

# **CONTRACT OF SALE**

## ***“ILLA LANGI” KOKOTUNGO***

**Grant & Simpson  
Lawyers**

226 Quay Street

Rockhampton Qld 4700

Telephone: (07) 4999 2000

Email: [admin@grantsimpson.com.au](mailto:admin@grantsimpson.com.au)

*(W:\Affinity Documents\SAIJE&CL\116441\P002.docx)*

## CONTENTS

PARTIES .....	3
AGREEMENT .....	3
1. INTERPRETATION .....	3
2. AGREEMENT TO SELL .....	6
3. DEPOSIT .....	7
4. COMPLETION AND POSSESSION .....	8
5. SELLER'S STATEMENTS AND WARRANTIES .....	9
6. LAND AREA, FENCES AND ENCROACHMENTS.....	10
7. LIMITATION ON SELLER'S WARRANTIES .....	11
8. SIGNING AND PRODUCTION OF DOCUMENTS.....	11
9. INTEREST ON LATE PAYMENTS.....	12
10. RISK AND CONDUCT OF PROPERTY UNTIL COMPLETION .....	12
11. BUYER'S DEFAULT.....	12
12. ADJUSTMENTS.....	13
13. ACKNOWLEDGEMENTS BY BUYER.....	14
14. AGENT .....	16
15. FOREIGN INTERESTS .....	17
16. GST .....	17
17. CGT WITHHOLDING .....	17
18. GUARANTEE IF BUYER IS A CORPORATION .....	18
19. BUYER AS TRUSTEE.....	18
20. ROAD GRIDS .....	18
21. CONFIDENTIALITY.....	18
22. AUTHORITY TO SEARCH.....	19
23. CONTRACT FOR LIVESTOCK/ PLANT AND EQUIPMENT.....	19
24. CONSENT .....	19
25. PROPERTY IDENTIFICATION CODE.....	19
26. SAFETY SWITCHES AND SMOKE ALARMS.....	20
27. APPORTIONMENT OF PURCHASE PRICE.....	20
28. NOTICES.....	20
29. REFERENCES TO AND CALCULATIONS OF TIME .....	20
30. GENERAL.....	21

31. SPECIAL CONDITIONS .....	22
32. SETTLEMENT DELAY .....	22
ANNEXURE A .....	26
ANNEXURE B .....	27
1. INTERPRETATION .....	27
2. GUARANTEE .....	28
3. INDEMNITY.....	28
4. NOTICES.....	28
5. REFERENCES TO AND CALCULATIONS OF TIME .....	29
6. GENERAL.....	29
ANNEXURE C.....	32

## Contract of Sale

### PARTIES

**Seller** **JAMIE EDWARD SAINSBURY**  
of 985 Baralaba-Kooemba Road, Baralaba, Qld 4702

**Buyer**

### AGREEMENT

#### 1. INTERPRETATION

---

##### Definitions

1.1 The meanings of the terms used in the agreement are set out below.

<b>Term</b>	<b>Meaning</b>
<b>Agent</b>	Hourn & Bishop Qld PO Box 172 MOURA QLD 4718
<b>ATO Clearance Certificate</b>	a certificate issued under section 14-220(1) of the Withholding Law that is current on the date it is given to the Buyer
<b>Authority</b>	a court, government, statutory or public authority or other body
<b>Balance Price</b>	the Purchase Price less the Deposit and adjusted under

---

	this agreement
<b>Business Day</b>	a day that is not a Saturday or Sunday or public holiday in Rockhampton or Brisbane
<b>CGT Withholding Amount</b>	the amount determined under section 14-200(3)(a) of the Withholding Law or, if a copy is provided to the Buyers before Completion, a lesser amount specified in a Variation Notice
<b>Claim</b>	includes all actions, suits, causes of action, arbitrations, claims, demands proceedings, complaints and objections in respect of any debts, dues, costs, expenses, obligations, liabilities, interest, verdicts, orders or judgments either at law or in equity or arising under a statute and irrespective of whether the matters giving rise to those claims are known to the parties as at the date of this agreement
<b>Completion</b>	the completion of the sale and purchase of the Property pursuant to this agreement
<b>Completion Date</b>	42 days after the day of this agreement
<b>DAFF</b>	the Department of Agriculture, Fisheries and Forestry or, if that department no longer exists, the government agency responsible for primary industries in Queensland
<b>Deposit</b>	ten percent (10%) of purchase price
<b>Environmental Management Register</b>	the same meaning as in the EPA
<b>EPA</b>	<i>Environment Protection Act 1994 (Qld)</i>
<b>Excluded Assets</b>	<ul style="list-style-type: none"> <li>(a) all hides and skins;</li> <li>(b) all brands and earmarks used in connection with the Property;</li> <li>(c) all stores, fuel and other material on the land or in the course of transit;</li> <li>(d) the private and personal effects of the Seller, the Seller's employees and their respective families; and</li> <li>(e) dishwasher.</li> </ul>
<b>Farming Business</b>	the same meaning as in the GST Act
<b>Finance Amount</b>	not applicable
<b>Finance Date</b>	not applicable

<b>Financier</b>	not applicable
<b>GST</b>	the goods and services tax under the GST Act
<b>GST Act</b>	<i>A New Tax System (Goods and Services Tax) Act 1999 (Cth)</i> and includes other GST related legislation
<b>Heritage Acts</b>	<i>Aboriginal Cultural Heritage Act 2003 (Qld)</i> and the <i>Queensland Heritage Act 1992 (Qld)</i>
<b>Included items</b>	nil
<b>Indigenous Land Use Agreement</b>	the same meaning as in the NTA
<b>Insolvency Event</b>	(a) in the case of a person, they are or take any step that results or may result in their becoming an insolvent under administration as defined in section 9 of the <i>Corporations Act</i>  (b) in the case of a corporation, it is or takes any step that results or may result in it becoming an externally administered body corporate as defined in section 9 of the <i>Corporations Act</i>
<b>Interest Rate</b>	8%
<b>Keys</b>	implements or instruments necessary for the purposes of fastening or unfastening any lock, gate, door or other device that secures any means of entrance to or exit from the Property
<b>Land</b>	Lot 8 on Survey Plan 177779 Title Reference 50529263 and Lot A on CP AP19935 Title Reference 40059077
<b>MLA</b>	Meat & Livestock Australia Limited ABN 39 081 678 364
<b>Native Title</b>	the meaning given to it in the NTA
<b>NLIS</b>	National Livestock Identification System that is administered by MLA
<b>NTA</b>	<i>Native Title Act 1993 (Cth)</i>
<b>Outgoings</b>	all rates, taxes (including land tax) and other outgoings with respect to the Property (except insurance premiums)
<b>Permitted Encumbrance</b>	Covenant number 712705760
<b>PIC</b>	QCBM1261
<b>Place of Completion</b>	Rockhampton Queensland
<b>Property</b>	(a) the Land

- (b) all fixed improvements on the Land including houses, sheds, yards and the Seller's interest (if any) in boundary fences
- (c) the Included Items

**Purchase Price**

**Stakeholder** Hourn & Bishop Qld

**Stakeholder's Trust Account** BSB: 084 901  
Account: 720 354 755

**Tax Invoice** the same meaning as in the GST Act

**Terms of Use** the terms of use for the NLIS data base published by MLA

**Variation Notice** a notice issued under section 14-235 of the Withholding Law

**Withholding Law** Schedule 1 to the *Tax Administration Act 1953 (Cth)*

**Construction**

1.2 In this agreement:

- (a) words in the singular include the plural and vice versa;
- (b) words indicating any gender indicate the appropriate gender;
- (c) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (d) a reference to a person is to be construed as a reference to an individual, body corporate, unincorporated association, partnership, joint venture or government body;
- (e) references to any document (including this agreement) include references to the document as amended, consolidated, supplemented, novated or replace;
- (f) a reference to a statute includes a reference to all enactments amending or consolidating the statute and to an enactment substituted for the statute and any subordinate legislation, including regulations;
- (g) monetary references are references to Australian currency;
- (h) the Annexures form part of this agreement; and
- (i) headings are included for convenience only and do not effect interpretation of this agreement.

**2. AGREEMENT TO SELL**

---

The Seller agrees to sell and the Buyer agrees to purchase the Property for the Purchase Price, subject to any Permitted Encumbrance and on the terms of this agreement.

### **3. DEPOSIT**

---

3.1 The Buyer must pay the Deposit to the Stakeholder on the date it signs this agreement.

3.2 The Deposit may be paid by cheque payable to the trust account of the Stakeholder or may be electronically transferred to the Stakeholder's Trust Account.

3.3 The Deposit will be retained by the Stakeholder until the Completion or the earlier termination of this agreement, when the Deposit will be paid to the party entitled to it.

3.4 If the Buyer:

(a) fails to pay the Deposit as provided in clause 3.1; or

(b) pays the Deposit by cheque that is post-dated or that is not honoured upon presentation.

The Buyer will be deemed to be in substantial breach of this agreement and the Seller may:

(c) affirm this agreement and exercise its rights expressed in clause 11.2; or

(d) terminate this agreement and exercise its rights expressed in clause 11.3.

3.5 The rights of the Seller under clause 3.4 are in addition to any other rights the Seller may have at law or in equity.

3.6 If this agreement is lawfully terminated except as a result of default by the Buyer, the Deposit will be refunded to the Buyer and this payment will be accepted by the Buyer in full and final satisfaction of all Claims against the Seller in relation to this agreement.

3.7 If both parties authorise the Stakeholder to invest the Deposit, or so much of it as the Stakeholder can lawfully invest, with a bank licenced to carry on business in Queensland until the Completion date, then the following provisions apply:

(a) If this agreement is completed, any interest will be paid to the Seller.

(b) If this agreement is not completed for any reason, interest will be paid to the party entitled to the Deposit upon termination of this agreement.

(c) The Deposit will be invested at the risk of the party to whom the Deposit and accrued interest is ultimately payable.

(d) The Stakeholder will not be liable for any loss suffered by the parties as a result of the investment of the Deposit.

(e) The Seller and Buyer must notify their tax file number to the Stakeholder as soon as possible following the date of this agreement.

(f) The Seller and Buyer:

- (i) authorise the Stakeholder to prepare and lodge any tax return necessary as a result of the investment of the Deposit and to pay any tax assessed out of the Deposit and accrued interest;
- (ii) agree to indemnify the Stakeholder against any taxation assessed in respect of the interest and all costs the Stakeholder reasonably incurs in preparing and lodging the return and complying with its taxation obligations; and
- (iii) authorise the Stakeholder to withhold any amount the Stakeholder considers it will be liable to pay on account of tax or the costs of prepaying and lodging tax returns.

#### **4. COMPLETION AND POSSESSION**

---

##### 4.1 Completion will occur:

- (a) at Grant & Simpson Lawyers, 226 Quay Street, Rockhampton or such other venue at the Place of Completion nominated by the Seller; and
- (b) between the hours of 12:00pm and 5:00pm.

##### 4.2 At Completion the Buyer must:

- (a) pay the Balance Price to the Seller by bank cheque or as the Seller or their solicitor directs;
- (b) deliver to the Seller a signed statutory declaration in substantially the same form as Annexure C; and
- (c) pay the amount of GST the Buyer is required to pay pursuant to clause 16.6 (if any).

##### 4.3 At Completion the Seller must deliver to the Buyer or as directed by the Buyer:

- (a) vacant possession of the Property subject to clause 24;
- (b) signed transfers in favour of the Buyer for the Land capable of immediate registration (after stamping) free from encumbrances, except for any Permitted Encumbrances;
- (c) unencumbered title to all the Property, except for any Permitted Encumbrances, subject to the conditions of this agreement;
- (d) all other instruments or declarations required by law to be signed by the Seller to procure the stamping or registration of the transfers of the Property including the release of any mortgage or other encumbrance other than a Permitted Encumbrance, so far as it affects the Property; and
- (e) all Keys in the Seller's possession or control with a written record of all codes and combinations necessary for the purposes of fastening or unfastening any Keys.



4.4 The Seller must deliver the Keys, if any, to the Agent.

## **5. SELLER'S STATEMENTS AND WARRANTIES**

---

5.1 The Buyer is not entitled to deliver requisitions or enquiries to the Seller in relation to the Seller's title to the Property.

5.2 The Seller states that, except as disclosed in this agreement, each of the following statements is accurate at the time the Seller signs this agreement and will be accurate at Completion:

- (a) The Seller has free and unqualified capacity and power to enter into and complete this agreement.
- (b) If the Seller is a trustee, the Seller has free and unqualified power of sale as trustee and is not required to obtain the consent or authority of any person to enter this agreement.
- (c) No Insolvency Event has occurred in respect of the Seller.
- (d) No order has been made under the *Property Law Act 1974 (Qld)* that would operate as a charge on the Land.
- (e) No notice has issued by an Authority nor have any proceedings been instituted in a court whereby the interest of the Seller in the Property may be rendered liable to forfeiture to the Crown.

5.3 The Seller states that, except as disclosed in this agreement or in a notice given by the Seller to the Buyer under the EPA at the date of this agreement:

- (a) there is no outstanding obligation on the Seller to give notice to the administering authority under the EPA of a notifiable activity being conducted on the Land; and
- (b) the Seller is not aware of any facts or circumstances that may lead to the Land being classified as contaminated land within the meaning of the EPA.

5.4 If any statement in clauses 5.2 or 5.3 is not correct at the Completion Date, the Buyer may:

- (a) terminate this agreement by notice in writing to the Seller before Completion; or
- (b) complete this agreement and claim compensation.

5.5 The Seller warrants that, except as disclosed in this agreement, each of the following statements will be accurate at the Completion Date:

- (a) There is no current litigation by any person claiming an estate or interest in the Property.
- (b) There is no unsatisfied judgment, order or writ of execution that affects the Property.
- (c) There are no agreements:

- (i) for the agistment of stock on the Land; or
  - (ii) for the supply of water to or from the Land.
- (d) The organo-chlorine chemical residue status of the Property with DAFF is clear.
- (e) DAFF has no record of brucellosis or tuberculosis on the Property.
- (f) The Property is classified with DAFF as:
- (i) having no extended residue program status on the NLIS database; and
  - (ii) not being subject to any quarantines, directions or undertakings for diseases of stock under the *Stock Act 1915 (Qld)*.
- (g) There has been no illegal clearing of vegetation on the Land by the Seller that will or may cause the Buyer to assume liability under the *Vegetation Management Act 1999 (Qld)*.
- 5.6 If any warranty in clause 5.5 is not correct at the Completion Date, the Buyer may Claim compensation for the breach of warranty but is not entitled to terminate the agreement or delay Completion or withhold any part of the Purchase Price because of the breach.
- 5.7 If requested by the Buyer, the Seller must, within 14 days of a request being made, produce to the Buyer copies or details of all unregistered documents and dealings relating to the Property.

## **6. LAND AREA, FENCES AND ENCROACHMENTS**

---

- 6.1 The Buyer acknowledges that it has made its own enquiries and has not relied on any representations, warranties or information provided by the Seller, the Agent or any other person on behalf of the Seller with respect to:
- (a) the boundaries of the Land;
  - (b) the area of the Land; or
  - (c) any encroachments existing from the Land onto other lands or from other lands onto the Land.
- 6.2 The Buyer is not entitled to make any objection or requisition or claim compensation if:
- (a) the area of the Land is incorrect;
  - (b) the boundaries of the Land are incorrect;
  - (c) there is any encroachment onto or from the Land;
  - (d) the location of the existing boundary fences on the Land does not coincide with the boundary lines in the relevant instrument of title or plan or are not owned (partly or wholly) by the Seller;

- (e) any of the boundary fences are 'give and take' fences; or
- (f) the boundaries of the Land are not fenced.

6.3 The Seller does not warrant or guarantee that the Seller owns a half or has any other interest in the boundary fences purporting to be boundary fences or in fences purporting to be boundary fences or used as boundary fences.

## **7. LIMITATION ON SELLER'S WARRANTIES**

---

7.1 The Buyer acknowledges that it and its agents and consultants have had adequate opportunity to conduct their own investigations, examinations and other enquiries and to obtain advice in respect of the Property and the terms of this agreement.

7.2 Except as provided in this agreement, the Seller does not give and the Buyer may not imply any warranty has been given by the Seller as to the:

- (a) nature and extent of any conditions affecting the Land;
- (b) purposes for which the Property may lawfully be used;
- (c) nature and extend of any risks associated with ownership or use of the Property;
- (d) state and condition of the Property;
- (e) carrying capacity of the Land;
- (f) improvements on the Land;
- (g) nature of the country; or
- (h) state, condition, sufficiency, capacity or extent of any tanks, dams, bores or other water or irrigation facilities, pipes, reticulation or channelling or as to any nature or artificial water sources or water courses.

7.3 The Buyer warrants to the Seller that it is has:

- (a) satisfied itself with respect to the results of its investigation in relation to the Property;
- (b) relied solely on its own enquiries and those of persons acting for or on behalf of the Buyer; and
- (c) no relied on any representation or statement made by the Seller, the Agent or any other person acting for or on behalf of the Seller except to the extent that the representation or statement is expressly set out in this agreement.

7.4 The Buyer must carry out at its own cost any work required or that at some future date may be required to be done on the Land under any state, federal or local government legislation relating to worker's accommodation or shearer's accommodation.

## **8. SIGNING AND PRODUCTION OF DOCUMENTS**

---

- 8.1 The Seller will do all acts and sign all documents necessary for the purpose of completing this sale and ensuring that the Buyer obtains goods and valid title to the Property.
- 8.2 All transfer documents required to implement the transfer of the Property must be prepared by and at the expense of the Buyer and delivered to the Seller at least five Business Days before the Completion Date.
- 8.3 If requested by the Buyer, the Seller will return the signed transfer documents to the Buyer's solicitor before the Completion Date provided the solicitor undertakes to only deal with the signed transfer documents for stamping purposes and to hold the documents at the order of the Seller pending Completion.

## **9. INTEREST ON LATE PAYMENTS**

---

- 9.1 Without prejudice to any other rights the Seller has under this agreement, any money payable by the Buyer that is not paid when due and payable will bear interest from the due date for payment to the date of actual payment, both inclusive, at the Interest Rate.
- 9.2 Interest will be deemed to accrue from day to day and be capitalised on the last day of each month until payment.
- 9.3 Any interest payable by the Buyer pursuant to this clause 9 must be paid with the Balance Price or within five Business Days after the Buyer makes demand for payment, whichever is earlier.
- 9.4 Any judgment for any money owing to the Seller pursuant to this clause 9 will also bear interest from the date of judgment until the date of actual payment at the Interest Rate.

## **10. RISK AND CONDUCT OF PROPERTY UNTIL COMPLETION**

---

- 10.1 The Property is at the risk of the Seller until Completion and from Completion is at the Buyer's risk.
- 10.2 The Seller will not be required to make good any damage occurring to the Property between the date of this agreement and Completion as a result of fair wear and tear, the usual use of the Property, natural events and events outside the Seller's reasonable control.
- 10.3 Unless otherwise specified in this agreement, the Seller must remove all Excluded Items from the Land by the Completion Date.
- 10.4 After the date of this agreement the Seller agrees not to graze any more livestock on the Land other than the number present at the time this agreement is entered into together with any progeny of that livestock.

## **11. BUYER'S DEFAULT**

---

11.1 If the Buyer:

- (a) fails to pay the Balance Price as required by this agreement; or

(b) fails to comply with any other term or condition of this agreement,

the Seller may:

(c) affirm this agreement; or

(d) terminate this agreement.

11.2 If the Seller affirms this agreement pursuant to clause 3.4 or clause 11.1, the Seller may:

(a) sue the Buyer for either:

(i) damages for breach; or

(ii) specified performance and damages; and

(b) recover from the Buyer as a liquidated debt the Deposit (including any part of it which the Buyer has failed to pay).

11.3 If the Seller terminates this agreement pursuant to clause 3.4 or clause 11.1, the Seller may elect to:

(a) forfeit the Deposit (or so much of it as may have been paid);

(b) recover from the Buyer any amount of the Deposit not paid as a liquidated debt; and

(c) either:

(i) sue the Buyer for damages for breach; or

(ii) resell the Property, in which case any deficiency or cost or expense arising from the resale will be recoverable by the Seller from the Buyer as liquidated damages.

11.4 The rights and powers conferred upon the Seller by this clause 11 are in addition to any other right or power the Seller may have at law or in equity.

## **12. ADJUSTMENTS**

---

12.1 The Seller is responsible for Outgoings with respect to the Property up to but excluding the Completion Date. The Buyer is responsible for all Outgoings as from that Completion Date.

12.2 All Outgoings will be apportioned in the case of those:

(a) paid by the Seller, on the amount actually paid;

(b) levied but unpaid, on the amount payable disregarding any discount for early payment;

(c) not levied, on the amount advised by the relevant rating and taxing Authority disregarding any discount for early payment; and

- (d) not levied and not ascertainable from the relevant rating and taxing Authority and where a separate assessment was issued for the assessment period immediately before the date of possession, on the amount payable in that separate assessment disregarding any discount for early payment.

12.3 Any water charges based on the quantity of water harvested will be adjusted as follows:

- (a) The Buyer may read any water meter installed on the Land no more than three Business Days before the Completion Date.
- (b) The water charges payable pursuant to that reading will be payable by the Seller.
- (c) All water charges after that reading will be paid by the Buyer.

12.4 Land tax will be apportioned on the basis that, as at midnight on the previous 30 June, the Seller owned no land other than the Land.

12.5 If there is no separate unimproved value of the Land for the land tax purposes at the Completion Date, land tax will be apportioned on a deemed unimproved value calculated on the basis of the proportion that the area of the Land bears to the area of the land included in the assessment for the land tax year during which Completion occurs.

12.6 If the Buyer receives written advice from the Office of State Revenue that an amount of money must be paid to obtain a land tax clearance with respect to the Land for the land tax year during which Completion occurs, the parties agree that a separate bank cheque will be drawn from the Balance Price in payment of the amount advised and:

- (a) the Buyer must pay that amount to the Office of State Revenue immediately after Completion; and
- (b) this clause does not affect the Seller's entitlement to an adjustment of land tax in accordance with this clause.

### **13. ACKNOWLEDGEMENTS BY BUYER**

---

13.1 The Buyer acknowledges that, subject to this agreement, the Land is sold subject to:

- (a) all covenants and conditions on the title reference;
- (b) the provisions of the *Land Title Act 1994 (Qld)*, the *Land Act 1994 (Qld)* and any other statutes affecting the Land;
- (c) any requirement of any state, federal or local government board or the minister or officer of any department that may legally impose any conditions on the transfer of the Land;
- (d) where any part of the Land is Crown leasehold, the terms and conditions specified in the title reference for the Land; and
- (e) all administrative advices noted on the title reference for the Land.

13.2 No requisition may be raised or objection taken by the Buyer and no Claim for compensation will be made or allowed if:

- (a) there is any stock route, road (either designated or not designated, or other reservation) traversing the Land;
- (b) there is a proposal for any alignment widening or siting of any road by any Authority affecting the Land;
- (c) there is a notice of intention to resume affecting the Land;
- (d) there is any electricity, telephone or telecommunications line traversing the Land either above the ground on transmission towers or below the ground in conduits;
- (e) there is no electricity or telephone service to the Land or any part of the Land;
- (f) the name by which the Property is commonly known cannot be used for any reason or is not registered or otherwise protected;
- (g) any order has been made under the *Land Protection (Pest and Stock Route Management) Act 2002 (Qld)*;
- (h) any electricity, telephone or telecommunications services to the Land traversing other land are not supported by easements or way leave agreements or other legally binding arrangements;
- (i) the Land is affected by any lease, licence, permit, authority or any application for any of those things granted by the State of Queensland under any mining, petroleum or geothermal legislation, either existing as at the date of this agreement or as at the Completion Date;
- (j) the area of the Land stated in this agreement is or the boundaries of the Land are incorrect;
- (k) there are any noxious weeds growing on the Land or any part of the Land or if any notice or order has issued requiring noxious weeds to be cleared or destroyed as at the date of this agreement or the Completion Date;
- (l) the use to which the Property is put is unlawful under the planning scheme applying to the locality in which the Land is situated;
- (m) access to the Property is not by a gazetted or designated road or supported by a registered easement over adjoining roads or lands;
- (n) the Seller does not hold any permits or authorities for any road grids on the Land or to enclose any road or to carry rabbit proof or other fencing;
- (o) there exists any Native Title claim, determination or application over the Land or any part of the Land under the NTA, *Native Title (Queensland) Act 1993 (Qld)*, *Aboriginal Land Act 1991 (Qld)* or any other applicable statute or at common law;
- (p) the Property is subject to or becomes subject to any agreement, including an Indigenous Land Use Agreement that is made under the NTA;

- (q) the Property is subject to or becomes subject to any requirement under the Heritage Acts;
- (r) the Property is included in the world Heritage List constituted under the *Convention for the Protection of the World's Cultural and Natural Heritage* or any application has been made in respect of the Property for inclusion on the World Heritage List;
- (s) the Seller or any previous owner of the Land has received any:
  - (i) expression of interest by Queensland Parks & Wildlife Service in respect of the Land;
  - (ii) notice of any proposal to declare all or any party of the Land a protected area under the *Nature Conservation Act 1992 (Qld)*; or
  - (iii) orders or declarations (or proposed orders or declarations) under the *Nature Conservation Act 1995 (Qld)*.
- (t) any vegetation notice registered on title under the *Vegetation Management Act 1999* has issued in respect of the Land;
- (u) there is any fibrous cement or other asbestos containing materials that may be present in any improvements on the Property; or
- (v) the Land has been or will at Completion be classified for tick status including any 'infected' status.

13.3 Before Completion, the Seller may make any applications for compensation in relation to any matters referred to in clause 13.2(b), 13.2(c) or 13.2 (d) or continue any Claims for compensation after Completion. Any compensation received will belong to the Seller and will not be apportioned.

13.4 Despite clause 13.1(c), if any valid notice or order necessitating the doing of work or expenditure of money on or in connection with the Property is issued:

- (a) before the date of this agreement, it must be fully complied with by the Seller by the Completion Date; or
- (b) after the date of this agreement, it must be complied with by the Buyer.

13.5 The Buyer indemnifies the Seller against any Claim made against or suffered by it as a result of the failure of the Buyer to comply with clause 13.4(b).

13.6 The Buyer warrants that their purchase of the Land will not contravene Chapter 4 Part 2 Division 2 of the *Land Act 1994 (Qld)*.

#### **14. AGENT**

---

The Buyer warrants that it was not introduced to the Property by any third party other than the Agent.

---



## **15. FOREIGN INTERESTS**

---

15.1 The Buyer warrants that it:

- (a) is not required to obtain the consent of the Treasurer under the *Foreign Acquisitions and Takeovers Act 1975 (Cth)* to enter into or complete this agreement; or
- (b) has obtained the consent of the Treasurer.

15.2 The Seller's rights under this agreement are not affected if the Buyer is required to obtain the consent of the Treasurer under clause 15.1 but does not do so.

## **16. GST**

---

16.1 The Purchase Price is exclusive of GST.

16.2 The Seller and the Buyer each warrant that, they will be registered or required to be registered (within the meaning of those expressions in the GST Act) on the Completion Date.

16.3 The Seller warrants that a Farming Business has been continuously conducted on the Land for a period of more than five years before the date of this agreement.

16.4 The Buyer warrants that a Farming Business will be conducted on the Land after Completion.

16.5 On or before the Completion Date, the Buyer must deliver to the Seller a statutory declaration in the form of that annexed and marked "C" confirming the Land will continue to be used for a Farming Business.

16.6 If GST is payable on a taxable supply made under, by reference to or in connection with this agreement, the Buyer must pay to the Seller an amount equal to any GST payable by the Seller in respect of the taxable supply on:

- (a) the Completion Date, if the Seller delivers a Tax Invoice to the Buyer at Completion; or
- (b) the date that is five Business Days after the Seller delivers a Tax Invoice to the Buyer, if the date of the Tax Invoice is after the Completion Date.

16.7 This clause will continue to apply after the termination or Completion of this Contract.

## **17. CGT WITHOLDING**

---

17.1 If the Seller has not given the Buyer on or before Completion for each party comprising the Seller either:

- (a) an ATO Clearance Certificate; or
- (b) a Variation Notice that remains current at the Completion Date varying the CGT Withholding Amount for the Seller to nil,

then the Seller and the Buyer must comply with clause 17.2.

17.2 If clause 17.1 applies, then:

- (a) the Seller must direct the Buyer to pay from the Purchase Price the CGT Withholding Amount to the Deputy Commissioner of Taxation;
- (b) the Buyer must lodge a Foreign Resident Capital Gains Withholding Purchaser Notification Form with the Australian Taxation Office for each party comprising the Buyer and give copies to the Seller with the payment reference numbers (PRN) on or before completion; and
- (c) the Buyer must, within two Business Days of Completion, pay the CGT Withholding Amount to the Deputy Commissioner of Taxation in accordance with section 14-200 of the Withholding Law and give the Seller evidence that they have done so.

## **18. GUARANTEE IF BUYER IS A CORPORATION**

---

18.1 If the Buyer is a corporation, the Buyer must deliver to the Seller at the same time that the Buyer signs this agreement the form of guarantee annexed as Annexure B to this agreement signed by the directors and shareholders of the Buyer.

18.2 The Seller is not bound to proceed to Completion if the Buyer does not comply with this clause 18.

## **19. BUYER AS TRUSTEE**

---

If the Buyer is buying the Property as trustee, then the Buyer:

- (a) warrants (if applicable) that it is permitted to purchase the Land pursuant to Chapter 4 Part 2 Division 2 of the *Land Act 1994 (Qld)*;
- (b) acknowledges that it is personally liable under this agreement;
- (c) warrants that it has a right of indemnity under the trust; and
- (d) must not do anything to prejudice any right of indemnity it has in respect of the trust assets.

## **20. ROAD GRIDS**

---

The Buyer agrees to:

- (a) assume all of the Seller's obligations under any permits for any road grids held for the Land; and
- (b) indemnify and keep indemnified the Seller from and against any Claims incurred in relation to or in any way connected with the permits for any road grids or the use of the grids by any person, including the Buyer.

## **21. CONFIDENTIALITY**

---

- 21.1 The parties agree that the terms of this agreement and all negotiations leading up to the execution of this agreement are strictly confidential.
- 21.2 The Seller and the Buyer agree that they will not disclose to any party the details of this agreement or the negotiations leading up to the execution of this agreement without the prior written consent of the other party except if the disclosure is to:
- (a) the party's legal or financial advisers;
  - (b) the party's financier; or
  - (c) any person, party or Authority required by law or pursuant to any order of a court of law.

## **22. AUTHORITY TO SEARCH**

---

The Seller authorises the Buyer to request information or documents from any Authority having jurisdiction in relation to the Property and must sign any further consent or other document required by an Authority before they will provide the information or documents within two Business Days of being requested to do so.

## **23. CONTRACT FOR LIVESTOCK/ PLANT AND EQUIPMENT**

---

This agreement is subject to the contemporaneous settlement of the livestock/ plant and equipment agreement dated the same date as this agreement, between Jamie Edward Sainsbury and Carolyn Sainsbury as Seller and the Buyer. If the livestock/ plant and equipment agreement is not able to settle contemporaneously with this agreement through no fault of either party, then either party may elect to terminate this agreement by notice in writing to the other. The parties agree that default under this agreement shall be deemed to be default under the livestock/ plant and equipment contract on the part of the corresponding party under that agreement and vice versa.

## **24. CONSENT**

---

24.1 Intentionally deleted.

## **25. PROPERTY IDENTIFICATION CODE**

---

- 25.1 The Buyer must notify DAFF once Completion has occurred so that the PIC can be transferred to the Buyer.
- 25.2 The Seller makes no warranty and the Buyer is not entitled to object to or make any Claim against the Seller if the PIC:
- (a) cannot be transferred; or
  - (b) is not suitable for the Buyer's use of the Property.

## **26. SAFETY SWITCHES AND SMOKE ALARMS**

---

The Seller gives notice to the Buyer that:

- (a) an approved safety switch for the general socket outlet (as both are defined in the *Electricity Act 1994 (Qld)*) is installed in residence on the Land; and
- (b) a compliant smoke alarm (as defined in the *Fire and Emergency Services Act 1990 (Qld)*) is installed in residence on the Land.

## **27. APPORTIONMENT OF PURCHASE PRICE**

---

27.1 The Seller and the Buyer may submit its own apportionments of the purchase price for taxation purposes.

## **28. NOTICES**

---

28.1 All notices given under this agreement must be in writing and may be delivered as follows:

Seller Grant & Simpson Lawyers, PO Box 50, Rockhampton Qld 4700  
Email: [jsiganto@grantsimpson.com.au](mailto:jsiganto@grantsimpson.com.au)

Buyer

28.2 A party may change its particulars for service by notice in writing to the other parties.

28.3 A notice sent by post will be deemed received six days after posting.

28.4 A notice sent by facsimile transmission will be deemed received on the date stated on the facsimile transmission report produced by the machine sending the facsimile.

28.5 A notice sent by email will be deemed received at the time and on the date that it is sent, unless the sender receives notification that the delivery of the email was unsuccessful, in which case the email will not be deemed to have been received.

28.6 For the purposes of clause 28.5, 'delivery' of an email means that time that an email reaches the recipient's server.

## **29. REFERENCES TO AND CALCULATIONS OF TIME**

---

29.1 Where time is to be calculated by reference to a day or event, that day or the day of that event is excluded.

29.2 Where something is done or received after 5:00pm on any day, it will be taken to have been done or received on the following day.

29.3 Where a provision in this agreement requires anything to be done on a Saturday, Sunday or public holiday, that matter or thing may be done or will be taken to have been done on the next succeeding day that is not a Saturday, Sunday or public holiday.

## **30. GENERAL**

---

### **Time of the essence**

30.1 Except as otherwise provided in this agreement, time is of the essence of this agreement.

### **Duty and legal fees**

30.2 Each party will bear its own legal and other costs and expenses relating to this agreement. The Buyer will pay any transfer duty.

### **Reference to a party**

30.3 Any reference to a party in this agreement includes, and any obligation or benefit under this agreement will bind or take effect for the benefit of, that party's executors, administrators, successors in title and assigns.

### **Governing law**

30.4 This agreement will be construed in accordance with the laws in force in Queensland and the parties submit to the jurisdiction of the courts of Queensland.

### **Joint and several**

30.5 An obligation of two or more persons under this agreement binds them jointly and severally and every expressed or implied agreement or undertaking by which two or more persons derive any benefit in terms of this agreement will take effect for the benefit of those persons jointly and severally.

### **Entire agreement**

30.6 This agreement represents the entire agreement between the parties and supersedes all prior representations, agreements, statements and understandings between the parties.

### **Amendments to be in writing**

30.7 No amended to this agreement has any force unless it is in writing.

### **Severability**

30.8 If any party of this agreement is invalid or unenforceable, that part will (if possible) be read down to the extent necessary to avoid the invalidity or unenforceability, or alternatively will be deemed deleted; and this agreement will remain otherwise in full force.

### **Waiver**

30.9 The failure of a party to this agreement to enforce a provision or the granting of any time or indulgence will not be constructed as a waiver of the provision nor of a waiver of the right of the party at a later time to enforce the provision.

### **Counterparts**

30.10 This agreement may consist of a number of counterparts and if so the counterparts taken together constitute one and the same instrument.

### **No merger**

30.11 The rights and obligations of the parties contained in this agreement will not be extinguished by or upon Completion.

30.12 Despite Completion and despite the registration of the transfer in favour of the Buyer, any general or special condition (or any party of them) to which effect is not given by Completion or registration and that is capable of taking effect after Completion or registration will remain in full force and effect.

### **Further assurances**

30.13 Each party will sign and complete all further documents and do anything else that may be reasonably necessary to effect, perfect or complete the provisions of this agreement and the transactions to which it relates.

## **31. SPECIAL CONDITIONS**

---

31.1 The Seller is the registered licensee of Lot A on Crown Plan AP19935 Title Reference 40059077, which may not be transferrable ("Lot A").

31.2 The Seller will use his best endeavours and sign all necessary documents to transfer Lot A to the Buyer at Completion but gives no warranty that the Seller is able to do so.

31.3 In the event that the Seller is unable to transfer Lot A to the Buyer, the Buyer is not entitled to terminate this agreement, delay Completion or claim any compensation from the Seller.

## **32. SETTLEMENT DELAY**

---

32.1 (a) In this clause 32.1:

- (i) **Affected Party** means a party referred to in clause 32.1(b);
- (ii) **Delay Event** means:
  - 1. *a Public Health Emergency of International Concern or pandemic declared by the World Health Organisation;*
  - 2. *a human bio security emergency or health related quarantine or entry and exit restriction declared or imposed by a Government Agency; or*
  - 3. *an imminent threat of an event in clauses 32.1(a)(ii)(A) or 32.1(a)(ii)(B);*
- (iii) **“Government Agency”** means the government of the Commonwealth of Australia or an Australian State, Territory or local government and includes their authorities, agencies, government owned corporations and authorised officers, courts and tribunals;
- (iv) **“Settlement Obligations”** means, the obligations of the Buyer and Seller under clause 4;
- (v) **“Suspension Period”** means the period during which the Affected Party (or if both the Buyer and Seller are Affected Parties, either of them) remains unable to perform a Settlement Obligation solely as a consequence of a Delay Event.

(b) Clauses 32.1(b) to 32.1(h) apply if a party is unable to perform a settlement obligation solely as a consequence of a Delay Event but does not apply where the inability is attributable to:

- (i) damage to, destruction of or diminution in value of the Property or other property of the Seller or Buyer; or
  - (ii) termination or variation of any agreement between a party and another person whether relating to the provision of finance, the release of an Encumbrance, the sale or purchase of another property or otherwise.
- (c) The parties are deemed not to be in breach of their Settlement Obligations;
  - (d) An Affected Party must take reasonable steps to minimise the effect of the Delay Event on its ability to perform its Settlement Obligations.
  - (e) When an Affected Party is no longer prevented from performing its Settlement Obligations due to the Delay Event, the Affected Party must give the other party a notice of that fact, promptly.
  - (f) When the Suspension Period ends, whether notice under clause 32.1(e) has been given or not, either party may give the other party a Notice to Settle.
  - (g) A Notice to Settle must be in writing and state:

- (i) that the Suspension Period has ended; and
  - (ii) a date, being not less than 5 nor more than 10 Business Days after the date the Notice to Settle is given, which shall become the Completion Date;
  - (iii) that time is of the essence.
- (h) When a Notice to Settle is given, time is of the essence of the agreement.

**SIGNED AS AN AGREEMENT** on the date the last party signed this document

**SIGNED by JAMIE EDWARD  
SAINSBURY in the presence of:-**

) .....  
)

.....  
Witness

.....  
Name of Witness

.....  
Date



**SIGNED by** ..... )  
in accordance with Section 127(1) of the )  
Corporations Act 2001 (Cth) )

.....  
Director

.....  
Director

.....  
Name

.....  
Name

.....  
Date

.....  
Date

**SIGNED by**  
in the presence of:-

) .....  
)

.....  
Witness

.....  
Name of Witness

.....  
Date

## **ANNEXURE A**

---

### **Stakeholder acknowledgement**

The Stakeholder acknowledges having received the Deposit and agrees to hold it as a Stakeholder for the parties as provided in this agreement.

.....  
Stakeholder

## ANNEXURE B

---

### Guarantee and indemnity deed

#### PARTIES

**Seller**                                **JAMIE EDWARD SAINSBURY**  
of 985 Baralaba-Kooemba Road, Baralaba, Qld 4702

**Guarantor**

#### BACKGROUND

A. At the request of the Guarantor, the Seller has agreed to sell and the Buyer has agreed to purchase the Property on terms set out in the Contract.

#### COVENANTS

##### 1. INTERPRETATION

---

###### Definitions

1.1 The meanings of the terms used in this deed are set out below.

<b>Term</b>	<b>Meaning</b>
<b>Buyer</b>	the party named in the Contract
<b>Contract</b>	the Contract between the Seller and the Buyer for the sale of the Property
<b>Property</b>	the Property the subject of the Contract

###### Construction

1.2 In this deed:

- (a) reference to a person includes any other entity recognised by law and vice versa;
- (b) words importing the singular number include the plural number and vice versa;
- (c) words importing one gender include every gender;
- (d) any reference to a party in this deed includes, and any obligation or benefit under this deed will bind or take effect for the benefit of, that party's executors, trustees, administrators, successors in title and permitted assigns;
- (e) every agreement or undertaking, expressed or implied, by which more persons than one agree or undertake any obligation or derive any benefit in terms of this

deed, binds or ensures for the benefit of those persons jointly and each of them severally; and

- (f) clause headings are for reference purposes only.

## **2. GUARANTEE**

---

- 2.1 The Guarantor guarantees to the Seller that the Buyer will punctually:
- (a) pay all money payable under the Contract when due, and
  - (b) perform and observe all conditions and provisions expressed in or implied by the Contract when required under the Contract.
- 2.2 This guarantee is a continuing guarantee and the liability of the Guarantor will continue until each and every obligation on the part of the Buyer, expressed in or implied by the Contract, is performed and observed.
- 2.3 The Guarantor will be deemed to be a primary debtor jointly and severally with the Buyer.
- 2.4 To the fullest extent permitted by law the Guarantor waives all its rights as surety or indemnifier that may at any time be inconsistent with any of the Guarantor's obligations under this deed.
- 2.5 The liability of the Guarantor will not be abrogated, altered, prejudiced or affected by:
- (a) the granting of time or any other indulgence to the Buyer;
  - (b) the compounding, compromise, release, abandonment, waiver, variation or renewal of any of the rights of the Seller against the Buyer;
  - (c) any neglect or omission to enforce any rights of the Seller under the Contract; or
  - (d) any other thing that, under the law relating to sureties, would or might but for this provision release the Guarantor wholly or partly from its obligations under this deed.

## **3. INDEMNITY**

---

The Guarantor covenants they will indemnify the Seller and keep the Seller indemnified from and against all losses, damages, costs and expenses that the Seller may suffer or incur in consequence of any breach or non-observance of any of the Buyer's obligations under the Contract.

## **4. NOTICES**

---

- 4.1 All notices given under this deed must be in writing and may be delivered in person or by mail or by the medium specified in the address for service stated in the Contract.
- 4.2 A party may change its particulars for service by notice in writing to the other parties.
- 4.3 A notice sent by post will be deemed:
- (a) given on the day it is posted; and
  - (b) received six days after posting.
- 4.4 A notice sent by facsimile transmission will be deemed received on the date stated on the facsimile transmission report produced by the machine sending the facsimile.
- 4.5 A notice sent by email will be deemed received at the time and on the date that it is sent, unless the sender receives notification that the delivery of the email was unsuccessful, in which case the email will not be deemed to have been received.
- 4.6 For the purpose of clause 4.5, 'delivery' of an email means the time that an email reaches the recipient's server.

## **5. REFERENCES TO AND CALCULATIONS OF TIME**

---

- 5.1 Where time is to be calculated by reference to a day or event, that day or the day of that event is excluded.
- 5.2 Where something is done or received after 5:00pm on any day, it will be taken to have been done or received on the following day.
- 5.3 Where a provision in this deed requires anything to be done on a Saturday, Sunday or public holiday, that matter or thing may be done or will be taken to have been done on the next succeeding day that is not a Saturday, Sunday or public holiday.

## **6. GENERAL**

---

### **Governing law**

- 6.1 This deed will be construed in accordance with the laws in force in Queensland and the parties submit to the jurisdiction of the courts of Queensland.

### **Reference to a party**

- 6.2 Any reference to a party in this deed includes, and any obligation or benefit under this deed will bind or take effect for the benefit of, that party's executors, administrators, successors in title and assigns.

### **Legal fees**

6.3 Each party will bear its own legal and other costs and expenses relating to this deed.

#### **Entire agreement**

6.4 This deed represents the entire agreement between the parties and supersedes all prior, representations, agreements, statements and understandings between the parties.

#### **Severability**

6.5 If any part of this deed is invalid or unenforceable, that part will (if possible) be read down to the extent necessary to avoid the invalidity or unenforceability, or alternatively will be deemed deleted; and this deed will remain otherwise in full force.

#### **Amendments to be in writing**

6.6 No amendment to this deed has any force unless it is in writing.

#### **Further assurances**

6.7 Each party will sign and complete all further documents and do anything else that may be reasonably necessary to effect, perfect or complete the provisions of this deed and the transactions to which it relates.

#### **Joint and several**

6.8 An obligation of two or more persons under this deed binds them jointly and severally and every expressed or implied agreement or undertaking by which two or more persons derive any benefit in terms of this deed will take effect for the benefit of those persons jointly and severally.

#### **Waiver**

6.9 The failure of a party to this deed to enforce a provision or the granting of any time or indulgence will not construed as a waiver of the provision nor of a waiver of the right of the party at a later time to enforce the provision.

#### **Counterparts**

6.10 This deed may consist of a number of counterparts and if so the counterparts taken together constitute one and the same instrument.

#### **Publicity**

6.11 No public announcement or communication relating to the negotiations of the parties or the subject matter or terms of this deed will be made without the written approval of all parties.

**No merger**

6.12 The rights and obligations of the parties contained in this deed will not be extinguished by or upon completion.

**Time of the essence**

6.13 Time will be of the essence as regards a date or period determined under this deed except that a date or period may be altered by agreement in which case time will be of the essence for date or period as altered.

**Residency declaration**

6.14 The parties declare that at the date of entering into the transactions evidenced by this deed they are 'Australian residents' as defined in the *Income Tax Assessment Act 1936 (Cth)*.

**SIGNED AS A DEED** on the date the last party signed this document

**SIGNED** by Jamie Edward Sainsbury ) .....  
in the presence of:- )

.....  
Witness

.....  
Name of Witness

.....  
Date

**SIGNED** by ) .....  
in the presence of:- )

.....  
Witness

.....  
Name of Witness

.....  
Date

.....

