

AUCTION

PROPERTY:
21 EVANGEL STREET,
DUNDEE BEACH

Date and time of Auction
04 APRIL 2020 at
12.00PM

Auctioneer

ELDERS REAL ESTATE

CONTRACT FOR SALE OF LAND BY PUBLIC AUCTION

THE PROPERTY: ALL THAT piece of land being
in Plan S 90/188A Hundred of Glyde
in the Northern Territory and being the
whole of the freehold comprised in
Certificate of Title Volume 711 Folio 178

THE VENDOR: **STEPHAN THOMAS WALTER**
SHIREE ANNE WALTER

THE AUCTIONEERS: **ELDERS REAL ESTATE**

DATE & TIME OF AUCTION: **04 APRIL 2020 AT 12.00PM**

PLACE OF AUCTION: **On Site**

CONDITIONS OF CONTRACT

1. The land is offered for sale with no reserve price.
2. The person who makes the highest bid at the auction shall, subject to the approval of the Vendors be the purchaser. The vendors may withhold or decline to give such approval at their discretion.
3. The auctioneer may at his discretion refuse to accept any bid from any person.
4. No bid if accepted shall be retracted without the consent of the auctioneer.
5. A bidder shall not be able to advance the bidding by a sum smaller than that which the auctioneer is willing to accept.
6. In the absence of a higher bid, a bid shall be deemed to be accepted unless the auctioneer forthwith after it has been made declares its non-acceptance.
7. If any dispute or difference shall arise as to the highest bidder the auctioneer may re-open the bidding and re-submit the property commencing with the highest amount previously bid for it or he may decide on the highest bidder in such other manner as he in his absolute discretion shall deem fit and his decision shall be final.
8. Upon the fall of the hammer, the highest bidder shall sign the within agreement as purchaser, the conditions of which with these conditions are

the conditions of the sale by auction. The amount of the successful bid shall be shown in Item G as the purchase price. The deposit referred to in Item H of the agreement shall be payable forthwith upon such execution of the agreement.

9. The vendors reserve the right:
 - (a) to sell by private treaty at any time prior to auction;
 - (b) to bid generally by themselves or by their agent or by the auctioneer;
 - (c) to withdraw the land at anytime before the same is actually sold and without any obligation to any person to have or to declare any reason for such withdrawal.
10. Should a person be bidding on behalf of either someone other than himself or for both himself and some other party and wishes that the contract include such other person's name then the bidder shall produce an appropriate authority. The responsibility for stamp duty purposes that the purchaser be precisely identified at the time of the execution of the contract shall be under no obligation to consider or sanction any addition of parties or amendments to the contract as may be subsequently requested by the purchaser.
11. Notwithstanding anything contained elsewhere in the contract, the purchaser acknowledges that the property was bid for and purchased "as is" in terms of physical condition and compliance or otherwise with relevant statute law and building codes, and without in any way reducing or limiting the generality of this condition, Clause 11.2 and 11.3 of the contract shall specifically not apply.
12. Bidders should note that no "cooling off" period shall apply, a binding agreement between vendors and highest accepted bidder coming into existence forthwith upon the fall of the hammer.

Exclusions: All furniture and white goods
Kitchen equipment, all crockery and cutlery
Lounge Air-conditioner
The Diesel 1-KVA auto start generator
The fourth ground mounted, 25,000 litre plastic water tank
Shed frames and all associated building materials
Barbeque
Any other loose items on the property

- F. OTHER CHATTELS INCLUDED IN SALE:
- G. PURCHASE PRICE:
- H. DEPOSIT: Ten Percent (10%) of amount at Item
- I. STAKEHOLDER:
- J. DATE FOR COMPLETION: **30 days from the date specified in Item A**
- K. TENANCIES: Not Applicable
- L. ENCUMBRANCES: As noted on Certificate of Title
- M. LICENCE FEE: (for early possession): None specified.
- N. DEFAULT INTEREST ON PURCHASE PRICE: 15% simple interest per annum
- O. FINANCE:
- (a) *Lender:*
Date for Approval:
Amount of Loan:
- P. PRIOR SALE:
- (a) *Description of Purchasers Property.*
(b) *Date for completion of sale by Purchaser.*
(c) *Minimum Sale Price:*
- Q. VENDOR'S AGENT: ELDERS REAL ESTATE – P McCormack

28.APPOINTMENT OF AGENT

In the absence of any specific appointment the Vendor by executing this Contract hereby confirms the appointment of the Vendor’s Agent named in Item Q (jointly with any other agent in conjunction with whom he has sold) as the Vendor’s Agent to introduce a buyer.

SPECIAL CONDITIONS

A. (i) *Clause 26 herein is amplified by the addition of sub-clause (d) as follows:-*

“(d) by facsimile transmission to the listed facsimile number of either the receiving party or that party’s solicitors or agents herein acting”.

(ii) *Clause 23(3) herein is amended by deleting the words “two (2) days” and substituting the words “one (1) working day” therefor.*

B. *If this contract shall have been executed by the purchaser prior to or at an advertised or scheduled auction of the property, then Clauses 11.2 and 11.3 herein shall not apply to the sale, such that the purchaser acknowledges that the property is purchased “as is” in terms of its physical condition and also in relation to its compliance or otherwise with all relevant statute law including all relevant building codes and regulations whatsoever.*

IN WITNESS WHEREOF the parties have hereunder executed this Contract.

SIGNED or EXECUTED by the VENDORS

.....
Stephan Thomas Walter

.....
Shiree Anne Walter

in the presence of:

.....

SIGNED or EXECUTED by the PURCHASERS

.....

.....

in the presence of:

.....

CONDITIONS OF CONTRACT

1. AGREEMENT

- 1.1 BY THIS CONTRACT made on the date specified in Item A we, the abovementioned parties named and described in Item B and C as the Vendor and the Purchaser, agree to the sale and purchase of the property described in Items D, E and F for the purchase price specified in Item G and upon the terms specified herein and on the conditions of sale hereinafter following.

2. DEPOSIT

- 2.1 The Purchaser shall on or before the execution of this Contract by the Vendor pay the deposit specified in Item H to the Stakeholder specified in Item I. The deposit shall vest in the Vendor upon and by virtue of completion.
- 2.2 If the deposit or any part thereof is not paid in accordance with this Contract or is paid by cheque and the cheque is not honoured on presentation to the drawer's bank, the Purchaser shall be immediately in default under this Contract and the Vendor may without prejudice to any other rights or remedies available to him immediately terminate this Contract by notice to the Purchaser. Whether or not the Vendor terminates this Contract the Vendor shall be entitled to recover as a liquidated debt from the Purchaser so much of the deposit as has not been paid by the Purchaser. If the Vendor has not terminated this Contract at the time of recovery of that amount then he shall pay the amount recovered to the Stakeholder under this Contract. Time shall be regarded as of the essence in the construction of this clause.
- 2.3 Except as provided herein if this sale is not completed for any reason other than the default of the Purchaser the deposit shall be refunded to the Purchaser without deduction.

3. COMPLETION AND POSSESSION

- 3.1 The balance of the purchase price specified in Item G shall be paid on the date for completion stated in Item J in exchange for possession (such possession to be vacant except for the tenancies described in Item K) together with a duly executed transfer in favour of the Purchaser capable of immediate registration free from encumbrances except as set out in Item L and accompanied by the duplicate of the instrument of title and in the case of land being subject to any tenancies referred to in Item K the Vendor's executed and stamped copies of all instruments (if any) evidencing such tenancies.

- 3.2 (a) The Purchaser shall tender the appropriate Memorandum of Transfer of the property to the Vendor within seven (7) days of the date hereof.
- (b) The Vendor shall not later than two (2) working days before the date for completion, deliver to the Purchaser:
- (i) the Memorandum of Transfer, duly executed, to be held in escrow by the Purchaser for the purpose of stamping only;
 - (ii) a settlement statement providing particulars of all necessary adjustments to the purchase price and the manner in which the balance of that purchase price is to be paid.
- 3.3 Unless otherwise stated herein or agreed by the parties completion shall take place at the Land Titles Office in Darwin.
- 3.4 The balance of the purchase price shall be paid to the Vendor or his representative or any other person nominated in writing on the Vendor's settlement statement by the Vendor by bank cheque or cash. If for any reason a bank cheque tendered on account of the balance of the purchase price is not paid on presentation the Purchaser shall remain liable to pay the amount thereof.

4. POSSESSION BEFORE AND AFTER COMPLETION

- 4.1 If before completion the Vendor agrees to give and the Purchaser takes possession of the property then until completion:-
- (a) the Purchaser will occupy the property as a licensee only and not as a tenant and entry into possession by the Purchaser under this clause shall not constitute or give rise to a relationship of landlord or tenant as between the parties hereto;
 - (b) such possession shall amount to an acceptance of title by the Purchaser;
 - (c) in the event that no separate written agreement is reached regarding the payment of a licence or occupation fee the Purchaser shall pay to the Vendor a licence or occupation fee in the amount specified in Item M (and, if no fee is specified in Item M, a reasonable fee) for that period commencing from the possession date until completion. In the event of a dispute between the parties as to what constitutes a reasonable licence fee then the parties shall accept the determination of the President of the Real Estate Institute of the Northern Territory for the time being or his nominee;
 - (d) the Purchaser shall not let or part with possession of or make any structural alteration or addition to the property or do anything to the property or thereon which would cause its value to diminish;

- (e) the Purchaser shall keep the property in good repair having regard to the condition thereof at the possession date and permit the Vendor or his agent at all reasonable times to enter and view its state of repair;
- (f) the Purchaser shall keep all buildings and chattels fully insured against fire storm tempest earthquake and such other risks as the Vendor may reasonably require and deliver the policy and renewal receipts to the Vendor;
- (g) the Purchaser shall punctually pay all rents taxes charges and outgoings on the property and any necessary apportionment shall be made upon completion;
- (h) subject to clause 11.1 herein, the Purchaser shall observe and comply with the provisions of all statutes, regulations and by-laws and of any instrument, covenant, order or direction affecting the property;
- (i) the Purchaser shall duly observe and perform all covenants and conditions contained in any separate licence agreement (if applicable) in respect of the property.

4.2 If the Purchaser shall make default in any of these obligations the Vendor may without notice make good the default and without prejudice to his other rights may recover from the Purchaser as a debt the cost of so doing with interest thereon at the rate per annum specified in Item N.

4.3 The provisions of this clause shall apply if the Vendor remains in possession after completion except that the obligations of the Purchaser shall be read and construed as obligations of the Vendor.

5. RISK

5.1 Notwithstanding any rule of law or equity to the contrary the property shall be at the risk of the Vendor until the whole of the purchase price is paid or the Purchaser is entitled to or is given possession of the property whichever is the earliest and thereupon the risk shall pass to the Purchaser.

5.2 If the property includes a building or other improvement or chattels any part of which is destroyed or damaged prior to the risk passing to the Purchaser the following shall apply:-

- (a) if the building is a dwelling and it is made substantially uninhabitable or in any other case, the building is made substantially unusable for the use current at the date of this Contract, then at the option of the Purchaser, this Contract may be rescinded by notice in writing to the Vendor given at any time before completion but not later than fourteen (14) days after the date upon which the Vendor has given written notice to the Purchaser of such destruction or damage or the date upon which the Purchaser becomes aware of the same

(whichever is the earlier) and thereupon the Vendor shall repay to the Purchaser the deposit and all other moneys (if any) paid by the Purchaser to the Vendor under the Contract without deduction.

- (b) if the Contract is not rescinded pursuant to clause 5.2(a), the purchase price shall be reduced by an amount equal to the reduction in value of the property caused by the destruction or damage. Such amount shall be settled in cases of difference by an arbitrator appointed in the manner specified in clause 7.2.

5.3 Further to clause 5.2(b), the provisions of the Real Property (Insurance Money Application) Act shall not apply to any money payable or paid to the Vendor under or pursuant to any policy of insurance with respect to the property or any part thereof and are hereby expressly negated and excluded from operation hereunder.

6. REQUISITIONS ON TITLE

6.1 The Purchaser may within:

- (a) 14 days after the date of the contract; or
- (b) 7 days after the date upon which the contract ceases to be subject to any condition the non-fulfilment of which terminates or gives either party the right to terminate the contract otherwise than for default;

whichever is the later date, give to the Vendor a statement in writing (“the requisitions”) of all objections to or requisitions on the title to the property (if any). All objections or requisitions not included in the requisitions are deemed to have been waived by the Purchaser.

6.2 The Vendor shall give to the Purchaser answers to the requisitions within 7 days after they are given to the Vendor.

6.3 Subject to condition 7.1, if the Purchaser makes an objection to or requisition on the title which the Vendor is unable or unwilling to remove or comply with and the Purchaser insists on the objection or requisition, the Vendor may at any time prior to the settlement date or the possession date (whichever is the earlier) rescind the contract by notice in writing to the Purchaser except that the Purchaser may within 7 days after service of the said notice by the Vendor withdraw the objection or requisition by notice in writing to the Vendor and thereupon the contract shall be reinstated.

6.4 Within 7 days after giving a notice of rescission, the Vendor shall, unless the Purchaser shall have withdrawn his objection or requisition, repay to the Purchaser the deposit and all other moneys paid by the Purchaser under the contract and thereupon the Vendor shall have no further liability to the Purchaser under or incidental to the contract.

- 6.5 No objection or requisition or claim for compensation shall be made by the Purchaser in respect of any of the following matters:-
- (a) the ownership or location of any dividing fence as defined by the Fences Act 1972 and any amendment thereto;
 - (b) any water supply or sewerage or drainage service to the property being a joint service with any other land, the water supply sewerage or drainage pipes or connections for the property passing through other land or the water supply sewerage or drainage pipes or connections for any other land passing through the property.
 - (c) the mains, pipes, drains or other connections of any water sewerage or drainage authority passing through the property;
 - (d) any wall being a party wall in any sense of that term;
 - (e) any exception, reservation, covenant, condition, or easement affecting the property or any part of it contained or referred to in any Land Grant, Certificate of Title, Lease or Crown Lands or Certificate of Right relating to the property or any part thereof;
 - (f) the existence of any other exception, reservation, covenant or easement the substance of which is disclosed in Item L.

7. ERRORS AND MISDESCRIPTIONS

- 7.1 No error or misdescription of the property shall annul the sale but compensation shall be made or given as the case requires if demanded in writing not later than fourteen (14) days after the Purchaser is given possession of the property but not otherwise. Clause 6.3 shall not apply to a claim for compensation.
- 7.2 If the parties are unable to agree upon the amount of compensation the amount shall be settled by an arbitrator to be appointed by the parties by mutual agreement or failing agreement to be nominated by the President for the time being of the Real Estate Institute of the Northern Territory whose nomination shall be final. Any arbitration shall be conducted in accordance with the Commercial Arbitration Act.

8. SURVEY AND INSPECTION

- 8.1 The purchaser shall be entitled to conduct a survey of the property to ascertain the boundaries and area of the property and establish the location of structures purporting to be on the property or on adjoining land. If there is any material or substantial error in the boundaries or area of the property or any encroachment of a material or substantial nature the Purchaser shall be entitled to rescind this Contract by notice in writing to the Vendor given not later than three (3) days prior to the date for completion in which event all deposit and other moneys received by the Vendor or the Stakeholder on account of the purchase price shall be refunded to the Purchaser by the Vendor or the Stakeholder as the case

may be without interest, costs or damages, and the same shall be accepted by the Purchaser in full and final satisfaction of all claims. Any error in the boundaries or area of the land or any encroachment either of which is not of a material or substantial nature shall not annul the sale but compensation or equivalent shall be given or taken by the Vendor or the Purchaser as the case may require.

9. FENCES

9.1 The Vendor warrants that no notice has been given to meet or contribute towards the cost of constructing any dividing fence now existing between the property and any land adjoining or to meet or contribute towards the cost of any such fence before the date of this Contract.

9.2 The Vendor shall not whether before or after completion be bound to contribute to the erection or cost of erection of any dividing fence or wall between the property and any adjoining land owned by the Vendor. If so required the Purchaser shall include in his memorandum of transfer or other assurance a restrictive covenant on his part in such form as the Vendor shall reasonably require for the benefit of any adjoining land of the Vendor binding himself and his successors in title which will exempt the Vendor and his successors in title other than Purchasers on sales from liability to make or pay any such contribution.

10. ADJUSTMENT OF INCOME AND OUTGOINGS

10.1 Subject to clause 4 the Vendor shall be entitled to the rents and profits and shall pay or bear all rents rates charges and outgoings up to and including the date of completion or the date of possession (whichever is the earlier) from which date the Purchaser shall be entitled to any shall pay or bear the same respectively and any necessary apportionment thereof shall be made and adjusted on completion.

11. COMPLIANCE WITH NOTICES

11.1 The requirements existing at the date hereof of any valid notice or order issued prior to the date hereof pursuant to any statute or by any local authority or court necessitating the doing of work or expenditure of money on or in relation to the property or any footpath or road adjoining the property shall be fully complied with by the Vendor in a proper and workmanlike manner prior to the date for completion any such requirement not existing at the date hereof shall be complied with by the Purchaser who shall indemnify the Vendor in respect thereof. If without default by the Purchaser this Contract is rescinded the Vendor shall pay to the Purchaser any amount expended by the Purchaser in complying with any such notice which was in the nature of capital expenditure or has resulted in a benefit to the Vendor.

11.2 Subject to sub-clause 11.3, if at the date hereof the property:-

- (a) is the subject of a proposal to open, widen, realign, alter the level of or close a road under the Control of Roads Act; or

- (b) is the subject of a proposal under any Act to acquire the property or a part thereof or any interest therein; or
- (c) includes any building works or improvements erected or located on the property which are in breach of, do not comply with or have not been carried out or constructed in accordance with the Building Act or any regulations or codes made thereunder, and the Vendor fails or refuses to rectify such breach or non-compliance prior to completion.

the purchaser may within 14 days of the date hereof rescind this Contract.

- 11.3 The Purchaser is not entitled to rescind this Contract if the cost of rectifying any breach or non-compliance with the Building Act does not exceed one thousand dollars (\$1,000.00) or 2.5 per cent of the purchase price whichever is the greater. In that event the Vendor shall have an election to either allow the Purchaser a reduction in the purchase price equivalent to the cost or rectification or to rectify the breach or non-compliance prior to settlement or to rescind this Contract in which event clause 20 shall apply.

12. WARRANTY ON USE

The Purchaser shall make and rely upon his own enquires as to the provisions requirements and restrictions of any Town Planning or zoning scheme as it affects the property and the Vendor gives no warranty in this regard.

13. NO RELIANCE ON VENDOR'S REPRESENTATIONS

The Purchaser acknowledges that he has not relied on any representations of the Vendor, the Vendor's Agent or any other person inducing him to enter into this Contract other than as set out herein and that he has entered into this Contract after satisfactory personal inspection and investigation of the property and terms herein constitute the entire and only contract between the parties in relation to the property.

14. CHATTELS

The property in the chattels (if any) described in Item E and F shall pass to the Purchaser on completion. The Vendor warrants that he will have a right to sell the chattels (if any) at the time when the property in them is to pass to the Purchaser and that the chattels shall be free from any charge or encumbrance in favour of any third person and the Purchaser shall have and enjoy quiet possession of them. The Vendor shall maintain the chattels from the date hereof.

15. CONSENT

If by or under a law enforced in the Northern Territory the consent of the Administrator, a Minister of the Crown or a person or body constituted by

or exercising powers under statute is required to enable the transfer of the property by the Vendor to the Purchaser:-

- (a) the Vendor shall at his own cost make whatever application is necessary to obtain the consent to the transfer and the Purchaser will if the Vendor requires him to do so promptly join in the application.
- (b) the Vendor shall at his own cost diligently make every reasonable attempt to obtain the consent to the transfer and the Vendor or the Purchaser as the case may be will comply with every request to execute a document give any undertaking or do any other act or thing reasonably made of him by the person or body empowered to give the consent.
- (c) if the consent to the transfer has not been obtained on or before the date for completion either party may rescind this Contract.

16. INTEREST ON LATE PAYMENTS

16.1 If for any reason whatsoever except the neglect or default of the Vendor:-

- (a) this contract shall not be completed on the date for completion then the Purchaser shall pay interest at the rate specified in Item N on the whole of the purchase price from the date for completion until the date on which completion actually takes place;
- (b) if any part of the purchase price (except the deposit) is not paid when payable, then the Purchaser shall pay interest at the rate specified in Item N on such part from the date such amount is payable until the date such part is actually paid.

16.2 Any judgment in respect of such money shall bear interest at the same rate from the date of judgment until payment.

16.3 Without prejudice to any other rights which the Vendor may have in relation to any default, the Vendor shall not be obliged to complete this Contract unless all outstanding money (including interest) shall be tendered by the Purchaser.

17. NOTICE ON DEFAULT

17.1 Neither the Vendor nor the Purchaser shall be entitled to terminate this Contract on the ground of the other's default in performing or observing an obligation imposed on that other party under this Contract unless:-

- (a) the party not in default has first given to the party in default a written notice specifying the default complained of, and requiring that the default be remedied within the period stipulated in the notice; and
- (b) the party in default fails to remedy the default within the period stipulated in that notice.

- 17.2 The period stipulated in the written notice referred to in clause 17.1(a) hereof shall not be less than fourteen (14) days from the date of service of that notice.
- 17.3 The giving of a notice under this clause does not prejudice the right of either party to give a further notice under this clause.
- 17.4 This clause shall not apply where either party repudiates this Contract.

18. VENDOR'S DEFAULT

- 18.1 If the Vendor defaults in performing or observing any condition imposed on the Vendor under this Contract then the Purchaser in addition to any other rights and remedies he may have under this Contract or otherwise shall be entitled to the repayment of all monies paid by him under this Contract together with interest thereon at the rate specified in Item N computed from the date of payment by the Purchaser until and including the date of repayment to him.
- 18.2 The rule known as the rule in *Bain -v- Fothergill* whereby the damages recoverable from a Vendor incapable of making a good title are limited is hereby expressly excluded and does not apply to this Contract.

19. PURCHASER'S DEFAULT

- 19.1 If the Purchaser fails to pay the deposit or any part of the purchase price or otherwise fails to comply with any of the terms of this Contract or if the Purchaser repudiates this Contract then the Vendor in addition to any other rights or remedies he may have under this Contract or otherwise at law or in equity may:-
- (a) affirm this Contract and sue the Purchaser for damages for breach; or
 - (b) affirm this contract and sue the Purchaser for specific performance of this Contract and damages for breach in addition to or in lieu of specific performance of this Contract; or
 - (c) subject to Clause 17 and if the notice given pursuant to Clause 17.1 states that unless the relevant default is remedied within the time specified in the notice this contract will or may be terminated the Vendor may terminate this Contract and forfeit the deposit (except so much as exceeds 10% of the purchase price) and:
 - (i) sue the Purchaser for damages for breach; or
 - (ii) without further notice to the Purchaser, resell the property in such manner as the Vendor in good faith shall deem fit and provided the Vendor resells the property and the resale is completed within twelve (12) months, following the date of termination of this contract, and deficiency arising from such

resale and all expenses incurred by the Vendor arising from such resale shall be recoverable by the Vendor from the Purchaser as liquidated damages.

- 19.2 The Vendor may retain any money paid by the Purchaser on account of the purchase other than the deposit money forfeited under this clause as security for any deficiency arising on a resale or for any damages or compensation (including any allowance by way of licence fee or for rents or profits from a Purchaser who has been in possession of the property or in receipt of the rents or profits thereof) awarded to him for the Purchaser's default provided that proceedings for the recovery of such damages or compensation be commenced within twelve (12) months of the termination of this Contract. The Vendor may from time to time deduct from the money so retained any liquidated damages but shall on the expiration of twelve (12) months from the date of termination (unless proceedings have been commenced) account to the Purchaser for any balance.

20. RESCISSION

- 20.1 If this Contract is rescinded (as distinct from terminated) pursuant to any express right to rescind (as distinct from a right to terminate) conferred by this Contract, the rescission shall be deemed to be a rescission ab initio, and
- (a) the deposit and all other money paid by the Purchaser hereunder shall be refunded to him;
 - (b) except as specifically provided herein, neither party shall be alible to pay the other any sum for damages costs expenses or otherwise; and
 - (c)
 - (i) if the Purchaser is or has been in occupation of the property he shall pay to the Vendor the licence fee specified in Item M from the date of possession until such occupation ceases.
 - (ii) if the Purchaser is or has been in receipt of the rents or profits of the property he shall pay to the Vendor the net rents and profits received, and any resulting balance payable by the Purchaser may be deducted by the Vendor from the deposit and other money before returning the same to the Purchaser.

21. COSTS

- 21.1 The Vendor and the Purchaser shall each pay his own costs of and incidental to the sale and purchase.
- 21.2 All stamp duty hereon and on any duplicate hereof and any duty in respect of the conveyance by the Vendor to the Purchaser shall be paid by the Purchaser and if not paid by the Purchaser may be paid by the Vendor and recovered from the Purchaser.
- 21.3 The Vendor shall be responsible for the Vendor's Agent's Commission fee.

22. MERGER

Notwithstanding the completion of this sale and purchase and notwithstanding the registration of the transfer in favour of the Purchaser any general or special condition or any part or parts thereof to which effect is not given by such completion or registration and capable of taking effect after completion or registration shall remain in full force and effect.

23. FINANCE

If Item O has been completed, this Contract is subject to and conditional upon the Purchaser obtaining finance as set out in Item O and the following shall apply:

- 23.1 The Purchaser shall forthwith make application to the Lender or Lenders specified in Item O (in this clause called "the Lender") for the advance of a loan or loans in the amount(s) specified in Item O on the Lender's then prevailing conditions as the interest rate, term and rate of payment.
- 23.2 The Purchaser shall diligently pursue such application, sign all documents, give such security, do all such acts and pay all such fees as the Lender may reasonably require. Where the Purchaser is a corporation is shall procure the execution by all or any of its directors as the Lender may require a deed or deeds guaranteeing to the Lender the due observance and performance by the Purchaser of all the terms and conditions of the loan should it be granted. Inability of the Purchaser corporation to secure such guarantees if required by the Lender shall be construed as a refusal to accept such loan.
- 23.3 If the Purchaser in all respects complies with this Contract and yet is not able to duly settle this purchase by reason of his being unsuccessful in obtaining approval from the Lender by the date of approval specified in Item O, through no lack of diligence nor non-compliance with this clause on the part of the purchaser (proof whereof shall be upon the Purchaser) then the Purchaser may rescind this Contract. A failure by the Purchaser to so rescind this Contract by giving written notice of rescission within two (2) days after the date for approval specified in Item O shall subject to the other clauses of this Contract have the effect of rendering this Contract unconditional.
- 23.4 Upon rescission pursuant to sub-clause 23.3 herein, the Purchaser shall be entitled to be repaid his deposit subject to retention by the Vendor of the sum of Vendor's solicitor's reasonable fees and disbursements of and incidental to this Contract (for which amount the Purchaser shall be liable).

24. PRIOR SALE BY PURCHASER

If Item P is completed, this Contract is subject to and conditional upon the completion of the sale by the Purchaser of his property described in Item P on the terms referred to in Item P. If the Purchaser shall not have effected completion of the sale of that property by that date then he shall be entitled to give to the Vendor notice in writing to rescind this Contract

and upon the giving of such notice the deposit and all other monies paid on account of the purchase price less the Vendor's legal costs of and incidental to this sale and purchase shall be repaid to the Purchaser. If the Purchaser does not exercise such right by notice in writing to the Vendor within two (2) days of the date referred to in Item P this Contract shall (subject to the other clauses of this Contract) be deemed to be unconditional.

25. UNIT TITLES

If the property is a unit as that term is defined in the Unit Titles Act the Purchaser shall take title from the Vendor subject to the provisions of that Act where applicable and the Real Property (Unit Titles) act 1975 and in particular the following matters:-

25.1 For the purpose of this Contract:

- (a) "Body Corporate" shall mean the proprietors of the relevant Units Plan;
- (b) "Outgoings" shall include contributions to the Body Corporate pursuant to Section 36 of the Unit Titles Act;
- (c) Unless and until separate assessments of rates and taxes are issued in respect of property by the relevant authorities all necessary adjustments between the parties shall be made on the basis that the land shall be liable to that proportion of any such rates, taxes and outgoings levied or assessed against the parcel as defined by the Unit Titles Act as a whole which the Unit entitlement of the land bears to the total entitlement of all lots comprised in the Units Plan; and
- (d) Unless and until contributions under Section 36 of the Unit Titles Act are fixed outgoings paid by the Vendor which would properly be the subject of such contribution when fixed shall be adjusted between the parties on the same basis as provided in paragraph (c) of this sub-clause.

25.2 The Purchaser shall not make any objection requisition or claim for compensation in respect of any minor variations as regards the property inspected by the Purchaser and the property as depicted in the Units Plan as registered.

25.3 The Purchaser shall take title subject to water sewerage drainage gas electricity or other installations and services in relation to the property and shall make no objection requisition or claim for compensation if any such services are joint services with any other property or properties or that such services for any other property or properties pass through the property or that sewerage drainage gas or electricity services pass through or penetrate the property.

26. SERVICE OF NOTICE

26.1 A notice or other communication to be given or made under this Contract shall be in writing and may be signed by the party giving it or the party's solicitor and unless otherwise provided in this Contract is deemed to have been duly given or made if served on the party concerned -

- (a) by delivering the notice to the party or his solicitor personally;
- (b) in the case of an individual, by delivering it or posting it to him or her at his or her address specified in this Contract or other address for service from time to time notified in writing by him or her at his or her address specified in this Contract or other address for service from time to time notified in writing by him or her or his or her representative to the other party or his or her representative;
- (c) in the case of a corporation, by delivering it or posting it to the corporation at its address specified in this Contract or its registered office or principal place of business in the Northern Territory for the time being or other address for service from time to time notified in writing by or its representative to the other party or its representative.

26.2 A notice or other communication posted shall be deemed to have been served at the expiration of 48 hours from the time of posting.

27. INTERPRETATION

In the interpretation of this Contract:-

- (a) "Agent" includes Auctioneer;
- (b) "Solicitor" means a solicitor whether acting as principal or agent;
- (c) "property" means the property described in Items D, E and F and includes any part thereof.
- (d) "statute" where the context admits includes Orders in Council proclamations regulations rules by-laws and ordinances made under any statute;
- (e) references to statutes include reference to those statutes as amended or substituted from time to time;
- (f) headings and notes have been included for ease of reference and guidance and this Contract shall be construed without reference to them;
- (g) "the date hereof" and "the date of this Contract" means the date specified in Item A;

- (h) a reference to a party includes a reference to that party's heirs, executors, successors and permitted assigns;
- (l) a reference to a particular gender includes a reference to the other;
- (j) where two or more persons or corporations constitute the one party herein, the obligation and rights of such party are joint and several.

DATED

STEPHAN THOMAS WALTER

SHIREE ANNE WALTER

The Vendors

AND:

The Purchaser/s

CONTRACT OF SALE

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