

**OPERATIVE PARTS**

**1. DEFINITIONS AND INTERPRETATIONS**

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1.1 Definition

In these Special Conditions the following definitions apply:

“Agreement” means the combined Offer and Acceptance, these Special Conditions and any other Schedules or annexures as set out herein for the sale of the Property.

“2011 General Conditions” means the 2011 Joint Form of General Conditions for the Sale of Land as adopted jointly by the Law Society of Western Australia (Inc) and The Real Estate Institute of Western Australia (Inc) (“REIWA”).

“Offer and Acceptance” means the Contract for Sale of Land or Strata Title by Offer and Acceptance to which these Special Conditions are attached.

“Special Conditions” means these Special Conditions for the Sale of Land which form part of the Agreement between the Buyer and Seller.

**2. PURCHASE PRICE INCLUSIVE OF GST**

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2.1 The provisions of clause 18 of the 2011 General Conditions shall not apply to this Agreement.

2.2 In this clause 2:

“GST”, “Tax Invoice”, “Taxable Supply” have the meaning they bear in A New Tax System (Goods and Services Tax) Act 1999 (“the GST Act”), as amended.

2.3 The Buyer and Seller hereby unconditionally agree the purchase price is inclusive of GST.

2.4 On written request by the Buyer, the Seller will provide the Buyer with a Tax Invoice.

**3. INCORPORATION AND AMENDMENT OF GENERAL CONDITIONS**

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3.1 Subject to clause 1 and 2 above and the following provisions of this clause 3, the 2011 General Conditions are incorporated into this Agreement so far as they are not varied or inconsistent with this Agreement.

3.2 The Buyer and the Seller agree to vary the 2011 General Conditions in accordance with the balance of the provisions of this clause 3.

3.3 Clause 7.3, 7.5 and 7.6 of the 2011 General Conditions are hereby deleted and the definition of Outgoing contained in clause 26 is amended to include the following:

“(c) Land Tax (calculated on the basis that the Property is the only land owned by the Seller).”

3.4 By the deletion of clause 9 of the 2011 General Conditions.

**4. TITLE**

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4.1 The Proposed Lot is sold and the Buyer takes title to the Property subject to:

- (a) the conditions set out in the Local Development Plan in Annexure B;
- (b) the conditions and restrictions set out in the Subdivision Plan in Annexure C;
- (c) the provisions of the *Transfer of Land Act 1893*;
- (d) all easements, restrictive covenants, rights, memorials, reservations, conditions and notifications which are or will be contained in the Certificate of Title or Crown Grant of the Property as at the Settlement Date; and
- (e) all claims, demands, conditions (including building conditions) or restrictions whatsoever imposed or made on the Property by any Authority or required by any Authority.

4.2 No objection shall be taken, requisition made or compensation claimed by reason that a Water Authority mains passes through or under the Property or by reason of the existence or passage through of any other mains, pipes, wires or connections or any water, sewerage, drainage, gas, electricity, telephone or other system or service whether to the Property, or any part thereof or to adjoining parcels of land jointly or separately.

4.3 The Buyer hereby acknowledges and agrees that there may be a Bushfire Assessment Level of 12.5 on the Property. This may impact the design and specifications for any dwelling to be erected on the Property.

**5. DEFAULT**

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5.1 Events of Default

In addition to any other event of default in accordance with this Agreement, the 2011 General Conditions or otherwise at law:

- (a) failure by the Buyer to perform or observe any obligations under this Agreement; or
- (b) any Buyer, being an individual becomes insolvent or being a company becomes an externally-administered body corporate (as that expression is defined in the Corporations Act),

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will be considered a default under this Agreement and the provisions of clause 24 of the 2011 General Conditions will apply mutatis mutandis.

## **6. GENERAL PROVISIONS**

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### **6.1 Entire Agreement**

- (a) this Agreement constitutes the entire agreement between the Buyer and the Seller;
- (b) there are no prior or other agreements which shall have any effect on this Agreement nor shall any correspondences or documents which may have passed between the Seller before execution of this Agreement have any affect whatsoever on this Agreement.

6.2 If the Seller has entered into this Agreement as trustee of a trust and in no other capacity the Seller is not liable personally to the Buyer for any breach of the terms, covenants, conditions, agreements, provisions, stipulations and obligations contain in, and implied by, this Agreement and in respect of any breach by the Seller, the Buyer is only able to claim damages from the Seller to the extent that the Seller is able to be reimbursed from the net assets of that trust and no officer of the Seller is liable personally to the Buyer.

6.3 Where the Buyer enters into this contract as trustee for a trust, whether or not disclosed to the Seller, the trustees personal assets as well as the assets of the trust are charged as security for the performance of the Buyer's obligations pursuant to this Agreement.

## **7. DISCLAIMER**

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7.1 The Buyer acknowledges that in purchasing the Property and in entering into this Agreement, the Buyer:

- (a) has not relied upon any statement representation or warranty by the Seller or the Seller's selling agent (if any) and or their respective servants or agents (whether orally or otherwise) other than contained in this Agreement;
- (b) has relied solely upon the Buyer's own skill and judgment;
- (c) has thoroughly read and understood this Agreement, or has had the opportunity to produce this Agreement to professional advisors for the purpose of receiving independent legal and/or financial advice.

## **8. PRIVACY**

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8.1 The Buyer acknowledges that this Agreement may contain personal information in relation to the Buyer. The Buyer hereby consents to the Seller using the Buyer's personal information obtained from this Agreement or in the course of the parties' dealings with one another for the following purposes:

- (a) to assess any offer made by the Buyer to the Seller when entering into this Agreement;
- (b) for the Seller's internal operations, including accounting, risk management, record keeping, archiving, staff training and compliance monitoring;
- (c) to inform the Buyer of other developments which the Seller, or its associates, may undertake, and other marketing or customer satisfaction purposes; and
- (d) compliance with statutory or regulatory requirements,

8.2 The Buyer's personal information may be disclosed by the Seller to the following third parties whom the Seller has, or proposes to have, dealings with, and for the purposes set out in clause 8.1:

- (a) any mortgagee or other financial institution;
- (b) any insurance provider;
- (c) any employee or contractor, including any person to who referral fees are paid in accordance with clause 9;
- (d) any professional advisor, including legal or financial advisors, real estate agent(s), and the Seller's conveyancer;
- (e) any managing agent for the property; and
- (f) any government or regulatory agencies or other party that the Seller is authorised or required by law to disclose the personal information to,

regardless of where such third parties are located.

## **9. AGREEMENTS WITH THIRD PARTIES**

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9.1 The Buyer hereby acknowledges and agrees that the Seller may have entered into an agreement or agreements with third parties in relation to the referral of the Buyer to the Seller. The Seller may pay such third parties for this referral.

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**LANDSCAPING & RETICULATION**

Subject to the Buyer achieving "Practical Completion" of a dwelling within 18 months of the Settlement Date of the Contract the Seller will provide Front Garden Landscaping and Reticulation.

"Practical Completion" means the construction and completion of the dwelling on the Property in accordance with the Local Development Plan, R Codes and any other plans or documentation approved by any of the relevant authorities.

THE Seller will:

- (a) Nominate a Landscaping Contractor who is independent of the Seller to install good quality water-sensitive landscaping and reticulation works to the front garden of the property (inclusive of the laying of instant turf to not greater than 50% of the area between the road curb and the front and side (if a corner lot) boundary of the land),
- (b) Provide one consultation between the home owner and the landscape contractor.

Generally:

- (a) The plant quantities will be determined as per landscape design, availability and budget restrictions;
- (b) Mulching of plant beds will be via Bio Organics mulch or equal approved;
- (c) "Wintergreen" instant turf to the front garden and verge area.

The Buyer acknowledges and agrees to the following:

- 1. The Buyer must remove all rubbish, rubble, weeds and level the area to the satisfaction of the landscaping contractor;
- 2. The Buyer is responsible to ensure that where the proposed turf area meets the kerb, driveway or path, the final level of the soil is to be approximately 30mm below the top of that hard area.
- 3. The Buyer installing a 90mm PVC stormwater pipe beneath the driveways offset 4m from the front of the carport/garage.
- 4. The landscaping may only be used fro the front garden and is not negotiable, that is, it cannot be used for rear or side areas (except in the case of corner blocks).
- 5. The package is not redeemable for cash or any other product or services. This offer is not transferable to a third party and will become null and void should the property be on-sold to another party.
- 6. This landscaping offer only applies to soft landscape works and does not include rockeries, retaining walls or any other type of hard landscape works.
- 7. Should the Buyer fail to request works to commence within 18 months of the date of settlement, this offer will lapse and shall not be binding.
- 8. Water for irrigation is to be supplied from the Main water supply.
- 9. To assist with the landscaping layout an accurate, 'to scale' copy of the property block/site plan is to be provided to the landscaping contractor at the design consultation.
- 10. **THE BUYER WILL EMAIL OR CONTACT VIA PHONE THE RERESENTATIVE OF THE SELLER 6 WEEKS PRIOR TO PRACTICAL COMPLETION/DATE OF OCCUPANCY TO APPLY FOR THE INCENTIVE.**

Email: [info@megara.net.au](mailto:info@megara.net.au) SUBJECT - 'BYFORD LANDSCAPING INCENTIVE'

Phone: (08) 9230 3600

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