

Agreement for Sale and Purchase of Real Estate



SECTION A: SCHEDULE

Part A: The Property for Sale by Negotiation

Property Address

Part B: The Vendor

Vendor(s)

Vendor's Address

VENDOR'S CONVEYANCER

Conveyancing Firm

Phone

Conveyancer's Address

Person Acting

Email

Part C: The Purchaser

Purchaser(s)

Purchaser's Address

All Purchaser(s) are New Zealand citizens

Yes No

PURCHASER'S CONVEYANCER

Conveyancing Firm

Phone

Conveyancer's Address

Person Acting

Email

Part D: Property Description

Record of Title (unique identifier)

Lot/Flat/Unit

Deposited Plan (DP)

Area (Approximately)

Estate

Fee Simple

Cross Lease

Stratum Estate in Freehold

Leasehold

Stratum Estate in Leasehold

Specified Chattels

Stove

Blinds

Fixed Floor Coverings including Carpet

Curtains

Light Fittings

Dishwasher

Fridge

Freezer

Additional Chattels

Additional Property Information

Part E: Agreement Details

Purchase Price

Inclusive of GST

Yes No

Deposit

Settlement Date

Default Rate (%)

Property Contains Sensitive Land

Yes No

Part F: Conditions

Subject to LIM Approval Yes No

Subject to Building Report Approval Yes No

Subject to Finance Yes No

Finance Date

Part G: GST Schedule

Vendor Registered for GST

Yes No

Vendor's GST Registration Number

GST Exempt Supply

Yes No

GST Date (if left blank, Settlement Date)

Purchaser Registered for GST

Yes No

Purchaser's GST Registration Number

Purchaser will be registered for GST at Settlement Date

Yes No

Purchaser acquiring the Property for the purpose of making Taxable Supplies

Yes No

Purchaser intends to use the Property as a principal place of residence for them or an Associate

Yes No

Part H: Tenancy Schedule

Vacant Possession

Yes No

Weekly Rental

Expiration of Term (periodic if left blank)

Tenant(s)

Part I: The Agent

Agency Firm

LJ Hooker

Agency Manager

Josephine Kinsella

Agency's Address

6 Mitchelson Street Auckland Auckland 1051

Phone

+64 9-526 5590

Email

jkinsella@ljhooker.com

Salesperson 1

Salesperson 2

SECTION B: AGREEMENT TERMS AND CONDITIONS

PART A: DEFINITIONS AND INTERPRETATIONS

1.0 DEFINITIONS

1.1 In this Agreement, the following terms have the meaning ascribed to them below:

Additional Disclosure Statement means a disclosure statement that may, where the Property is a Unit Title, be requested by the Purchaser under section 148 of the UTA that must contain either all of the information prescribed under regulation 35 of the Unit Titles Regulations 2011, or so much of that information as the Purchaser specifies when making the request;

Agent means the person recorded as the Vendor's agent in Part I of the Schedule;

Agreement means this Agreement, including all sections and any schedules;

Associate means a person who is associated with the Purchaser in accordance with section 2A(1) of the GST Act;

Building Act means the Building Act 2004;

Body Corporate means the body corporate within the meaning of the UTA of which the Property forms part;

Body Corporate Rules means the rules applying to a Body Corporate of which the Property forms part in accordance with the provisions of the UTA;

Building Report means a building report obtained by the Purchaser pursuant to clause 8;

Change of Landlord Form means the form prepared by Tenancy Services and available from www.tenancy.govt.nz advising Tenancy Services of a change in the landlord under any Residential Tenancy;

Chattels means all chattels acquired by the Purchaser under the terms of this Agreement, including the Specified Chattels;

Consumable Item means any item which must from time to time be replaced in the ordinary operation and enjoyment of any Chattel including, for example, light bulbs;

Cross Lease means a property in which the title comprises both a share of a Fee Simple and a Leasehold;

Default GST means any penalty (civil or otherwise), interest, additional taxation, late payment penalty, shortfall penalty or other sum imposed on the Vendor under the GST Act or TAA by reason of non-payment, late payment or underpayment of the GST payable in respect of any taxable supply made under this Agreement, but does not include any such amount levied against the Vendor by reason of default of the Vendor after payment of the GST to the Vendor by the Purchaser;

Default Rate means the default interest rate recorded in Part E of the Schedule, but where no such rate is recorded, the Default Rate shall be the OCR for the period in which interest at the Default Rate is to be charged plus a margin of 10 percent per annum;

Deposit means the payment to be made by the Purchaser in part payment of the Purchase Price as described at clause 5 being of the amount recorded in the Schedule, and where no such amount is recorded, an amount equal to 10 percent of the Purchase Price;

Discharge Instrument means an instrument in the Workspace effecting the discharge, release, or withdrawal of any Mortgage Interest;

Disclosure Statement means a Disclosure Statement for the Property certified correct by the Body Corporate and prepared in accordance with section 147 of the UTA;

Estate means the estate or interest in the Property described in the Title;

Fee Simple means an estate in fee simple affecting a particular property.

Finance Date means the date by which the finance condition contained at clause 9, if any, must be fulfilled, as recorded in Part F of the Schedule;

GST means the tax on the supply of goods and services levied under the GST Act;

GST Act means the Goods and Services Tax Act 1985;

GST Date means the GST Date recorded in Part G of the Schedule, and if no such date is recorded, the Settlement Date;

GST Exempt Supply means a supply under this Agreement recorded in the GST Schedule as being exempt from GST;

GST Registered means, in respect of any person, that that person is registered under the GST Act;

GST Schedule means the schedule contained at Part G of the Schedule.

GST Time of Supply means the time of supply within the meaning of section 9 of the GST Act;

Guidelines means the Property Transactions and E-dealing Practice Guidelines prepared by the Property Law Section of the New Zealand Law Society that are in force at the Settlement Date; **ITA** means the Income Tax Act 2007;

Landonline means the online transaction application operated by Land Information New Zealand under which New Zealand land titles can be securely searched, lodged, and updated;

Laws includes any common or customary law, and legislation, order, ordinance, regulation, or other legislative measure, to which the Property is subject and includes any requirement to obtain consent from a Statutory Authority before taking any action affecting the Property;

Leasehold means a leasehold estate in any particular property evidenced by a lease registered against the title to that property;

LIM means a land information memorandum for the Property issued by the appropriate Statutory Body;

Mortgage Interest means any registered mortgage, notice of claim, or caveat encumbering the Property at Settlement;

New Title Notice means a notice given by the Vendor to the Purchaser confirming that the Title to the Property is now available to be searched under the Land Transfer Act 1952;

Notice of Change of Ownership means a notice addressed to the Body Corporate providing details required by that Body Corporate to update the particulars of ownership of the Property where the property is a Unit Title;

Notice of Sale means a notice addressed to any Statutory Authority having jurisdiction over the Property complying with the provisions of the Local Government (Rating) Act 2002;

Notice to Tenant means the notice required to be given to the tenant upon the sale or disposition of a Property subject to a Residential Tenancy in accordance with section 43 of the RTA;

OCR means the Official Cash Rate set from time to time by the Reserve Bank of New Zealand and published in the Wholesale Interest Rates (B2) section at www.rbnz.govt.nz

OIA means the Overseas Investment Act 2018;

Offshore Person has the meaning given to the term "offshore RLWT person" in section YA 1 of the ITA;

Overseas Person has the meaning given to the term at section 9 of the OIA;

Pre-Contract Disclosure Statement means the pre-contract disclosure statement required to be given to the Purchaser by the Vendor prior to the date of this Agreement under section 146 of the UTA;

Pre-Settlement Disclosure Statement means a Disclosure Statement for the Property certified correct by the Body Corporate and prepared in accordance with section 147 of the UTA;

Property means the property described in the Title;

Purchase Price means the purchase price payable by the Purchaser to the Vendor for the Property and the Chattels as recorded in Part E of the Schedule;

Purchaser means the party recorded as the purchaser of the Property in Part C of the Schedule;

Purchaser's Conveyancer means the person recorded as the Purchaser's conveyancer in Part C of the Schedule;

Ready to Settle means ready, willing, and able to settle, but, in the case of the Purchaser, does not require the Purchaser to either draw down funds, or retain any funds drawn down, from a financier provided that the Purchaser can upon request being made by the Vendor provide written confirmation from the financier that such funds are available to be drawn down except in respect of matters attributable to a failure by the Vendor to perform any of its obligations under this Agreement;

Registered Bank means any bank recorded on the public register of registered banks maintained by the Reserve Bank of New Zealand under section 69 of the Reserve Bank of New Zealand Act 1989;

Related Party means in relation to any person (Person A):

(a) Any grandparent, parent, spouse, defacto partner, sibling, child or grandchild of Person A;

(b) Any company over which Person A has the power to directly or indirectly appoint the directors, or of which Person A is solely or jointly the legal or beneficial owner of more than 25 percent of the shares; or

(c) Any trust of which Person A is a settlor, a beneficiary, or of which Person A has the power solely or jointly to directly or indirectly appoint beneficiaries;

Residential Land Purchase Amount has the meaning given to that term in the ITA;

Residential Tenancy means a tenancy within the meaning of the RTA;

RLWT has the meaning given to that term in the ITA;

RTA means the Residential Tenancies Act 1986;

Schedule means the schedule forming Section A;

Security Interest means any security interest, mortgage, or other security interest in or over any of the Chattels, including any such interest evidenced by a financing statement registered on the Personal Property Securities Register under the provisions of the Personal Property Securities Act 1999;

Sensitive Land means an interest in land satisfying either of the criteria recorded in section 16 of the OIA;

Settlement means the time of compliance by the parties with their obligations under clause 19;

Settlement Amount means the amount determined by the Vendor as being due for payment by the Purchaser on the Settlement Date as recorded in the Settlement Statement;

Settlement Date means either the date upon which the parties have agreed to complete Settlement as recorded in Part E of the Schedule, or that date falling ten Working Days after all conditions in this Agreement have been fulfilled or waived, whichever is the later;

Settlement Deliverables means all items reasonably necessary for the Purchaser to obtain the full benefit of the Property after Settlement, including all keys, alarm codes, garage door openers, and any operating instructions in the possession of the Vendor, for any of the Chattels;

Settlement Statement means the settlement statement to be prepared by the Vendor pursuant to clause 13;

Specified Chattels means the chattels listed in Part D of the Schedule;

Statutory Body means any body created by statute having jurisdiction over the Property, and includes a territorial authority or regional council within the meaning of the Local Government Act 2002;

Stratum Estate in Freehold means a stratum estate in freehold within the meaning of section 18 of the UTA;

Stratum Estate in Leasehold means a stratum estate in leasehold within the meaning of section 18 of the UTA;

TAA means the Tax Administration Act 1994;

Taxable Supply means a taxable supply as that term is defined in the GST Act and Taxable Supplies has a corresponding meaning;

Tenancy Schedule means the schedule contained at Part H of the Schedule.

Tenancy Services means the branch of the Ministry of Business, Innovation and Employment that enforces compliance with the RTA;

Title means the title or titles recorded in Part D of the Schedule;

Transfer Instrument means the electronic transfer instrument prepared in the Workspace under which the Title is conveyed from the Vendor to the Purchaser;

Unit Title means a property with an Estate designated in the Schedule as either a Stratum Estate in Freehold or a Stratum Estate in Leasehold;

UTA means the Unit Titles Act 2010;

Vacant Possession means the unimpeded physical right of the Purchaser to enjoy the Property free of occupation by any other person after Settlement, and requires the Vendor to remove from the Property all rubbish and detritus that may reasonably have a more than trivial effect on the Purchaser's exercise of that right;

Vendor means the party recorded as the seller of the Property in Part B of the Schedule;

Vendor's Conveyancer means the person recorded as the Vendor's conveyancer in Part A of the Schedule;

Working Day means any day of the week other than

- (a) A Saturday or a Sunday;
- (b) Any public holiday within the meaning of the Holidays Act 2003 ("Public Holiday");
- (c) A Monday following any Public Holiday falling on a Saturday or a Sunday; and
- (d) Any day between 24 December in one year and 5 January in the succeeding year, both days inclusive;

Works means any Works affecting the Property for which the consent or approval is required from any other person, including a Statutory Authority; and

Workspace means a workspace set up in Landonline.

2.0 INTERPRETATION

2.1 General: In this Agreement, unless the context otherwise requires:

- (a) Words importing a person shall be deemed to include a corporation;
- (b) Words importing a single or plural number, or any one gender shall be deemed to include the plural or single number and any other gender respectively;
- (c) The clause headings shall not form part of this Agreement and shall have no bearing on the construction or interpretation of it;
- (d) Any reference to a party shall include that party's liquidators, administrators, successors and permitted assigns;

2.2 Liability: Where more than one person comprises a party, the liability of that party under this Agreement is joint and several;

2.3 Statutory Provisions: Any reference to a statutory provision shall be interpreted, to the maximum extent possible, as referring to any re-enactment or amendment of that provision;

2.4 Application of Working Days: Where any provision of this Agreement would require an action to be taken by either party on a date which is not a Working Day, then the time for taking that action shall instead be the last Working Day before the day otherwise stipulated, unless the context of the provision would make compliance impossible, and in such case the time for taking that action shall instead be the next Working Day after the date so stipulated;

2.5 Out of Office Hours: Any act undertaken by a party pursuant to this Agreement after 5:00PM on a Working Day, or on a day that is not a Working Day, shall have effect as if it was undertaken at 9:00 AM on the next Working Day;

2.6 Time is of the Essence: Except in relation to obligations for which a remedy period is expressly provided under this Agreement, time is of the essence in the performance by the parties of their obligations under this Agreement and in the date or time for fulfilment of any condition;

2.7 Essential Terms: Where any obligation or requirement of a party as recorded as being essential, then a failure to comply with that obligation or requirement shall give rise to a right of cancellation under Part 2 Subpart 3 of the Contract and Commercial Law Act 2017, provided that where such essential obligation or requirement must be completed as a requirement of Settlement, than no such cancellation right may be exercised other than in accordance with clause 27;

2.8 Further Terms of Sale: Where there is any inconsistency between the provisions of Section B and any further terms of sale contained in Section C, the provisions contained in Section C shall prevail.

PART B: NATURE OF AGREEMENT

3.0 AGREEMENT

3.1 Agreement: In consideration of the Purchaser paying to the Vendor the Purchase Price, the Vendor agrees to sell, and the Purchaser agrees to purchase, the Property and the Chattels in accordance with the terms of this Agreement.

3.2 Clear Title: The Vendor will convey the Property to the Purchaser free of any Mortgage Interest. Residential Land

3.3 Withholding Tax: The Purchaser and Vendor acknowledge and confirm that:

- (a) They have respectively appointed the Purchaser's Conveyancer and the Vendor's Conveyancer recorded in the Schedule to act on their behalf in the sale and purchase of the Property and the Chattels; and
- (b) They are not associated persons within the meaning of the ITA.

3.4 Boundaries and Fencing: The parties agree that:

- (a) Subject to the warranty provided at clause 21.1(b)(v), the Vendor has no obligation to point out the boundaries of the Property;
- (b) The Vendor shall have no obligation to pay for the erection or maintenance of any fence between the Property and any adjoining land also owned by the Vendor; and
- (c) The Vendor is entitled to register a fencing covenant against the Title to protect the Vendor's right under clause 3.4(b).

3.5 Lowest Price: For the purposes of the financial arrangements rules in the ITA, the parties agree that:

- (a) The Purchase Price is the lowest price (within the meaning of section EW 32(3) of the ITA) that the parties would have agreed upon for the Property and Chattels, on the date of this Agreement, if payment had been required in full at the time the first right in the contracted property (being the Property and Chattels) was transferred;
- (b) The Purchase Price is the value of the Property and Chattels; and
- (c) They will each compute their taxable income for the relevant period on the basis that the Purchase Price does not include any capitalised interest and they will each file their returns accordingly.

4.0 NOMINATION

4.1 Nomination: The Purchaser can nominate any other person, subject to the provisions of clause 12.3, to take Title to the Property upon Settlement, but where the Purchaser does so, the Purchaser is not relieved of any of its obligations under this Agreement unless the Vendor so agrees.

4.2 Evidence: The Vendor shall be entitled to insist, as a precondition of transferring the Title to any person as a consequence of the Purchaser making a nomination pursuant to clause 4.1, upon the Purchaser providing:

- (a) Confirmation in writing signed by the Purchaser that such nomination has taken place; and
- (b) Where there are obligations of the Purchaser subsisting after Settlement, a deed duly executed by any such nominee in favour of the Vendor covenanting to be bound by the provisions of this Agreement as if they were Purchaser.

PART C: DEPOSIT

5.0 DEPOSIT

5.1 Unless this Agreement otherwise provides, the Purchaser shall pay the Deposit immediately upon this Agreement being signed by both parties.

5.2 The Purchaser shall pay the Deposit to the Agent unless this Agreement otherwise provides, except where there is no Agent, and in such case the Purchaser shall pay the Deposit to the Vendor's Conveyancer.

5.3 Subject to clause 5.4, payment of the Deposit shall be treated as part payment by the Purchaser of the Purchase Price.

5.4 The person to whom the Deposit is paid shall hold the Deposit in trust as a stakeholder until:

- (a) All conditions contained in this Agreement have been fulfilled or waived; and
- (b) The Vendor has provided to the Purchaser the Pre-Settlement Disclosure Statement, and any other information requested by the Purchaser, in accordance with the provisions of the UTA; and shall thereafter remit the Deposit to the Purchaser or the Vendor, as the case may be, in accordance with the terms of this Agreement.

5.5 Where the Deposit is not paid on its due date for payment, the Vendor shall be entitled to interest at the Default Rate for the period between the due date for payment and the date upon which the Deposit is paid inclusive.

5.6 At any time after the Deposit is due for payment by the Purchaser, and it has not been paid, the Vendor may give notice in writing to the Purchaser requiring payment of the Deposit within a period of two Working Days, and if the Purchaser fails to comply with such notice, the Vendor may cancel this Agreement but without prejudice to any rights either party may have at law or equity.

PART D: CONDITIONS

6.0 APPROVAL OF TITLE

6.1 This Agreement is conditional upon the Purchaser approving the Title in the manner described in this clause.

6.2 The Purchaser must act reasonably and in good faith when approving or disapproving the Title, and the Purchaser shall not be entitled to disapprove the Title in respect of:

- (a) Any easement affecting the Property granting any other person access or use of the Property for the purposes of telecommunication, water, wastewater, or electricity services;
- (b) Any interest granted to or held by a third party that may be removed by the registered proprietor of the Property without the consent of that third party (for example an encumbrance affecting the Property up to a date which has expired);
- (c) Any covenant requiring any building work on the Property to be undertaken in accordance with a common scheme affecting at least one other property adjacent to the Property (provided that the Purchaser shall be entitled to disapprove Title where any such covenant requires the Purchaser to be part of any incorporated body, other than a Body Corporate);
- (d) Where the Property is a Cross Lease, any structure not shown on the flats plan provided that such structure is located solely within an area designated on the flats plan as being for the exclusive or specific use of the owner of the Property (but without prejudice to any other rights the Purchaser may have at law or equity in respect of such a structure);
- (e) Any Mortgage Instrument; and
- (f) Without limiting the foregoing, any matter not going to the root of the Title to the Property.

6.3 The Purchaser shall provide the Vendor with notice no later than:

- (a) The tenth Working Day after the date of this Agreement, or
- (b) If the Property is Subject to Title, no later than the tenth Working Day after the Vendor has provided the New Title Notice advising whether the Title is approved, or whether the Title is disapproved and where the Title is disapproved the Purchaser shall provide the Vendor with a list of the matters causing such disapproval within that period ("Title Requisition").

6.4 If the Purchaser does not provide the Vendor with a Title Requisition within the timeframe specified by this clause, this condition will be deemed to be satisfied immediately upon the expiration of that timeframe.

6.5 After receiving the Title Requisition, the Vendor shall within a period of five further Working Days advise the Purchaser whether the Vendor is willing and able to remedy the matters contained in the Title Requisition ("Title Reply") and the following provisions shall apply:

- (a) Where the Title Reply advises that the Vendor is willing and able to remedy all the matters in the Title Requisition, this condition shall be deemed to be fulfilled without any further notice needing to be given by one party to the other, and providing evidence that the matters contained in the Title Requisition have been remedied shall be an essential obligation of the Vendor at Settlement; and
- (b) Where the Title Reply advises that the Vendor is willing and able to remedy none, or some only, of the matters in the Title Requisition, then the Purchaser may at its election within five Working Days of receiving the Title Reply:
 - (i) Cancel this Agreement in accordance with clause 11; or
 - (ii) Confirm this condition as being fulfilled, in which case providing evidence that the matters contained in the Title Requisition which the Vendor has stated in the Title Reply that the Vendor is willing and able to remedy have been remedied shall be an essential obligation of the Vendor at Settlement.

6.6 This condition is for the sole benefit of the Purchaser.

PART D: CONDITIONS (cont'd)

7.0 LIM CONDITION

7.1 Where the Purchaser has indicated in the Schedule that this Agreement is subject to LIM approval, then this Agreement is conditional upon the Purchaser obtaining and approving the LIM in the manner described in this clause.

7.2 The Purchaser shall apply for the LIM as soon as practicable after this Agreement has been signed by both parties.

7.3 The Purchaser shall provide the Vendor with notice no later than the fifteenth Working Day after the date of this Agreement advising whether the LIM is approved, or whether the LIM is disapproved and where the LIM is disapproved the Purchaser shall provide the Vendor with a list of the matters causing such disapproval ("LIM Requisition") and a copy of the LIM within that period.

7.4 After receiving the LIM Requisition, the Vendor shall within a period of five further Working Days advise the Purchaser whether the Vendor is willing and able to remedy the matters contained in the LIM Requisition ("LIM Reply") and the following provisions shall apply:

- (a) Where the LIM Reply advises that the Vendor is willing and able to remedy all the matters in the LIM Requisition, this condition shall be deemed to be fulfilled without any further notice needing to be given by one party to the other, and providing evidence that the matters contained in the LIM Requisition have been remedied shall be an essential obligation of the Vendor at Settlement; and
- (b) Where the LIM Reply advises that the Vendor is willing and able to remedy none, or some only, of the matters in the LIM Requisition, then the Purchaser may at its election within five Working Days of receiving the LIM Reply:
 - (i) Cancel this Agreement in accordance with clause 11; or
 - (ii) Confirm this condition as being fulfilled, in which case providing evidence that the matters contained in the LIM Requisition which the Vendor has stated in the LIM Reply that the Vendor is willing and able to remedy have been remedied shall be an essential obligation of the Vendor at Settlement.

7.5 This condition is for the sole benefit of the Purchaser.

8.0 BUILDING REPORT CONDITION

8.1 Where the Purchaser has indicated in the Schedule that this Agreement is subject to Building Report approval, then this Agreement is conditional upon the Purchaser obtaining and approving a Building Report in the manner described in this clause.

8.2 The Purchaser shall arrange for the Building Report to be prepared by suitably qualified building inspector ("Inspector") as soon as practicable after this Agreement has been signed by both parties.

8.3 The Vendor shall provide the Inspector with access to the Property that is reasonably necessary to enable the Inspector to complete the Building Report in the manner contemplated by this clause, but the Inspector shall not undertake any invasive testing without the Vendor's prior written consent.

8.4 The Purchaser shall provide the Vendor with notice no later than the fifteenth Working Day after the date of this Agreement advising whether the Building Report is approved, or whether the Building Report is disapproved and where the Building Report is disapproved the Purchaser shall provide the Vendor with a list of the matters causing such disapproval ("Building Report Requisition") and a complete copy of the Building Report within that period.

8.5 After receiving the Building Report Requisition, the Vendor shall within a period of five further Working Days advise the Purchaser whether the Vendor is willing and able to remedy the matters contained in the Building Report Requisition ("Building Report Reply") and the following provisions shall apply:

- (a) Where the Building Report Reply advises that the Vendor is willing and able to remedy all the matters in the Building Report Requisition, this condition shall be deemed to be fulfilled without any further notice needing to be given by one party to the other, and providing evidence that the matters contained in the Building Report Requisition have been remedied shall be an essential obligation of the Vendor at Settlement; and
- (b) Where the Building Report Reply advises that the Vendor is willing and able to remedy none, or some only, of the matters in the Building Report Requisition, then the Purchaser may at its election within five Working Days of receiving the Building Report Reply:
 - (i) Cancel this Agreement in accordance with clause 11; or
 - (ii) Confirm this condition as being fulfilled, in which case providing evidence that the matters contained in the Building Report Requisition which the Vendor has stated in the Building Report Reply that the Vendor is willing and able to remedy have been remedied shall be an essential obligation of the Vendor at Settlement.

8.6 This condition is for the sole benefit of the Purchaser.

9.0 FINANCE CONDITION

9.1 Where the Purchaser has indicated in the Schedule that this Agreement is subject to finance, then this Agreement is conditional upon the Purchaser obtaining finance in accordance with the provisions of this clause by the Finance Date.

9.2 If this condition is not fulfilled, the Purchaser's duty to act in good faith to satisfy this condition shall have been complied with if the Purchaser has been refused requisite finance on reasonable terms by at least one Registered Bank and evidence of that refusal is provided to the Vendor.

9.3 For the purposes of this clause, reasonable terms include any or all of the following:

- (a) An offer of finance on terms and conditions not materially different from those that a particular Registered Bank would offer to a person buying the Property who has a similar financial position to that of the Purchaser;
- (b) A requirement by the Registered Bank that any Related Party provide a guarantee of the obligations that the Purchaser would owe to the Registered Bank under the terms of any offer of finance; and/or
- (c) A mortgage over the Property.

9.4 This condition is for the sole benefit of the Purchaser.

10.0 OIA APPROVAL

10.1 Where the Property is or contains Sensitive Land, and the Purchaser is an Overseas Person, then this Agreement is conditional upon it being consented to under the OIA on or before the earlier of either:

- (a) The Settlement Date; or
- (b) That date falling 90 Working Days after the date of this Agreement.

10.2 The Purchaser shall:

- (a) Make an application under Subpart 2 of the OIA as soon as practicable (and in any event, within 20 Working Days of the date of this Agreement); and
- (b) Meet all costs payable in respect of that application.

10.3 Where the application made under clause 10.2(a) is refused or denied under the provisions of the OIA, then this Agreement shall automatically be terminated.

11.0 OPERATION OF CONDITIONS

11.1 Good Faith: Both parties must act in good faith and take all reasonable steps to procure the fulfilment of any condition, including complying with any timeframes specified in this Agreement or required under any Law for taking specified acts.

11.2 Waiver: A party for whose sole benefit the condition has been included may at any time prior to this Agreement being cancelled for non-fulfilment waive that condition by providing notice to the other party.

11.3 Consequences of Non-Fulfilment: If a condition has not been fulfilled, or waived by a party entitled to waive that condition pursuant to clause 11.2, by 5.00pm on the Working Day specified for fulfilment of that condition either party, unless this Agreement has automatically been terminated pursuant to the provisions of clause 10.3, may by notice to the other party cancel this Agreement, unless the condition is fulfilled or waived prior to such notice of cancellation being given.

11.4 Consequences of Cancellation: Where this Agreement is cancelled due to the non-fulfilment of a condition, or has automatically been terminated pursuant to the provisions of clause 10.3 any moneys paid by the Purchaser to the Vendor shall be refunded to the Purchaser, but without prejudice to any rights either party may have at law or equity.

PART E: PRE-SETTLEMENT

12.0 DEALING WORKSPACE

12.1 Responsibility to Prepare: The Purchaser's Conveyancer shall prepare the Workspace and notify the Vendor's Conveyancer as soon as the Transfer Instrument has been prepared and is available for signing in the Workspace by the Vendor's Conveyancer ("Workspace Notice").

12.2 Transfer Instrument: The Workspace Notice shall be given to the Vendor's Conveyancer no later than 5 Working Days before the Settlement Date, unless the Settlement Date is 5 Working Days or less after the date of this Agreement, in which case the Workspace Notice shall be given by the Purchaser as soon as practicable.

12.3 No Alterations: The Purchaser's Conveyancer shall not, without the prior written consent of the Vendor's Conveyancer, make any alterations to the Transfer Instrument, including changing the name of the transferee of the Property to reflect any nomination made by the Purchaser, once the Workspace Notice has been given.

13.0 PROVISION OF SETTLEMENT STATEMENT

13.1 Responsibility to Prepare: The Vendor must provide to the Purchaser a Settlement Statement no later than 5 Working Days before the Settlement Date, unless the Settlement Date is 5 Working Days or less after the date of this Agreement, in which case the Settlement Statement shall be provided to the Purchaser as soon as practicable.

13.2 Contents of Settlement Statement: The Settlement Statement shall contain at least the following information:

- (a) The Purchase Price;
- (b) The amount of the Deposit if any paid by the Purchaser;
- (c) The amount of GST included in the Purchase Price, if any;
- (d) An apportionment as at the Settlement Date, where applicable, of outgoing, such as rates, water rates, and wastewater charges (where not metered), and incomings, such as rent, that apply to the Property;
- (e) Where the Property is a Body Corporate, an apportionment of any periodic payments or levies payable to the Body Corporate's operating account; and
- (f) The Settlement Amount.

13.3 Apportionments on Settlement Date: Incomings received and outgoing incurred on the Settlement Date shall be apportioned to the Vendor.

13.4 Exclusions: Unless otherwise agreed, the Purchaser shall have no obligation to accept an apportionment in respect of either any insurance premiums paid by the Vendor in respect of the Property, or, where the Property is a Unit Title, any long-term maintenance fund, contingency, or capital improvement fund.

14.0 OTHER MATTERS RELATING TO CHANGE OF OWNERSHIP

14.1 Preparation of Third Party Notices: The Purchaser must provide to the Vendor no later than 5 Working Days before the Settlement Date, unless the Settlement Date is 5 Working Days or less after the date of this Agreement, in which case they shall be provided to the Purchaser as soon as practicable, the following documents:

- (a) A Notice of Sale;
- (b) Where the Property is a Unit Title, a Notice of Change of Ownership; and
- (c) Where the Property is subject to a Residential Tenancy, a Change of Landlord Form.

14.2 Metered Charges: Where water and wastewater charges are determined by meter and the Vendor is liable to pay those charges, the Vendor will arrange to have those meters read as at the Settlement Date.

15.0 PROVISION OF DISCLOSURE INFORMATION

15.1 Responsibility to Provide: Where the Property is a Unit Title, the Vendor shall provide to the Purchaser:

- (a) A certificate of insurance recording all insurance policies effected by the Body Corporate pursuant to section 135 of the UTA;
- (b) The Pre-Settlement Disclosure Statement; and
- (c) An Additional Disclosure Statement where requested by the Purchaser in accordance with the timeframe stipulated at section 148 of the UTA.

15.2 Right to Defer Settlement: Where the documentation referred to at clause 15.1 has not been provided five Working Days prior to the Settlement Date as that clause requires, then the Purchaser may, without prejudice to the Purchaser's rights under the UTA:

- (a) Defer the Settlement Date until the fifth working date from the date upon which the certificate of insurance and the Pre-Settlement Disclosure Statement have both been provided to the Purchaser; or
- (b) Confirm that Settlement shall still take place on the Settlement Date recorded in the Schedule.

15.3 Additional Disclosure: Nothing in clause 15.2 restricts or limits the Vendor's obligation to provide an Additional Disclosure Statement earlier than five Working Days prior to the Settlement Date where the UTA so requires.

16.0 TRANSFER OF HOUSEHOLD UNIT

16.1 Where Settlement would amount to the completion of the sale of a household unit by a commercial on-seller within the meaning of section 362V of the Building Act and a code compliance certificate has not been issued in respect of the Property in accordance with section 95 of the Building Act ("CCC") then the Purchaser shall have the right to:

- (a) Defer the Settlement Date until the fifth working date from the date upon which the CCC has been provided to the Purchaser; or
- (b) Confirm that Settlement shall still take place on the Settlement Date recorded in the Schedule, and in such case, the parties shall enter into a separate written agreement to that effect complying with the terms of the Building Act.

16.2 Where the Purchaser has elected to defer Settlement in accordance with clause 16.1(a) and the CCC has not been issued 40 Working Days after the Settlement Date recorded in the Schedule then the Purchaser shall be entitled to cancel this Agreement and in such case any moneys paid by the Purchaser to the Vendor shall be refunded to the Purchaser, but without prejudice to any rights either party may have at law or equity.

17.0 RISK AND DAMAGE

17.1 Risk in the Property remains with the Vendor until Settlement.

17.2 Where the Property incurs any damage on or before Settlement ("Damage"):

- (a) The Vendor must:
 - (i) Provide notice to the Purchaser providing details of the Damage as soon as practicable after the Vendor is aware that such Damage has occurred;
 - (ii) Provide the Purchaser with a reasonable opportunity to inspect the Property;
 - (iii) Provide the Purchaser with information about any policies of insurance providing cover for the Damage held by the Vendor.
 - (iv) Take all reasonable steps to repair the Damage prior to the Settlement Date; and
- (b) Both parties shall as soon as practicable appoint a registered valuer ("the Valuer") to determine the diminution in the value of the Property caused by the Damage ("Value Loss"), and where the parties cannot agree on the identity of the Valuer, the Valuer shall be appointed by the president for the time being of the New Zealand Law Society.

17.3 The Valuer shall make his or her determination available in writing to both parties within 20 Working Days of the date of the Damage, and subject to clause 17.6 the Settlement Date shall be the later of:

- (a) The Settlement Date specified in the Schedule; or
- (b) That date falling 5 Working Days after the date the determination was made available to both parties.

17.4 Where the Value Loss exceeds neither 20 percent of the Purchase Price nor \$75,000.00, the Purchase Price shall be reduced by the amount of the Value Loss and Settlement shall be completed upon the Settlement Date specified in clause 17.3.

17.5 Where the Value Loss exceeds either 20 percent of the Purchase Price or \$75,000.00, the Purchaser may:

- (a) Affirm this Agreement, in which the Purchase Price shall be reduced by the amount of the Value Loss and Settlement shall be completed upon the Settlement Date specified in clause 17.3; or
- (b) Cancel this Agreement and in such case:
 - (i) Any moneys paid by the Purchaser to the Vendor shall be refunded to the Purchaser; and
 - (ii) Neither party shall have any other claim against the other.

17.6 Notwithstanding clause 17.3 the Purchaser may elect to complete Settlement on the Settlement Date specified in the Schedule despite the Damage, but shall remain entitled to recover any Value Loss from the Vendor after the Value Loss has been determined.

17.7 The costs of the Valuer appointed pursuant to clause 17.2(b) shall be borne equally by the Vendor and the Purchaser.

PART E: PRE-SETTLEMENT (cont'd)

18.0 INSPECTION

18.1 Where the Property is being sold with Vacant Possession, the Purchaser may:

- (a) On one occasion between the date when any condition in this Agreement has being satisfied or waived and before the Settlement Date inspect the Property and the Chattels upon providing reasonable notice to the Vendor; and
- (b) Inspect the Property on one further occasion before the Settlement Date for the purpose of inspecting any remedial work that the Purchaser has agreed to undertake that had not been completed when the inspection referred to at clause 18.1(a) occurred.

PART F: SETTLEMENT

19.0 SETTLEMENT

19.1 Settlement Date: Settlement shall take place on the Settlement Date.

19.2 Settlement: At Settlement:

- (a) The Vendor shall deliver to the Purchaser:
 - (i) The Settlement Deliverables;
 - (ii) Evidence that any matters the Vendor has agreed to remedy under any Title Reply, LIM Reply, and/or Building Reply have been remedied;
 - (iii) Where the Property is subject to a Residential Tenancy:
 - (A) A copy of the agreement evidencing the Residential Tenancy, including any variations agreed to by the Vendor after that agreement was entered into;
 - (B) A copy of the Notice to Tenant; and
 - (C) The Change of Landlord Form executed by the Vendor.
- (b) The Purchaser shall:
 - (i) Pay the Purchase Price in accordance with clause 19.4; and
 - (ii) Where the Purchaser has exercised its right of nomination under clause 4.1, provide any evidence of that nomination that the Vendor has requested in accordance with that clause.
- (c) Title to the Property shall be conveyed by the Vendor to the Purchaser in accordance with clause 19.3; and
- (d) Except where the Property is subject to a Residential Tenancy, the Vendor shall grant Vacant Possession of the Property to the Purchaser.

19.3 Process to Convey Title: Prior to Settlement:

- (a) The Vendor's Conveyancer shall sign and certify the Transfer Instrument;
- (b) The Vendor will procure that any Discharge Instrument is signed;
- (c) The Vendor's Conveyancer will undertake that immediately upon payment of the Purchase Price being made by the Purchaser, the Vendor's Conveyancer will release to the Purchaser's Conveyancer the Transfer and all Discharge Instruments in the Workspace to enable the Purchaser's Conveyancer to submit those Instruments for registration or lodgement.

19.4 Payment of Purchase Price: Unless otherwise agreed between the parties, payment of the Purchase Price shall be made by the Purchaser's Conveyancer into the Vendor's Conveyancer's trust account by way of SCP as that term is defined in the Guidelines.

19.5 Undertakings: Any undertakings required to be given by either party shall be in the form contained in the Guidelines unless the parties otherwise agree, and where either the Purchaser's Conveyancer or the Vendor's Conveyancer is a conveyancing practitioner and not a lawyer (as those terms are defined in the Lawyers and Conveyancers Act 2006), then the additional provisions contained in the Guidelines relating to conveyancing practitioners and settlements shall apply and the provisions of this clause 19 shall be modified accordingly.

19.6 Late Settlement: Where Settlement takes place on the Settlement Date, but after 4.00 pm, then without limiting any other rights of any party, the party not responsible for the delay shall pay, or deduct from the Settlement Amount, as the case may be, an amount equal to one day's interest calculated on the Settlement Amount at the Default Rate.

PART G: VENDOR WARRANTIES

20.0 GENERAL WARRANTIES

20.1 The Vendor warrants that:

- (a) It has the power to enter into and perform its obligations under this Agreement and to carry out the transactions contemplated by it; and
- (b) The execution and performance by it of this Agreement and each transaction contemplated under this Agreement does not and will not violate in any respect a provision of:
 - (i) A law or treaty or a judgment, ruling order or decree of a governmental agency binding on it;
 - (ii) Its constitution, or other constituent documents; or
 - (iii) Any other document or agreement which is binding on it or its assets.
- (c) As at the date of this Agreement,
 - (i) The information contained in the GST Schedule is accurate and complete;
 - (ii) Where the Vendor has recorded in the GST Schedule that the supply is GST Exempt, the supply is exempt from GST in accordance with the provisions of the GST Act.

21.0 THE PROPERTY

21.1 The Vendor warrants:

- (a) As at the date of this Agreement, and where the Property is subject to a Residential Tenancy:
 - (i) It has provided notice to the Tenant that the Property has been marketed for sale in accordance with section 47 of the RTA; and
 - (ii) The information contained in the Tenancy Schedule is accurate and complete.
- (b) As at the Settlement Date:
 - (i) No Works have been undertaken by the Vendor since the date of this Agreement;
 - (ii) All Works undertaken by the Vendor at the Property comply with all Laws;
 - (iii) The Vendor has received no notice of any Works which do not comply with any Laws;
 - (iv) Where the Property contains a building or buildings requiring a compliance schedule under the Building Act, or comprises part of a building requiring a compliance schedule under that Act:
 - (A) There is a current building warrant of fitness in respect of such compliance schedule; and
 - (B) The Vendor has no knowledge of any matter in which the Property does not comply with any compliance schedule.
 - (v) Where the Property comprises bare land with no improvements, all boundary markers required by the Cadastral Survey Act 2002 are located in their correct positions;
 - (vi) The legal description and estate of the Property contained in the Schedule is accurate and correct;
 - (vii) No unlawful activity has been undertaken at the Property, including the use, consumption, production, manufacture, sale, or supply of any substance defined at the date of this Agreement as a controlled drug under the Misuse of Drugs Act 1975;
 - (viii) Where the Property is being sold with Vacant Possession, any garden and lawns included in the Property are in substantially the same condition they were in as at the date of this Agreement;
 - (ix) Unless specifically stated in the Schedule, the Property is not and does not contain Sensitive Land; and
 - (x) Where the Property is subject to a Residential Tenancy, the Notice to Tenant has been given to the Tenant.
- (c) Immediately after Settlement:
 - (i) It will deliver the Notice of Sale to the appropriate Statutory Body;
 - (ii) All outgoings contained in the Settlement Statement will have been paid in accordance with the Settlement Statement; and
 - (iii) It will make any payments due to any person after that person has read any meter as contemplated by clause 14.2.

22.0 CROSS LEASE TITLES

22.1 The Vendor warrants, where the Title is a Cross Lease, that:

- (a) The Vendor has not breached prior to the Settlement Date, and is not at the Settlement Date in breach of, the terms of the Cross Lease; and
- (b) Where the Vendor has undertaken any Works to the Property requiring the consent of any other party to the Cross Lease, such consent has been obtained.

PART G: VENDOR WARRANTIES (cont'd)

23.0 UNIT TITLES

23.1 The Vendor warrants, where the Title is a Unit Title, that:

- (a) As at the date of this Agreement:
 - (i) There are no unregistered changes to the Body Corporate Rules;
 - (ii) The information provided by the Vendor to the Purchaser in the Pre-Contract Disclosure Statement, and any other information provided by the Vendor prior to the date of this Agreement, is accurate and not misleading;
 - (iii) The Vendor has no knowledge, and has not been given notice in accordance with the provisions of the UTA, in respect of any of the following matters:
 - (A) Any proceedings being commenced by or against the Body Corporate;
 - (B) The granting of any interest in the common property of the Body Corporate to any person;
 - (C) Any proposal to change the Body Corporate Rules;
- (b) As at the Settlement Date:
 - (i) The Vendor has complied in all material respects with the Body Corporate Rules and has received no notice from the Body Corporate alleging any breach of those rules;
 - (ii) All moneys payable by the Vendor to the Body Corporate will have been paid in full there are no unregistered changes to the Body Corporate Rules;
 - (iii) The Pre-Settlement Disclosure Statement is accurate and not misleading; and
- (c) Immediately after Settlement, it will deliver the Notice of Change of Ownership to the Body Corporate.

24.0 CHATTELS

24.1 **Chattel Warranties:** The Vendor warrants, subject to clause 24.2, as at the Settlement Date that:

- (a) The Specified Chattels are in good working condition given their age,
- (b) All Chattels are in substantially the same condition as they were in as at the date of this Agreement subject to fair wear and tear; and
- (c) The Chattels will be conveyed to the Purchaser free of any Security Interests.

24.2 **Exclusions:** Notwithstanding clause 24.1:

- (a) The Vendor shall have no obligation to maintain or replace Consumable Items between the date of this Agreement and the Settlement Date; and
- (b) The Purchaser shall not be entitled to defer or refuse to complete Settlement because of the existence of a Security Interest over any of the Chattels.

PART H: PURCHASER WARRANTIES

25.0 PURCHASER WARRANTIES

25.1 The Purchaser warrants that:

- (a) Any information contained in the GST Schedule or given by the Purchaser to the Vendor pursuant to clause 32 is accurate and complete either at the date of this Agreement or when such information is provided, and will remain so at Settlement;
- (b) Unless specifically stated in the Schedule, the Purchaser is not an Overseas Person;
- (c) It has the power to enter into and perform its obligations under this Agreement and to carry out the transactions contemplated by it; and
- (d) The execution and performance by it of this Agreement and each transaction contemplated under this Agreement does not and will not violate in any respect a provision of:
 - (i) A law or treaty or a judgment, ruling order or decree of a governmental agency binding on it;
 - (ii) Its constitution, or other constituent documents; or
 - (iii) Any other document or agreement which is binding on it or its assets;
- (e) Where the Property is subject to a Residential Tenancy:
 - (i) Immediately after Settlement, it will deliver the Change of Landlord Form to Tenancy Services; and
 - (ii) It will after Settlement provide the notice to the Tenant required under section 15 of the RTA in accordance with the requirements of that section.

PART I: DEFAULT AND REMEDIES

26.0 FAILURE TO SETTLE

26.1 **Default Interest:** Where Settlement does not take place on the Settlement Date due to a default of either the Purchaser or the Vendor, the party not in default, if it is itself Ready to Settle shall be entitled to interest at the Default Rate for the period between the Settlement Date and the date upon which Settlement does take place inclusive ("the Default Period") calculated on:

- (a) Where the Purchaser is in default, the Settlement Amount; and
- (b) Where the Vendor is in default, the Purchase Price.

26.2 **Purchaser's Right to Recover Certain Costs:** Where the Vendor is in default, and this Agreement requires the Vendor to convey the Property with Vacant Possession, the Purchaser may, at its election, charge the Vendor for its reasonable accommodation charges, storage charges, service cancellation fees, delivery fees, and other similar expenses incurred during the Default Period instead of interest pursuant to clause 26.1(b).

26.3 **Adjustment to Settlement Amount:** Any interest charged by one party to the other under clause 26.1, or accommodation expenses charged by the Purchaser pursuant to clause 26.2, shall be added or deducted to the Settlement Amount otherwise payable by the Purchaser when Settlement takes place.

26.4 **Legal Costs:** Where either party is in default, then the party not in default, provided it is Ready to Settle, shall be able to recover its reasonable costs in obtaining advice and, if necessary, enforcing its rights under this Agreement.

27.0 PROCEDURE FOR CANCELLATION DUE TO A FAILURE TO SETTLE

27.1 **Settlement Notice:** Where Settlement does not take place on the Settlement Date, a party that is Ready to Settle may at any time thereafter give notice on the other party requiring it to comply with its settlement obligations ("Settlement Notice") no later than the date 10 Working Days after the Settlement Notice is deemed to have been given.

27.2 **Purchaser Non-Compliance:** If the Purchaser does not comply with the terms of a Settlement Notice issued by the Vendor, then the Vendor may, without prejudice to any other rights the Vendor may have at law or equity:

- (a) Cancel this Agreement by providing notice in writing to the Purchaser to that effect and;
 - (i) Retain any part of the Deposit paid by the Purchaser up to an amount not exceeding 10 percent of the Purchase Price (and the Vendor shall remit to the Purchaser any part of the Deposit exceeding that amount); and/or
 - (ii) Sue the Purchaser for damages; and/or
- (b) Sue the Purchaser for any unpaid part of the Deposit as a debt, provided the amount payable by the Purchaser shall not exceed 10 percent of the Purchase Price.
- (c) Sue the Purchaser for specific performance.

27.3 **Vendor Non-Compliance:** If the Vendor does not comply with the terms of a Settlement Notice issued by the Purchaser, then the Purchaser may, without prejudice to any other rights the Purchaser may have at law or equity:

- (a) Sue the Vendor for specific performance; or
- (b) Cancel this Agreement by providing notice in writing to the Vendor to that effect and sue the Vendor for damages.

27.4 **Return of Deposit:** Where this Agreement is cancelled by the Purchaser pursuant to clause 27.3(b), the Vendor shall immediately repay to the Purchaser the amount of any Deposit paid by the Purchaser, together with interest calculated on that sum at the Default Rate from the time the Deposit was paid until the date of repayment inclusive, and this repayment shall be made irrespective of whether any commission has been deducted or paid to the Agent.

PART I: DEFAULT AND REMEDIES (cont'd)

28.0 BREACH OF WARRANTY

28.1 Statutory Rights Preserved: Unless this Agreement specifically provides to the contrary, in the event of any actual or anticipated breach of any warranty by the Vendor, the Purchaser shall be entitled to exercise the rights and remedies contained at section 37 of the Contract and Commercial Law Act 2017 in accordance with the provisions of that section.

28.2 Exclusion of LIM Claims in Certain Circumstances: In the event this Agreement contains a condition relating to the approval of the LIM by the Purchaser, and such condition is either fulfilled or waived by the Purchaser, then the Purchaser shall have no claim against the Vendor for any breach of warranty in respect of any matter that reasonable inspection of the LIM obtained by the Purchaser (or where the Purchaser did not obtain a LIM, a LIM obtained as at the date of this Agreement) would disclose.

28.3 Limitation on Claims: The Purchaser shall not bring any claim against the Vendor for any breach of warranty:

- (a) In respect of any matter which the Purchaser had, prior to the date all conditions in this Agreement were fulfilled or waived:
 - (i) Actual knowledge; or
 - (ii) Of which the Vendor had made full and fair disclosure in writing including, where the Property is a Unit Title by way of the Pre-Contract Disclosure Statement; and/or
- (b) Later than 12 months after the Settlement Date, unless the amount claimed by the Purchaser exceeds one percent of the Purchase Price.

29.0 DISPUTE RESOLUTION

29.1 Subject to clause 29.7 a party shall not commence or maintain any action or proceeding in any court, tribunal or otherwise regarding a dispute arising from or in connection with this Agreement ("Dispute") without first complying with the provisions of this clause.

29.2 If a party considers that a Dispute has arisen, it may issue a written Dispute Notice to the other party, setting out reasonable particulars of the matter in Dispute. For a period of 10 Working Days after a party receives a Dispute Notice, the parties shall with best endeavours and in good faith negotiate to attempt to resolve the Dispute and shall (subject to privilege) furnish to the other party all information with respect to the Dispute which is reasonably requested by the other party.

29.3 If the Dispute has not been resolved within 10 Working Days after receipt of the Dispute Notice, or within such further period as the parties agree in writing, the parties shall attempt to settle the Dispute by mediation, with the mediator, unless the parties otherwise agree, being appointed by the Chair for the time being of the Resolution Institute (or, if for any reason, the Resolution Institute does not exist or is unable to act, then a mediator selected by the current President of the New Zealand Law Society), before having recourse to any other dispute resolution processes which may be available to the parties.

29.4 The mediation described in clause 29.3 shall be conducted in accordance with the Resolution Institute Standard Mediation Agreement (NZ Version) as from time to time in force.

29.5 If the Dispute has not been resolved within 10 Working Days, or within such further period as the parties agree in writing, after the commencement of mediation, then either party may exercise any other legal rights which may be available to it.

29.6 Neither party shall make any public comment (including any posting on Twitter, Facebook, or other social media platform) concerning the Dispute.

29.7 Notwithstanding the above, nothing in this clause shall prevent any party from:

- (a) Seeking urgent equitable or injunctive relief before an appropriate court;
- (b) Commencing proceedings in the Disputes Tribunal where the Dispute falls within the jurisdiction of that body; or
- (c) Exercising remedies available to that party under clauses 11.4, 26, or 27.
- (d) Lodging a caveat against the Property, or taking steps to remove any caveat lodged against the Property.

30.0 EFFECT OF CANCELLATION

30.1 Unless this Agreement provides otherwise, cancellation of this Agreement by a party:

- (a) Has no effect on any right or obligation in this Agreement that is intended to survive cancellation; and
- (b) Does not prevent any party from exercising a claim against the other for breaching the provisions of this Agreement prior to this Agreement being cancelled.

PART J: TAXATION

31.0 RLWT

31.1 If the Vendor and the Purchaser are associated within the meaning of the ITA, then the Vendor shall immediately upon this Agreement being signed provide the Purchaser with sufficient information to determine whether section 54C of the TAA applies, and where that section does apply, provide to the Purchaser as soon as practicable all information relating to RLWT (including that listed at section 54C(5) of the TAA) in the manner required under the provisions of that section.

31.2 In the event the Vendor fails to comply with the provisions of clause 31.1 then the Purchaser may upon any date upon which a sum is required to be paid by the Purchaser to the Vendor under this Agreement which is in full or in part a Residential Land Purchase Amount either:

- (a) Defer the payment of that sum until such time as all information contained in that clause has been provided by the Vendor; or
- (b) Treat the sale of the Property as if it is being made by an Offshore Person who is obligated to pay RLWT and in such case the Purchaser may make a reasonable assessment of the amount of RLWT that the Purchaser would be required to withhold from any Residential Land Purchase Amount ("Assessment"), and pay the amount of the Assessment to the Commissioner as RLWT.

31.3 Where clause 31.2 applies, the Purchaser shall give notice to the Vendor immediately upon the Assessment having been made, and the value of the Assessment together with the Purchaser's reasonable costs and expenses (including professional advice) shall be offset against the Settlement Amount unless specifically recorded in the Settlement Statement.

32.0 GST

32.1 Unless the Purchase Price is stated in the Schedule to include GST (if any) then:

- (a) The Purchase Price does not, and any other payments under this Agreement are not intended to include GST (if any); and
- (b) Any GST in respect of any Taxable Supply made by the Vendor to the Purchaser pursuant to this Agreement will be payable by the Purchaser to the Vendor in addition to the Purchase Price attributable to that Taxable Supply.

32.2 The Vendor shall issue tax invoice(s) to the Purchaser in respect of any Taxable Supplies made under or pursuant to this Agreement on or before the GST Date.

32.3 The Vendor and Purchaser agree that where any component of the Property and Chattels supplied under this Agreement constitutes a Taxable Supply that wholly or partly consists of land, GST will be charged on the Taxable Supply at the rate of zero percent as required by the GST Act where the Purchaser satisfies the following criteria ("CZR Test") by:

- (a) Being a registered person for GST purposes;
- (b) Acquiring the goods with the intention of using them for making Taxable Supplies; and
- (c) Not intending to use any land included in the Taxable Supply as a principal place of residence for the Purchaser or a person associated with the Purchaser within the meaning of the GST Act.

32.4 The Purchaser will provide to the Vendor the relevant details confirming whether each of the items in the CZR Test is satisfied in the GST Schedule, and if for any reason the GST Schedule is not completed when this Agreement has been signed by the Vendor and Purchaser, the Purchaser will complete the GST Schedule immediately.

32.5 Where any of the particulars stated by the Purchaser in the GST Schedule alter between the date of the notice and the Settlement Date, the Purchaser shall notify the Vendor of the alterations ("CZR Change Notice") no later than 3 Working Days before the Settlement Date, unless the Settlement Date is within 3 Working Days of the Purchaser becoming aware of the alterations, and in such case, the CZR Change Notice must be provided to the Vendor as soon as practicable.

32.6 If the GST treatment of the Taxable Supply changes because of the alterations contained in the CZR Change Notice, and the Vendor has already issued a tax invoice the Vendor shall prepare and deliver to the Purchaser a credit or debit note as may be required under the GST Act.

32.7 In the event the Purchaser is required to pay GST on any Taxable Supply made under this Agreement, or if the Purchaser fails to complete the GST Schedule, the Purchaser will pay to the Vendor:

- (a) The amount due under clause 32.1(b) to the Vendor on the GST Date in respect of the Taxable Supply;
- (b) Interest at the Default Rate on the amount of GST unpaid from the GST Date until payment of the GST is made in full; and
- (c) Any Default GST which is incurred by the Vendor because of the Purchaser failing to meet its other obligations under this clause.

32.8 As between the Vendor and the Purchaser, the Vendor will not be under any obligation to pay GST chargeable on any Taxable Supplies made under or pursuant to this Agreement in accordance with the GST Act or to take any steps to minimise their liability in respect of that GST or Default GST unless and until the corresponding payment is received from the Purchaser by the Vendor, and it will not be a defence to a claim against the Purchaser for payment to the Vendor of any Default GST that the Vendor has failed to mitigate the Vendor's damages by not paying an amount of GST when it fell due under the GST Act.

32.9 Where the Purchaser has nominated another party to complete Settlement, the Purchaser must procure that the nominee, rather than the Purchaser completes the CZR Notice and any requisite CZR Change Notice.

PART K: GENERAL

33.0 AGENT

33.1 The Vendor confirms that the Agent has been appointed to effect the sale of the Property to the Purchaser, and subject to any other agreement between the Vendor and the Agent, the Vendor agrees:

- (a) To pay the Agent's standard commission for the sale of the Property; and
- (b) That the commission is payable to the Agent by the Vendor as soon as all conditions in this Agreement have been fulfilled or waived.

34.0 NOTICES

34.1 General Provisions: All notices or other communications to be given under this Agreement may be given to the Vendor's Conveyancer or the Purchaser's Conveyancer as the case may be and shall be deemed to have been duly given or made:

- (a) In case of a communication by letter on the third Working Day after being posted by mail, correctly addressed and stamped;
- (b) In case of a communication by document exchange on the third Working Day after being sent to the document exchange number of the recipient;
- (c) If given by hand, on personal delivery to the recipient or to such address;
- (d) If given by fax, upon receipt by the sender of a confirmation report advising that the fax was delivered to the office of the recipient; and/or
- (e) If given by e-mail, upon receipt of a non-automated email response or any other form of communication referred to in this clause that acknowledges receipt of that e-mail.

34.2 Unit Title Provisions: Where the Property is a Unit Title, then each party agrees:

- (a) That the facsimile number of that party's lawyer shall be an address for service for the purposes of section 205 (1) (d) of the UTA, and
- (b) That where a party is overseas that party's lawyer shall be their agent in New Zealand for the purposes of section 205 (2) of the UTA.

34.3 No Effect on Property Law Act: Nothing in clause 34.1 exempts any party from complying with any provisions relating to notice or service contained in the Property Law Act 2007.

35.0 CREDIT CONTRACTS AND CONSUMER FINANCE ACT 2003

35.1 Agreement not a Credit Contract: The parties agree that the Purchaser has, except where this Agreement provides otherwise in the case of default by the Vendor in the performance of the Vendor's obligations hereunder, no right to defer payment of any moneys when they fall due for payment under this Agreement and accordingly this Agreement is not a credit contract within the meaning of the Credit Contracts and Consumer Finance Act 2003 ("Credit Contract").

35.2 Other Agreements Not Effected: Nothing in clause 35.1 prevents any other agreement between the parties from being a Credit Contract.

36.0 LIMITATION OF TRUSTEE LIABILITY

36.1 Limitation of Liability: Notwithstanding anything to the contrary contained in this Agreement, where any party to this Agreement is an Independent Trustee that person's liability under this Agreement shall not be their unlimited personal liability but shall be limited to the assets from time to time in that person's hands or under that person's control as trustee of the trust of which they have entered into this Agreement as a trustee.

36.2 Interpretation: For the purposes of clause 36.1 an Independent Trustee is a person who is a trustee of a trust of which that person is neither a settlor nor a beneficiary when that person signs this Agreement, or at Settlement.

37.0 NON-MERGER

37.1 The agreements, obligations, warranties and undertakings of the parties shall not merge with the sale and purchase of the Property and the Chattels or upon Settlement but, to the extent that they have not been completed by performance at Settlement, shall remain enforceable to the fullest extent notwithstanding any rule of law to the contrary.

38.0 FORCE MAJEURE

38.1 Excusability and Extension of Time: Subject to compliance with clause 38.2:

- (a) Neither party will be liable for any delay in performing their obligations under this Agreement where such delay is directly caused by a Force Majeure Event; and
- (b) A party affected by a Force Majeure Event will be granted an extension of time for performance of its obligations of no longer than the period of the delay.

38.2 Obligation to Notify: The party who has been delayed or prevented shall promptly tell the other party in writing of the reasons for the delay and the likely duration of the delay.

38.3 Right to Cancel: Notwithstanding clause 38.1, where the Settlement Date has been deferred for a period longer than 20 Working Days due to the delay caused by a Force Majeure Event, either party may by notice in writing to the other cancel this Agreement and in such case:

- (a) Any moneys paid by the Purchaser to the Vendor shall be refunded; and
- (b) Neither party shall have any other claim against the other.

38.4 Definition: In this clause, "Force Majeure Event" means any cause affecting the performance by a party of its obligations under this Agreement arising from acts, events or omissions beyond its reasonable control, which shall be deemed to include fire, flood, riots, war, acts of terrorism, storm or earthquake, and/or governmental actions.

39.0 GOVERNING LAW

39.1 This Agreement shall be governed by and interpreted according to the laws of New Zealand and each party irrevocably submits itself to the exclusive jurisdiction of the New Zealand courts in respect of any proceedings arising out of or relating to this Agreement.

40.0 COUNTERPART EXECUTION AND ELECTRONIC COMMUNICATION

40.1 Counterparts: This Agreement may be executed in any number of counterparts each of which will be deemed an original and all of which together will constitute a single instrument. Any party may enter into this Agreement by signing any counterpart. Facsimile or PDF copies of executed Agreements will be sufficient evidence that an original of this Agreement has been executed.

40.2 Electronic Communication and Signatures: For the purposes of Part 4 of the Contract and Commercial Law Act 2017 each party:

- (a) Consents to the use, provision, and/or acceptance of information, including this Agreement, in an electronic form;
- (b) Agrees that the use of the realforms platform provided by realforms New Zealand Limited ("realforms") constitutes the use, provision, and/or acceptance of information in an electronic form; and
- (c) Acknowledges that any electronic signature used by a party in realforms:
 - (i) Is personal to that party and is not used or linked to any other person; and
 - (ii) Was, or will be, created under the authority of that party and no other person.

41.0 NO ASSIGNMENT

41.1 Neither the Purchaser nor the Vendor shall assign or purport to assign any of its rights or obligations under this Agreement to any other person without the consent of the other party, provided that this clause shall not effect the Purchaser's right of nomination under clause 4.1.

42.0 NO WAIVER

42.1 The failure of either party at any time or from time to time to require performance of any provision of this Agreement shall in no way affect that party's right to enforce such provision.

42.2 The waiver, or any conditional waiver, by a party, of a breach of this Agreement by the other party shall in no circumstances be deemed to be a waiver of any further breach of any term of this Agreement.

43.0 COSTS

43.1 Unless otherwise agreed, each party shall bear its own costs and disbursements in the negotiation, drafting, and performance of this Agreement.

SECTION C: FURTHER TERMS OF SALE

[Empty rectangular box for further terms of sale]

WARNING

This is a legal document, and once it has been signed by all the parties, a contract will exist between the parties that may be enforced in accordance with the law of New Zealand.

This document has been prepared for the purpose of the sale and purchase of residential property. It is not an appropriate document to be used without additional provisions where, for example, the property is a farm or hotel or where the property forms part of land in the process of being subdivided. This document should not be used where a business operating from the property is being acquired by the purchaser.

The parties should take professional advice before signing this document to ensure that both the effect of the agreement and any taxation consequences are understood.

The provisions contained in the agreement are not a substitute for the purchaser making enquiries about the property. Notwithstanding any provision in the agreement, the purchaser should consider making its own enquiries before signing this document relating to zoning requirement or limitations imposed by territorial authorities.

Where the property is a unit title, the vendor must provide the purchaser with a pre-contract disclosure statement in accordance with the Unit Titles Act 2010. However, this disclosure statement may not reveal all information material to the unit, and the purchaser should consider obtaining further information from the body corporate, including the resolutions of body corporate meetings, and details of maintenance planning and/or any special purpose funding required for remedial work.

The vendor should ensure that it understands the warranties it is giving to the purchaser under the agreement, and the consequences that may ensue if those warranties are not complied with.

This agreement has been prepared by realforms New Zealand Limited ("realforms") in conjunction with the law firm McVeagh Fleming. Use of this document by any person does not constitute, create, or imply any relationship under which any duty or care or fiduciary obligation is owed by realforms or McVeagh Fleming to that person, and neither realforms nor McVeagh Fleming have any liability to that person for any harm or loss they may incur or suffer thereby.

AGREEMENT

Agreement: The Vendor agrees to sell, and the Purchaser agrees to purchase, the Property and the Chattels recorded in this Section A in accordance with the terms and conditions recorded in Section B.

Acknowledgements: The Vendor and the Purchaser each acknowledge that they have been provided with a copy of the New Zealand Residential Property Sale and Purchase Agreement Guide prepared by the Real Estate Authority, and the Purchaser acknowledges that where the Property is a Unit Title the Purchaser has received a copy of the Pre-Contract Disclosure Statement.

Date of Agreement: _____

Yes

Vendor(s) and/or Purchaser(s) received REA's New Zealand Residential Sale and Purchase Agreement Guide (realforms Web Forms cannot be submitted without electronic acceptance)

SIGNATURE OF VENDOR(S)

Vendor _____
Name:

Vendor _____
Name:

Vendor _____
Name:

Vendor _____
Name:

Vendor _____
Name:

Vendor _____
Name:

Vendor _____
Name:

Vendor _____
Name:

Vendor _____
Name:

Vendor _____
Name:

SIGNATURE OF PURCHASER(S)

Purchaser _____
Name:

Purchaser _____
Name:

Purchaser _____
Name:

Purchaser _____
Name:

Purchaser _____
Name:

Purchaser _____
Name:

Purchaser _____
Name:

Purchaser _____
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Purchaser _____
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Purchaser _____
Name: