



## ANNEXURE A

### Section A ACKNOWLEDGEMENTS

The Buyer acknowledges that:

1. Where a registered builder, or his representative, has referred the Buyer to the land, that following settlement, the Seller may pay to that referee a fee.
2. The Buyer has made all relevant enquiries as to the suitability and zoning of the land for the use and development proposed by the Buyer for the land.
3. The Buyer has not relied on any representation by the Seller, its agents or servants as to the suitability of the existing ground conditions of the land for the Buyer's proposed uses of the land.
4. The Buyer has entered into this Contract and will proceed to Settlement relying entirely upon the Buyer's own independent appraisal and assessment of the land.
5. The Seller is registered for GST.
6. The land is registered under the Transfer of Land Act 1893 (as amended) and that the Buyer is not entitled to deliver any requisition on or objection to the title of the Seller to the land and the Buyer hereby waives his/her right to do so.
7. The land the subject of this Contract of Sale may not yet be a Lot as defined in the Planning and Development Act 2005 (the "Act") and that the Seller will be required to satisfy conditions imposed by the Western Australian Planning Commission ("Planning Commission") to effect the creation of a separate conveyable lot comprising the land per the Planning Commission's approval reference 137302 as varied by the State Administrative Tribunal by orders made on 17 February 2011 (the "Approval").
8. The Approval involves contemporaneous satisfaction of conditions relating to proposed lots which are not the subject of this contract of sale and the Buyer agrees that the Seller is not obliged in any way whatsoever to create a separate certificate of title to the land the subject of this Contract separately from the other lots the subject of the Approval.
9. Notwithstanding that the Seller shall, as part of the activities required by the Planning Commission to be undertaken to complete the subdivision of the Estate and to create the Proposed Lot, have paid to Western Power a fee for the supply of underground power components, the installation and energisation of the underground power components may be completed after the Settlement Date

### Section B SPECIAL CONDITIONS

The Seller and the Buyer further covenant and agree:

1. If at the Contract Date the land is not described on a plan of subdivision registered at the Western Australian Land Information Authority ("Landgate") which is in order for dealings or, a separate Certificate of Title to the land has not yet been issued by the Landgate, then Clauses 1.1 to 1.4 inclusive below shall apply:
  - 1.1 The area of land being acquired by the Buyer under this contract is that land shown cross hatched on the plan attached hereto and marked "B" ("Proposed Lot").
  - 1.2 The land is not a separate lot as required by the Planning and Development Act 2005.
  - 1.3 Condition 13 of the 2011 Revision of the Law Society and Real Estate Institute of Western Australia Joint Form of General Conditions for the Sale of Land ("the General Conditions") incorporated into this Contract shall be deleted and the following shall be inserted in lieu thereof:
    - 13.1 *If in the event that the Planning Commission and/or agencies of the Planning Commission (such as the Water Corporation, Western Power or the Local Authority) impose an interpretation as to what would constitute satisfaction of the conditions included within the Approval which is unacceptable to the Seller in its absolute discretion, then the Seller may, at any time before the expiration of the time period referred to in Condition 13.2 below, issue notice to the Buyer that the conditions imposed as to the creation of the Proposed Lot are unacceptable to the Seller and thereupon the approval of the Planning Commission to the Proposed Lot shall be deemed to have been refused and the Contract shall be at an immediate end and all*

*deposit moneys shall be repaid to the Buyer and neither party shall have any claim against the other either in law or in equity.*

13.2 *This Contract is also conditional upon the Seller being able to, at the expense of the Seller:*

13.2.1 *comply with any conditions within the Approval; and,*

13.2.2 *cause the Planning Commission to affix its unconditional endorsement to a Deposited Plan of Survey describing the Proposed Lot, on or before the expiration of 220 days from the Contract Date.*

13.3 *If in the event that, for any reason howsoever arising, the Seller is unable to cause the Planning Commission to affix its unconditional endorsement to a Deposited Plan of Survey describing the Proposed Lot on or before the expiration of 220 days from the Contract Date then this Contract shall be at an immediate end and all deposit monies shall be repaid to the Buyer and neither party shall have any claim against the other either at law or in equity.*

13.4 *The Seller shall, as soon as is practical after the Planning Commission have affixed its unconditional endorsement to a Deposited Plan of Survey describing the Proposed Lot, lodge at Landgate the said Deposited Plan requesting it to be endorsed in order for dealings.*

13.5 *On or before the expiration of 14 days of the date at which the Deposited Plan of Survey describing the Proposed Lot is endorsed in order for dealings at Landgate the Seller shall:*

13.5.1 *apply for a certificate of title to the land as a separate lot,*

13.5.2 *upon making the application in satisfaction of Condition 13.5.1 above, notify the Buyer:*

13.5.2.1 *that the Deposited Plan describing the land as a separate lot is endorsed in order for dealings at Landgate; and,*

13.5.2.2 *of the date at which the Seller made application to Landgate for issue of a certificate of title to the land as a separate lot.*

13.6 *The Settlement Date shall be:*

13.6.1 *14 days from the date at which the Seller notifies the Buyer that a certificate of title to the land as a separate lot has issued; or,*

13.6.2 *the date stipulated in the Contract, whichever is the later.*

1.4 The Proposed Lot is subject to final survey by the Seller prior to the Settlement Date and the final surveyed area of the Proposed Lot may vary from that shown on the Annexure B plan by up to 2% smaller in area and provided that the final surveyed area of the Proposed Lot is not more than 2% smaller than the area described on the Annexure B plan neither the Seller nor the Buyer shall have recourse against the other and Condition 15 of the General Conditions is deleted. If in the event that the final surveyed area of Proposed Lot is more than 5% lower than that area shown on the Annexure B plan attached hereto then:

1.4.1 the Buyer may terminate the Contract by notice issued to the Seller,

1.4.2 upon such notice being given, this contract shall come to an immediate end; and,

1.4.3 all deposit monies paid shall be immediately refunded to the Buyer.

2. The Seller accepts no liability for dividing fences and the Buyer shall meet all claims by any other party for contribution to any existing dividing fences on the perimeter of the land and further the Buyer agrees that in the event the Buyer constructs a dividing fence on any boundary of the land whether before or after settlement and such boundary is a boundary of any other lot in the subdivision owned by the Seller the Buyer will have no claim for compensation or contribution against the Seller under the provisions of the Dividing Fences Act.

3. The Seller is under no obligation to the Buyer to protect or secure the positioning of the survey pegs that may be in existence at the Contract Date (if any) or to reinstate any lost survey pegs either before or after settlement and the absence of survey pegs shall not be a cause for the Buyer not to proceed to settlement.

4. The Purchase Price is inclusive of GST and any GST payable under this sale will be calculated using the 'Margin Scheme' as defined in Division 75 of A New Tax System (Goods and Services Tax) Act 1999 and the Seller is not obliged to provide at settlement a Tax Invoice entitling the Buyer to an Input Tax Credit.

5. Conditions 18.1, 18.2 and 18.3 of the General Conditions are deleted.

6. This contract does not constitute a warranty that:

6.1 the Seller accepts any condition imposed by the Planning Commission upon the creation of the Proposed Lot and the Seller shall be at liberty at all times to reject and challenge such conditions as the Seller might, in its absolute discretion, deem appropriate to reject or challenge in the State Administrative Tribunal; or,

6.2 the Seller is able to or can obtain the endorsement by the Planning Commission of a Deposited Plan of Survey describing the Proposed Lot within the times provided in Clause 13 of the General Conditions (as varied by this Contract).

7. The land is sold at the Purchase Price on an “as is where is” basis together with all the substances that may exist on, under or within the land as at the Contract Date whether or not those substances or any one of them happens to be at a quantity which might present risk to human health, the environment or any environmental value and the Buyer accepts the land as it comprises in all its substances, the property in which transfers to the Buyer at Settlement, and the Buyer waives all claim against the Seller to vary the quantity of those substances whether before or after settlement.
8. In consideration of the Seller having paid Western Power and endeavoring to have the underground power installed as soon as the Seller can cause the same to be installed and energized, the Buyer agrees:
  - 8.1 to proceed to Settlement notwithstanding that the installation and energisation of the underground power components may not be completed as at the Settlement Date,
  - 8.2 that the Buyer waives all claims against the Seller for any costs that may arise against the Buyer for the underground power having been installed and energized after Settlement is effected.

## SECTION C – PROTECTIVE COVENANTS

1. The Protective Covenants (“covenants”) set out below are applicable to all lots located within the subdivision of the Seller’s land in accordance with the Approval (being the subdivision of Lots 1467 and 1468 on Plan 3314(2) and Lot 102 on Diagram 63707 but excluding that land comprised in proposed lot 129 as described on the Approval) [“the Estate”].
2. These covenants shall be enforceable by the Seller against the Buyer and every other buyer of a lot within the Estate including and all successors in title until the 31<sup>st</sup> December 2020. The intended purpose of the covenants is to restrict the use of each lot so that a minimum standard of building and development is achieved within the Estate.
3. The Buyer as transferee accepts that the following covenants shall apply to and run with the land in the Proposed Lot:
  1. *All external walls of the dwelling house constructed on the land (“the dwelling”) shall be primarily of brick, stone, concrete or glass.*
  2. *Timber and timber substitute used in the dwelling construction shall be limited to 20% of wall area and roofing shall be of non-reflective material. eg. untreated zincalume shall not be used.*
  3. *The dwelling shall have a minimum floor area of 140 square metres, or if the lot has an area of less than 500 square metres, shall have a minimum floor area of 110 square metres, measured to the external wall lines. “Floor area” does not include patios, outbuildings or carports and garages but may include an outdoor alfresco area which is constructed under the main roof of the dwelling.*
  4. *If the lot is 500m<sup>2</sup> in area or more the dwelling shall have as a minimum a double carport or garage and if the lot is less than 500m<sup>2</sup> in area the dwelling shall have as a minimum a single carport or garage and in all cases constructed substantially of the same materials as the dwelling.*
  5. *Carports shall be:*
    - 5.1. *used only to store privately registered motor vehicles, registered boats or caravans.*
    - 5.2. *constructed with a roller or sectional retracting front door*
  6. *Commercial vehicles, tools, machinery, spare parts or household items must be garaged or stored away on the land so that they are screened from public view.*
  7. *Solar hot water heaters or air conditioners may not be erected on the dwelling on that portion of the roof facing the street and where erected they shall be painted to match the colour of the roof of the dwelling.*
  8. *Repairs or maintenance to motor vehicles, boats or machinery is prohibited from taking place on the land unless screened from public view.*
  9. *No fence may be constructed on the land forward of the dwelling towards the street kerb alignment.*
  10. *No dwelling constructed on the land may be occupied unless:*
    - 10.1. *a driveway is constructed from the street kerb alignment to the garage of the dwelling which driveway shall:*
      - 10.1.1. *not be less than 3 metres wide; and,*
      - 10.1.2. *constructed entirely of brickpaving or concrete which is coloured and stenciled so as to imitate the visual aspect of brickpaving,*
    - 10.2. *a letter box is constructed on the land adjacent to the street frontage of the land made substantively out of the same materials as the dwelling.*

4. Registration of covenants and assignment of the benefit of the covenants to any other Purchasers of lots within the Estate shall be at the absolute discretion of the Seller. If registered on the Certificate of Title, the registered covenants shall be consistent with the covenants contained in Clause 3 above but may be varied and/or expressed in the negative for the purposes of enabling registration as the Seller's solicitor might reasonably require. If a benefit arising from a covenant attached to any other lot in the Estate is assigned to the Buyer, the Buyer accepts that benefit.

**BUYER** \_\_\_\_\_

**BUYER** \_\_\_\_\_

**WITNESS** \_\_\_\_\_

**DATE** / / 2012

**SELLER** \_\_\_\_\_

**DATE** / / 2012

Director