the Purchaser's Plans and Specifications, then such approval, assistance or information provided by the Vendor will not constitute any representation or warranty by the Vendor or any of its representatives, in relation to:
  - (i) the adequacy, suitability or fitness of the Purchaser's Plans and Specifications for any purpose;
  - (ii) the appropriateness or suitability of any works, offsets or footing systems for any dwelling or structure (including any associated works) to be constructed on the Land adjacent to or near the Retaining Structures; or
  - (iii) the maximum load bearing weight of the Retaining Structures,

and the Purchaser acknowledges and agrees that it will not place any reliance on such review, approval, assistance or information provided by the vendor or any of its representatives.

#### **15.4 No objection by Purchaser**

Subject to any rights of the Purchaser under any relevant legislation which cannot be excluded, the Purchaser must not Object to the Retaining Structures or in respect of any other matter dealt with in this special condition 15.

#### **15.5 Indemnity**

The Purchaser is liable for and indemnifies the Vendor on demand against all Claims arising from or in connection with:

- (a) any damage to the Retaining Structures caused or contributed to by any act, omission, negligence or default of the Purchaser, the Purchaser's contractors or any other person acting on the purchaser's behalf;
- (b) any damage to the Purchaser's dwellings or structures constructed on the Property adjacent to or near the Retaining Structures;
- (c) any damage to dwellings or structures constructed on land adjoining or surrounding the Property caused or contributed to by any act, omission, negligence or default of the Purchaser, the Purchaser's contractors or any other person acting on the Purchaser's behalf; or
- (d) any failure by the Purchaser to comply with its obligations under special condition 15.2.

#### **15.6 No merger**

This special condition 15 does not merge on settlement or termination of this contract.

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### **16. Vendor's right to transfer Property**

The Vendor may transfer its interest in the Property and assign its rights and obligations under this contract without the Purchaser's consent. If the Vendor does so:

- (a) the terms of this contract (including any guarantee) will remain binding on the Purchaser and the Guarantor and will be enforceable by the assignee or transferee;
- (b) the original Vendor will be released from all obligations (including those arising prior to the transfer and assignment) under this contract on delivery to the Purchaser of a deed of covenant signed by the new Vendor agreeing to be bound by the Vendor's obligations under the contract; and
- (c) the Purchaser will not Object to methods employed by the Vendor in its endeavours to sell other land including, the use or placement of signs, provided

that the Vendor does not unreasonably interfere with the Purchaser's use of the Property.

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## 17. Nomination

### 17.1 Purchaser may nominate

If the Purchaser is not in default under this contract, then at any time up to 21 days before the Settlement Date, the Purchaser may nominate a substitute or additional purchaser by delivering to the Vendor's Representative:

- (a) a completed and executed notice of nomination; and
- (b) a copy of the completed and executed "Purchaser Declaration" in the form approved from time to time by the Commissioner for State Revenue.

### 17.2 Purchaser remains liable

The Purchaser remains personally liable for the performance of all of the purchaser's obligations under this contract despite the nomination of any substitute or additional purchaser.

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## 18. Confidentiality

- (a) The parties agree that the matters set out in this contract are strictly confidential. Subject to special condition 18(b), the parties must not disclose the terms or contents of this contract to any third party except:
  - (i) where required by law or a stock exchange; or
  - (ii) where required to allow the party to perform its obligations under this contract; or
  - (iii) to the party's employees, auditors, legal advisors, accountants, agents, contractors or financiers or its financiers' legal advisors; or
  - (iv) with the consent of the other party.
- (b) The Purchaser consents to the Vendor:
  - (i) disclosing the terms or contents of this contract to any potential purchaser of the Vendor's interest in the Property; and
  - (ii) making any announcement it considers appropriate in relation to the Vendor or its business which may include information relating to this contract.

## 19. Personal Information

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- (a) The Purchaser:
  - (i) acknowledges the Vendor has collected personal information (as determined in the *Privacy Act 1988* (Cth)) of the Purchaser for the purposes set out in the Privacy Policy; and
  - (ii) consents to the Vendor disclosing the personal information of the Purchaser that it has collected:
    - (A) to the parties disclosed in the Privacy Policy to whom the Vendor may disclose personal information;
    - (B) to the owner of land adjoining the property (**Adjoining Owner**) upon receiving a request from the Adjoining Owner, for the purpose of any notice which the Adjoining Owner wishes to issue to the Purchaser pursuant to the *Fences Act 1968* (Vic) in relation to fencing work and such disclosure to only comprise of the Purchaser's name, address, telephone number(s) and/or email address; and
    - (C) to any person or company engaged or appointed by the Vendor to provide customer relations services or other services to the Vendor.
- (b) The Purchaser acknowledges that the Vendor has no control over how the recipient third parties referred to in special condition 19(a)(ii) (other than related bodies corporate of the Vendor) (**Recipient Third Parties**) may use, disclose or otherwise handle the Purchaser's personal information which has been disclosed to them.
- (c) The Vendor is not liable for and the Purchaser releases the Vendor from all Claims arising from or in connection with how the Recipient Third Parties use, disclose or otherwise handle the Purchaser's personal information.

## 20. GST

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### 20.1 Construction

In this special condition 20:

- (a) words and expressions which are not defined in this contract but which have a defined meaning in GST Law have the same meaning as in the GST Law;
- (b) GST Act means *A New Tax System (Goods and Services Tax) Act 1999*; and
- (c) GST Law has the meaning given to that expression in the GST Act.

## 20.2 Consideration and GST

- (a) The price includes any GST payable on the supply of the Property to the purchaser under or in connection with this contract.
- (b) For any other supply under this contract, unless expressly stated, all prices and other sums payable or consideration to be provided under this contract for those supplies are exclusive of GST.

## 20.3 Margin scheme (if applicable)

- (a) On the basis that the Vendor considers that it is eligible to apply the margin scheme in accordance with Division 75 of the GST Act to determine the GST payable on the supply of the Property, subject to special condition 20.3(b), the parties agree that the margin scheme is to apply to the supply of the Property.
- (b) Despite 20.3(a), if:
  - (i) the Vendor is not eligible to apply the margin scheme to the supply of the Property (despite any belief of the Vendor to the contrary); or
  - (ii) on or before the Settlement Date, the Vendor serves written notice on the Purchaser that the Vendor does not wish to apply the margin scheme to the supply of the Property,

then the parties agree that the margin scheme does not apply to the supply of the Property.

- (c) For the purposes of 20.3(b), the parties agree that if the Vendor issues a statement of adjustments to the Purchaser in which the margin scheme is not applied to determine the GST payable on the supply of the Property, the Purchaser will be taken to have been served the written notice referred to in 20.3(b).

## 20.4 Payment of GST

Except where the consideration for the supply expressly includes GST, if GST is payable on any supply made under this contract, the recipient will pay the supplier an additional amount equal to the GST payable on the supply.

## 20.5 Timing of GST payment

The recipient will pay the amount referred to in special condition 20.3 in addition to and at the same time and in the same manner that the consideration for the supply, or the first part of the consideration for the supply as appropriate, is to be provided under this contract.

## 20.6 Tax invoice

If any part of the consideration to be provided by the recipient under this contract is consideration for a taxable supply, the supplier must provide the recipient with a tax invoice at or before the time that the consideration for the supply is to be provided. In

relation to any GST payable as part of the Price, the Purchaser acknowledges and agrees that the settlement adjustment statement is deemed to be the tax invoice.

### **20.7 Adjustment event**

If an adjustment event arises in respect of a taxable supply made by a supplier under this contract, the consideration to be paid or provided will be recalculated to reflect the adjustment event and a payment will be made by the recipient to the supplier or by the supplier to the recipient as the case requires.

### **20.8 Reimbursements**

Where a party is required under this contract to pay or reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:

- (a) the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party, or to which the representative member for a GST group of which the other party is a member, is entitled; and
- (b) if the payment or reimbursement is subject to GST, an amount equal to that GST.

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## **21. Personal property securities register**

- (a) Any Security Interest registered in respect of the Vendor under the PPSA is not an encumbrance for the purposes of this contract.
- (b) The Purchaser must not Object to any Security Interest and the Purchaser agrees that the Vendor is not required to:
  - (i) release or otherwise discharge any Security Interest; or
  - (ii) produce to the Purchaser a deed of release of the Property (or any part of the Property) from the Security Interest at or prior to the Settlement Date.

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## **22. Commercial interests**

- (a) The Vendor discloses and the Purchaser acknowledges that many provisions contained in this contract are reasonably necessary to protect the Vendor's legitimate commercial interests by providing the Vendor with sufficient flexibility in relation to:
  - (i) design and services changes and the like; and
  - (ii) the ultimate form of the Estate including the configuration, size, nature and use of the lots or proposed lots within the Estate; and

(iii) the impact of changing demands for residential and commercial properties and different types of residential and commercial properties; and

(iv) compliance with requirements of Authorities,

which may arise during the course of the Vendor's development of the Estate having regard to the nature and current state of the Vendor's development of the Estate, including:

(v) the reservation of the Vendor's rights to make alterations to the Property, the Plan and the transfer of land;

(vi) the reservation of the Vendor's rights to create easements or other encumbrances over the Property;

(vii) the provisions of special condition 23; and

(b) The provisions identified in this special condition 22 as being in the Vendor's legitimate commercial interest are not to be construed as being the only provisions within the contract or aspects of the development of the Estate, which are in the Vendor's legitimate commercial interests.

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## **23. Development of Estate**

### **23.1 Development of Estate**

The Purchaser acknowledges that:

- (a) the Property forms part of the Estate, which may be progressively developed in stages;
- (b) the Vendor is not obliged to develop the Estate or undertake any stage of the Development Activities;
- (c) the Estate may not be fully developed by the Settlement Date;
- (d) the Vendor makes no warranty or representation regarding:
  - (i) the timing of the Development Activities or any stage of the Development Activities;
  - (ii) the form of the Estate including the configuration, size, nature and use of any lot or proposed lots within the Estate,
- (e) the timing of commencement and completion of the Development Activities, including each stage in the development of the Estate, is uncertain and the timing of the Development Activities (and whether the Development Activities are undertaken) will be determined by the Vendor in the Vendor's absolute discretion;

- (f) parts of the Estate may be consolidated, subdivided, dedicated or remain undeveloped or sold by the Vendor in the Vendor's absolute discretion and the Vendor makes no warranty or representation as to what use any part of the Estate may be put;
- (g) the Vendor may review at any time the Development Activities it proposes to undertake in connection with the Estate, including the configuration, size, nature and use of the lots or proposed lots within the Estate and:
  - (i) any information showing the proposed Estate, including the configuration, size, nature and use of the lots or proposed lots within the Estate, may be modified as a result of any such review; and
  - (ii) the Purchaser should not rely on any information provided to it as a statement or representation by the Vendor as to the proposed form of the Estate, including the configuration, size, nature and use of any lot or proposed lots within the Estate; and
- (h) without limiting special condition 23.1(g), the Vendor makes no warranty or representation as to:
  - (i) whether the Estate will or will not include playgrounds, parklands, lakes or water courses, sports grounds, retail or commercial developments, child care centres, schools, community facilities, cycling facilities or public open spaces; or
  - (ii) the nature or density of any development within the Estate, or within any stage of the Development Activities, including whether any stage will comprise commercial or residential development and, if residential, whether that development will comprise low density dwellings, medium density dwellings, high density dwellings, townhouses, multiple dwelling lots, duplexes or villas.

## 23.2 Development Activities

As a result of the matters outlined in special condition 23.1, the Property, the Purchaser and occupiers of the Property may be affected by the Development Activities. The Development Activities may result in any of the following (without limitation):

- (a) noise, dust, vibration and disturbance to the occupiers of the Property within the lawful requirements of any relevant Authority and during any hours permitted by any relevant Authority;
- (b) temporary obstruction or interference with any services to the Property;
- (c) access to the Property being temporarily diverted during the course of the Development Activities;
- (d) construction traffic adjacent to or passing by the Property;
- (e) construction waste being located near or in close proximity to the Property;
- (f) damage to driveways, landscaping or footpaths within the Estate; or



- (g) other disruptions, disturbances or inconveniences associated with the Development Activities.

### **23.3 Selling and Leasing Activities**

Until the Vendor completes the sale of all proposed residential and other lots within the Estate, the Vendor and persons authorised by the Vendor are entitled to and will conduct the Selling and Leasing Activities.

### **23.4 Address of Property**

The Vendor discloses that the address of the Property at settlement may be different from the address of the Property shown on this contract.

### **23.5 No objection by purchaser**

The Purchaser must not, including after settlement:

- (a) Object in respect of the matters dealt with in this special condition 23; or
- (b) make any Claim or seek to enforce any judgment or order against the vendor or other party carrying out the Development Activities unless the Development Activities are not being carried out in accordance with the relevant Planning Permit or lawful requirements.

### **23.6 No merger**

This special condition 23 does not merge at settlement or termination of this contract.

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## **24. Foreign Resident Capital Gains Withholding**

### **24.1 Definitions**

In this special condition 24:

- (a) **Act** means the Taxation Administration Act 1953 (Cth); and
- (b) **Clearance Certificate** means a certificate issued by the Commissioner of Taxation under section 14-220 of Schedule 1 of the Act.

### **24.2 Foreign Resident Capital Gains Withholding**

The Purchaser acknowledges and agrees that the Property has a market value of less than \$2million and accordingly:

- (a) the Vendor is not required to deliver a Clearance Certificate to the Purchaser before settlement; and

- (b) on settlement, the Purchaser must not deduct any amount from the price to withhold in accordance with section 14-200 of Schedule 1 of the Act.

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## **25. General**

### **25.1 Waiver and variation**

A provision or right created under this contract cannot be:

- (a) waived except in writing signed by the party granting the waiver; or
- (b) varied except in writing signed by or on behalf of the parties.

### **25.2 Non merger**

Any provision of this contract that is capable of having effect after the Settlement Date will not merge in the instrument of transfer of the Land.

### **25.3 Further Assurances**

The Vendor and the Purchaser must sign any documents and do anything else reasonably necessary to give effect to the terms of this contract.

# Annexure A

## Additional Special Conditions

### 26. Additional definitions

Words used in this Contract which are defined will also have the same meaning given to them in these Additional Special Conditions unless a contrary intention is apparent. In these Additional Special Conditions:

- (a) **Council** means the Hume;
- (b) **Development Site** means the land in the Plan including any other areas being developed by the Vendor as part of the development known as Cloverton;
- (c) **Implementation Agreement** refers to the implementation agreement dated 29 October 2010 between EHL Burgess Properties Pty Ltd, the Vendor and Stockland Corporation Limited (as guarantor) as amended and restated under the implementation agreement amendment and restatement dated 6 December 2010, the signing pages of which are attached in the Vendor's Statement;
- (d) **MCP** means the memorandum of common provisions registered, or to be registered, by the registrar of titles which is incorporated in the Plan by reference and attached in the Vendor's Statement;
- (e) **Responsible Authority** means the Council, the Minister for Planning and any other Authority responsible for the issue of planning permission in connection with the Estate under the *Planning and Environment Act 1987* and includes each relevant referral authority for the purposes of section 66 of that Act;
- (f) **Section 173 Agreement** means any agreement or agreements made in connection with the Estate pursuant to section 173 of the *Planning and Environment Act 1987* at the request or direction of any Authority, including those agreements contemplated by Additional Special Condition 31; and
- (g) **Substation Lot** means the proposed lot denoted as a substation in proposed plan of subdivision No.PS.807666U (if any).

### 27. Right to Sell

- (a) Where the Vendor is not registered as proprietor of the land in the Plan or part of the land in the Plan on the Day of Sale:
  - (i) the Vendor sells any land of which it is not registered as proprietor pursuant to its rights under the Implementation Agreement;
  - (ii) the Vendor warrants that the Implementation Agreement gives it the right to become the registered proprietor of any land on the

Plan of which it is not registered as proprietor as at the Day of Sale; and

- (iii) Additional Special Condition 27(b) applies.
- (b) The Purchaser acknowledges and agrees that:
  - (i) the Vendor has the right to purchase the land on the Plan of which it is not registered as proprietor as at the Day of Sale pursuant to the Implementation Agreement;
  - (ii) this contract is subject to and conditional upon the Vendor becoming the registered proprietor of the land or entitled to become the registered proprietor of the land within the Plan that the Vendor does not own on the Day of Sale (**Purchase Condition**);
  - (iii) the Vendor is not obliged to procure the satisfaction of Additional Special Condition 27(b)(ii);
  - (iv) Additional Special Condition 27(b)(ii) is for the sole benefit of the Vendor, which may waive it by giving notice to the Purchaser; and
  - (v) the Vendor may terminate this Contract without penalty by written notice to the Purchaser if:
    - (A) the Vendor does not exercise its right to acquire the land set out in the Plan of which it is not registered as proprietor as at the Day of Sale for any reason;
    - (B) the Vendor is unable to enforce its rights under the Implementation Agreement; or
    - (C) the Implementation Agreement is terminated for any reason.
- (c) if the Vendor exercises its right to terminate this Contract pursuant to Additional Special Condition 27(b)(v), the Deposit must be immediately refunded to the Purchaser less the amount of any bank or government charges.

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## 28. Safety

- (a) The Purchaser must not enter upon the following areas of the Development Site without first obtaining the written permission of the Vendor:
  - (i) any area where construction work is being undertaken;
  - (ii) any area that has not yet been developed or is vacant; or
  - (iii) any area that is identified by fencing or signage or otherwise advised to be subject to authorised access only.

- (b) The Purchaser must not tamper with or move any fencing, signage, construction plant or materials on the Development Site.
- (c) The Purchaser must comply with the requirements, directions or recommendations of any warning signs on the Development Site.
- (d) The Purchaser must ensure that all contractors and other invitees and visitors of the Purchaser (including but not limited to any children) understand and comply with the requirements of paragraphs 28(a), 28(b) and 28(c) of this Additional Special Condition.
- (e) From the Settlement Date, the Purchaser must keep the Land and any building works occurring on the Land free of any hazards that could impact upon persons or property. This must include, but is not limited to locking up plant and equipment, secure storage of hazardous substances, barricading of all hazards including trenches, safe storage of materials including from wind effects, prompt removal of rubbish and safe parking of vehicles. The Purchaser must ensure that its contractors comply with these requirements.

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## 29. MCP

- (a) This Additional Special Condition 29 only applies if as at the Day of Sale the MCP has not been registered by the registrar of titles.
- (b) The Purchaser acknowledges that the MCP at the Day of Sale has not been registered by the Victorian Land Registry and may require amendments prior to registration that are:
  - (i) required to meet any requirement, recommendation or requisition of the Responsible Authority, the Victorian Land Registry, any Authority or any combination of them to enable the MCP to be registered by the Victorian Land Registry; or
  - (ii) considered by the Vendor to be necessary or desirable for the purpose of the Estate.
- (c) If the Vendor makes an amendment contemplated by paragraph 29(b) of this Additional Special Condition, the Purchaser must not Object on the basis that the MCP as registered by the Victorian Land Registry does not accord with the MCP.

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## 30. Bonding of works

- (a) The Purchaser acknowledges that, if Council requires that works be undertaken in connection with a Planning Permit or as a pre-condition to issuing a statement of compliance for the Plan, the Vendor may provide a bond or guarantee to the Council to secure completion of those works at any later time agreed between the Vendor and the Council.

- (b) The Purchaser grants the Vendor (including any employees, officers, contractors and consultants of the Vendor) a licence to access the Land after the Settlement Date to complete the works referred to paragraph 30(a) of this Additional Special Condition.
- (c) The Purchaser must not Object in respect of the matters dealt with in paragraphs 30(a) and 30(b) of this Additional Special Condition.

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## 31. Section 173 Agreement

- (a) The Purchaser acknowledges that it may be necessary or desirable for the Vendor to enter into Section 173 Agreements that affect the Development Site, including any which may be required by a Responsible Authority in connection with a Planning Permit or any other planning permit.
- (b) The Purchaser irrevocably authorises the Vendor to:
  - (i) negotiate the terms of any Section 173 Agreement contemplated by this Additional Special Condition 31; and
  - (ii) enter into and vary such agreements.
- (c) The Purchaser must:
  - (i) not Object in relation to any act, matter or thing contained in or required by any Section 173 Agreement referred to in this Additional Special Condition 31; and
  - (ii) if required by the Vendor do all acts, matters and things including executing all consents, orders and applications necessary in order to have any Section 173 Agreement registered by the registrar of titles.
- (d) Without limiting paragraphs 31(a) to 31(c) (both inclusive) of this Additional Special Condition, the Purchaser acknowledges that any Section 173 Agreement entered into as contemplated by this Additional Special Condition 31 will not constitute a defect in title to the Property.

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## 32. Mixed uses

- (a) The Purchaser acknowledges that:
  - (i) it is intended that parts of the Estate may include or be used for a variety of purposes including (but not limited to) a retail centre, a community centre, service station, display village, sales office, childcare centre, cafe, car parking and associated infrastructure (**Mixed Uses**);
  - (ii) flood lighting may be installed on open space areas in the Estate (**Flood Lighting**); and

- (iii) local area traffic may be impacted by the Mixed Uses, the construction of which may include but may not be limited to infrastructure, drainage and other works which may:
  - (A) not be completed by Settlement;
  - (B) prevent or limit or otherwise affect access to the Estate; and
  - (C) require the Purchaser to utilise alternative means of access to the Property and within the Estate (**Traffic Congestion**).
- (b) The Purchaser acknowledges that it is fully informed in relation to the Mixed Uses, Flood Lighting and Traffic Congestion and agrees that it will not lodge any objection in relation to any planning permit, licences (including but not limited to any liquor licence or gaming licence application) for the proposed Estate including the Mixed Uses, and irrevocably appoints the Vendor as its attorney to execute and lodge a withdrawal of any objection lodged in contravention of this Additional Special Condition 32.
- (c) The Purchaser acknowledges:
  - (i) some or all of the facilities comprised in the Mixed Uses may, from time to time, be varied, relocated, removed or cease operating;
  - (ii) the Vendor has made no representations in respect of the presence, availability, location, manner or duration of operation of those facilities,and may not Object to any of the matters set out in this Additional Special Condition 32.
- (d) The Purchaser must inform any subsequent purchaser of the Property of the matters set out in this Additional Special Condition 32.

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### 33. Fire protection

- (a) This Additional Special Condition 33 only applies if, as at the Day of Sale, the Property is located in a designated bushfire prone area.
- (b) The Purchaser acknowledges that:
  - (i) the Property is located in a designated bushfire prone area;
  - (ii) special bushfire construction requirements apply; and
  - (iii) the *Building Regulations 2006* may require the Purchaser to:
    - (A) procure a site assessment for the purposes of determining the bushfire attack level assessment for the Property;
    - (B) comply with increased construction requirements; and
    - (C) incur increased costs,

prior to or in connection with the construction of a dwelling house and the performance of any Building Works on the Land.

- (c) The Purchaser must:
  - (i) at its sole cost, comply with any requirements and pay any increased costs contemplated under Additional Special Conditions 33(b); and
  - (ii) not Object in relation to any increased construction requirements or costs imposed on it, or any matter contemplated by this Additional Special Condition 33.
- (d) The Purchaser must inform any subsequent purchaser of the Property of the matters set out in this Additional Special Condition 33.

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### 34. School and flood lighting

- (a) The Purchaser acknowledges that it is intended that:
  - (i) one or more schools, which may include one or more sports stadiums, will be constructed as part of or adjacent to the Development (**Schools**);
  - (ii) flood lighting for sporting purposes and lighting ancillary to the operation of the Schools may illuminate, be visible from or encroach upon other parts of the Development, including the Property;
  - (iii) the chiming of school bells and noises ancillary to the operation of the Schools may be audible in other parts of the Development, including the Property; and
  - (iv) local area traffic may be impacted (including by increasing demand for parking spaces) during drop-off and pick-up times and during major events held in connection with the Schools.
- (b) The Purchaser acknowledges that it is fully informed in relation to the matters referred to in paragraph (a) of this Additional Special Condition 34 and agrees that it will not lodge any objection in relation to any planning permit for the proposed Development including the Schools, and irrevocably appoints the Vendor as its attorney to execute and lodge a withdrawal of any objection lodged in contravention of this Additional Special Condition 34.
- (c) The Purchaser must inform any subsequent purchaser of the Property of the matters set out in this Additional Special Condition 34.
- (d) This Additional Special Condition 34 will not merge on settlement and shall continue in full force and effect.

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### 35. Display Villages

- (a) The Purchaser acknowledges that:



- (i) the Development Site will contain one or more display villages; and
- (ii) there may be road closures and limited vehicle access from time to time affecting roads running through or near the display villages for the duration of the display villages' period of operation,

and the Purchaser must not Object.

- (b) The Purchaser agrees that it will not lodge any objection in relation to any planning permit for any proposed future display village, and irrevocably appoints the Vendor as its attorney to execute and lodge a withdrawal of any objection lodged in contravention of this Additional Special Condition 35(b).
- (c) The Purchaser must inform any subsequent purchaser of the Property of the matters set out in this Additional Special Condition 35.

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### 36. GAIC Event

- (a) The Purchaser acknowledges that:
  - (i) the Property is located in a contribution area within the meaning of section 201RC of the *Planning and Environment Act 1987*;
  - (ii) an application for a building permit in respect of the Property may comprise a GAIC event (within the meaning of section 201RA of the *Planning and Environment Act 1987*) in respect of land of which the Property forms part; and
  - (iii) the occurrence of a GAIC event may require the Vendor to pay a growth areas infrastructure contribution (within the meaning of section 201S of the *Planning and Environment Act 1987*) at a time or for an amount which is not suitable to the Vendor, or which may cause the Vendor to suffer loss and damage.
- (b) The Purchaser must not and must not permit:
  - (i) an application for a building permit (within the meaning of Part 3 of the *Building Act 1993*) to be made in respect of the Property; or
  - (ii) the occurrence of a GAIC event (within the meaning of section 201RA of the *Planning and Environment Act 1987*),before Settlement without the prior written consent of the Vendor.
- (c) The Purchaser irrevocably appoints the Vendor as its attorney to sign all documents and do all things necessary to effect a withdrawal of any building permit application made in contravention of Additional Special Condition 36(b).
- (d) The Purchaser is liable for and indemnifies the Vendor on demand against all Claims arising from or in connection with any default or failure by the Purchaser to comply with this Additional Special Condition 36.

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### **37. Planning Permit**

- (a) This Contract is conditional upon the Vendor procuring a Planning Permit upon conditions satisfactory to the Vendor (in its absolute discretion) before the Registration Sunset Date.
- (b) If the Planning Permit has not been issued, or issued but not on conditions satisfactory to the Vendor (in its absolute discretion) by the Registration Sunset Date, the Vendor may, at any time, rescind this Contract by giving written notice to the Purchaser, in which case the Deposit and any interest must be refunded to the Purchaser.
- (c) The Purchaser must not claim any compensation if this Contract is terminated pursuant to Additional Special Condition 37(b).
- (d) This Additional Special Condition 37 is for the benefit of the Vendor only.

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### **38. Application of special conditions to multiple Lots**

If the Property comprises more than one Lot, all special conditions in this contract, including but not limited to these Additional Special Conditions, apply separately to each such Lot, to the extent that it is practicable for them to do so.

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### **39. Substation**

The Vendor discloses that electricity substation premises will be located on the Substation Lot and other infrastructure associated with those premises may be located in road reserves or as overhead power lines, in or on land within the Development Site, and the Purchaser must not Object.

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### **40. Use of roads**

The Vendor discloses that:

- (a) roads in and around the Development Site may be closed or gated and access restricted (but not to the Property) whilst the Vendor undertakes Development Activities;
- (b) use of the roads in and around the Development Site will be shared with construction traffic whilst the Vendor undertakes Development Activities; and
- (c) the roads within the Development Site may, in the future, be used to access adjoining stages for the Estate,

and the Purchaser must not Object.

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**41. No merger**

All the Additional Special Conditions do not merge on settlement of this Contract.

# **Annexure B**

## **Surface Levels Plan**