

**Guide to the Standard Form Contract
for Sale of Real Estate in Tasmania (2017)**

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This booklet is intended as a guide to using the Standard Form Contract for Sale of Real Estate in Tasmania. It is made available for the use of members of The Law Society of Tasmania and The Real Estate Institute of Tasmania.

The Standard Form Contract for Sale of Real Estate in Tasmania, as approved for use by the Law Society of Tasmania and The Real Estate Institute of Tasmania, is made up of two parts:

- agreed variables and non-standard clauses, known as “the Particulars of Sale (2017)”; and
- the standard clauses known as “the Standard Conditions of Sale (2017)”.

The text of the Standard Conditions of Sale is fixed and incorporated in the Contract by adoption on signature of the Particulars of Sale, subject to any variation by the Particulars of Sale.

Changes may be made to the standard Particulars of Sale but are not endorsed as part of the Standard Form Contract. The person drafting changes to the standard Particulars of Sale is responsible for that drafting and responsible to identify the changes as not being part of the standard Particulars of Sale.

The Vendor and the Purchaser become bound to each other in contract by signing the Particulars of Sale.

The most basic precaution for all dealings with the Contract is to read the Standard Conditions of Sale and the Particulars of Sale. Parties and contract drafters should take advice where necessary, before the signing of the Particulars of Sale.

Words defined in the Particulars of Sale have that meaning when used in the Standard Conditions of Sale.

The Particulars of Sale apply to the extent of any inconsistency with the Standard Conditions of Sale.

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Commentary

How do I use these Templates?

The sample Special Conditions that follow are only templates. They need review to match the particular circumstances of the particular transaction.

The parties should have the Contract reviewed by their legal adviser prior to signing.

The Law Society of Tasmania and The Real Estate Institute of Tasmania (“REIT”) do not warrant the suitability of these Special Conditions for any specific situation.

The Law Society of Tasmania and The Real Estate Institute of Tasmania do not accept any liability for any loss or damage, financial or otherwise, arising from use or reliance on the Special Conditions.

How does the Two Part Standard Contract Form Work?

The Standard Law Society / REIT Contract Form is designed structurally to include two separate components:

1. a set of variables and non-standard matters agreed between the parties, known as “The Particulars of Sale”
2. the text of the clauses that make up the typical agreement between the parties, known as “The Standard Conditions of Sale”.

Separating variables to the Particulars of Sale and fixed parts to the Standard Conditions of Sale allows the Standard Contract Form to work flexibly with a reliable standard base.

Where do you need to sign the Particulars of Sale?

The contract requires signature on the Particulars of Sale.

Prudent practitioners drafting and signing up contracts will have vendors and purchasers sign each page of the Particulars of Sale, including annexures pages, and any hand made change to the form as printed.

Annexure pages should be numbered.

Do you need to sign the Standard Conditions of Sale?

The Contract is structured so the Particulars of Sale are signed and they adopt the Standard Conditions by reference, regardless of signature of the Standard Conditions of Sale.

Prudent practitioners drafting and signing up contracts might have vendors and purchasers sign copies of the Standard Conditions of Sale to prevent claims that “No-one told me that”.

Signing the Standard Conditions of Sale is cautious practice but not required.

The 2017 draft of the Particulars of Sale of Sale has a specific receipt of the Standard Conditions of Sale.

The 2017 draft of the Standard Conditions of Sale has a specific provision for confirming signature.

Who needs a copy of the Standard Conditions of Sale?

Letters sending out copies of the Contract to the parties themselves will usually be accompanied by both the Particulars of Sale and the Standard Conditions of Sale so the lay parties have certain access to the Standard Conditions of Sale.

Professionals typically are not likely to exchange copies of the Standard Conditions of Sale. They will already have copies of the Standard Conditions of Sale and should not need a fresh copy every time.

Why should I follow the Standard Contract Form?

Consumers, agents and lawyers in Tasmania are not compelled to use the standard form of contract, as a whole or all its part.

Use of the Standard Contract Form is more efficient and safer.

The Contract is the industry standard.

Following the industry standard helps protect contract drafters from liability claims.

Contract drafters may need to explain and justify why the Standard Contract Form was not used.

Best practice is to clearly identify any change to the Standard Contract Form, either by crossing out or changed font. Parties disadvantaged by changes to the Standard Contract Form not so identified may accuse the contract drafter of misleading and deceptive conduct in presenting a document that appeared to have REIT and Law Society endorsement when it did not. Clearly identifying any change to the Standard Contract Form protects against such accusation and consequential liability.

Why might I need to change the Standard Contract?

The Standard Contract is a compromise and imperfect. Any template contract must be so.

The Particulars of Sales are designed to capture the standard variables and tailor the Contract to the specific needs of the parties.

How do I change the Standard Contract?

The Standard Conditions of Sale is a fixed document varied only by the Particulars.

The Standard Conditions of Sale is likely to match the needs of the parties in most cases.

Where the provisions of the Standard Conditions of Sale do not match the needs of the parties, a Special Clause in the Particulars of Sale can amend the usual provisions of the Standard Conditions of Sale.

For instance, Standard Condition 6 of the Standard Conditions of Sale provides:

Removal of goods

- 1. Before completion the Vendor must remove from the Property all items not included in the sale.*

2. *The Purchaser is not liable to compensate the Vendor for trespass to, damage to, or loss of items left on the Property after completion for more than seven (7) days following notice from the Purchaser to the Vendor to remove them.*
3. *The Vendor must indemnify the Purchaser against all claims made against the Purchaser about items not included in the sale, but left on the Property after completion.*

Where, the Vendor will not accept responsibility to remove chattel items from the property, the following Special Clause could be added to the Particulars of Sale to modify the Standard Conditions of Sale:

Removal of Goods

Standard Condition 6, "Removal of goods", is replaced with the following:

"The Vendor on completion:

releases all claims to,

will have no liability to remove, and

will have no liability to the Purchaser in relation to

items left on the Property on completion, whether included in the sale or not."

How are changes shown?

If the Particulars of Sale are completed by hand on a blank form, best practice is to put a line through the clauses not applicable and get changes signed by both parties.

Where particulars are drafted on computer, irrelevant clauses can be deleted or crossed out. Striking out rather than deleting inapplicable clauses demonstrates transparency and protects an agent from the accusation a deleted alternative was unfairly withheld or concealed.

What should I name a Special Clause?

Names that are descriptive labels rather than clause numbers are simpler and more intuitive as references to Special Clauses.

Get out Clauses

Contract terminology is confusing because the words “terms”, “covenants” and “conditions” are often used in different ways in different circumstances.

A “condition precedent” is something that must happen before some other right or obligation can be carried forward.

The classic condition precedent is “if I don’t get finance within 21 days, I won’t be bound to buy your property”.

A condition precedent contrasts with a warranty which is a promise by a party about some part of the Contract.

Some inexperienced contract drafters start all of their special clauses with magic words “it is a condition precedent that”. These words should only be used if the intention is to build in a get out right for one or both parties to withdraw from the Contract.

If one party is bound to do some act or is making some promise about the property or the Contract, that is a warranty rather than a condition precedent. It is clarifying to use the words “must” to describe such promises. “The Vendor **must** properly install the remainder of the tiles in the bathroom”.

Consider whether get out clauses should be expressed to be :

- automatically satisfied by the passing of time, or
- automatically shut the contract down if no action is taken within the time limit.

Sometimes time limits need to be made flexible by requiring a party serve notice before the deadline timetable. Subdivisions and estates are classic examples where parties often expect to wait and realise the timing is uncertain. It can be frustrating if that uncertainty means what seems to have been on the signing of the Contract a sufficiently long period cuts the Contract short unexpectedly and without warning.

Can I vary the Right of the Vendor to shorten the Time to Satisfy a Precondition?

As with the rest of the Particulars of Sale, the parties may choose to amend the clause to suit themselves to allow a vendor to shorten the time to satisfy a precondition.

Usually the Purchaser will not want a Special Condition to shorten the time for confirmation where the precondition is relatively short, such as a finance clause.

The default Shorter Period Clause now has an alternative to elect it applies either:

- a. to all preconditions; or
- b. to particular conditions as specified, e.g. subject to sale contract only.

The typical use of the right of a vendor to specify a shorter time for satisfaction is a highly contingent contract, such as an offer subject to the purchaser finding a contract for sale of their existing property.

The drafting of standard right for a vendor to specify a shorter time for satisfaction reflects the weakness of such offers and does not require the vendor have:

1. a “ better” offer,
2. an offer at a higher price,
3. a cash offer,
4. an offer either cash or subject only to finance,
5. before serving notice.

Subject to the difficulties of precision on such matters, parties who so require can dedicate the Particulars of Sale to their particular needs by adding qualifications.

Two days continues to be the default time for the “Shorter Period”. Like the rest of the Particulars of Sale that period can be changed to match the particular agreement of the parties.

The timing under this clause relies on Standard Condition 16.

Time

1. *In this Contract:*
 - a. *when a period dated or calculated from a given day, act, or event, is prescribed or allowed for any purpose, that period excludes that day, or the day of that act or event, as the case may be;*
 - b. *time extends until the next Business Day if the time for doing something falls on a day other than a Business Day;*
 - c. *a “Business Day” is a day other than a Saturday, Sunday, or a statutory holiday (as defined in the Statutory Holidays Act 2000) applicable to an area in which any part of the Property is located; and*
 - d. *only Business Days are counted for periods shorter than seven (7) days specified in this Contract.*
2. A “business day” as here defined expires at midnight.

Why does the Contract provide for sales Subject to both Contract and Completion?

Purchasers may need the Contract for their new property subject to signing a sale contract on their old property.

Prudent purchasers may need the Contract for their new property subject to not just signing a sale contract on their old property, but also a further precondition that the contract for sale of the old property actually proceeds to Completion. They may need the money to buy; not just a contract.

A defaulting Purchaser unable to proceed because his own sale has not settled, may delay or defeat the second deal regardless of the Contract. There may be a dispute over terminating the sale because the Purchaser cannot proceed.

Some Vendors would prefer to end a failed sale contract quickly and neatly and go back to the open market without the delay, uncertainty and expense of enforcing or terminating a contract against a purchaser incapable of proceeding.

Vendors who secure a contract not made subject to Completion, may have false confidence in a contract that cannot proceed because the Purchaser's sale fails. A vendor may make plans, relying on the contract proceeding, only to find failure or delay in sale puts them also in breach of commitments they have made.

Parties may prefer to acknowledge the risk the transaction may not proceed and have a simple safe exit for all parties if it does not.

Once properly installed, the risk of unconditional contracts failing is small. If a chained dealing falls over because of a defaulting purchaser, the consequences could be grievous. Purchasers could be forced into a bridging position with open ended liability for the Vendor's continuing loss. They stand to lose their deposit automatically if the Vendor chooses to rescind, but have liability for the Vendor's losses beyond the deposit; a small chance, but if it comes to pass, there is a big loss.

If a chain breaks, then the contract termination may result in inconveniences and delay, but people can go back to the market quickly with smaller losses than where there are defaults. The risk of delay and transaction failure is inevitably exponentially higher for a chained series of dealings than a single dealing.

Even if both Completions are due simultaneously, the shutdown deadline for the purchaser's Completion, is prudently set a little later than the expected Completion Date to give some leeway before a party can shut the contracts down.

How does the Standard Building Inspection Clause Work?

Like the rest of the Contract, the Building Inspection Clause is a compromise.

The parties need to find their own accord and may need a different building clause.

The standard Building Inspection Clause requires the purchaser;

1. serve a report,
2. where a professional,
3. certifies fault,
4. to the required standard,
5. strictly within time.

The building inspection clause relies on requiring a professional inspection and the professional certificate and liability of the person inspecting. The person inspecting must confront and by their certificate resolve matters of definition and uncertainty. The person inspecting may for instance refer to the Australian Standard.

Between Vendor and Purchaser, the Purchaser either has a complying certificate or does not.

The word 'defects' is not a term specifically defined by the Contract. A purchaser seeking to avoid a Contract relies on the service of a sufficient certificate of defect, not the defects directly. The certificate not the fault is the trigger that must be pulled to terminate the Contract.

The standard Building Inspection Clause is automatically satisfied if the purchaser takes no action.

The word 'inspector' is not a term specifically defined by the Contract but the requirement of professional indemnity insurance should be enough to exclude non-professional backyard operators or family and friends. An engineer or architect for instance may have professional indemnity insurance for such work.

The alternative of an Accredited Building Practitioner under the Building Act relies on the definition and process of accreditation under that Act.

Template Special Clauses

Purchaser to Conduct Due Diligence

If within 21 days, the Purchaser gives to the Vendor notice of the Purchaser's dissatisfaction with such reports about the Property as required by the Purchaser from council, the land registry, architects, planners, land surveyors and building surveyors and lawyers.

1. the parties' obligations to complete the contract shall be void and at an end,
2. the Purchaser shall be entitled to the return of any deposit paid, and
3. neither party shall be entitled to compensation for the failure of the Contract.

Terminates Unless Earlier Contract Is Terminated

Unless the Vendor serves notice on the Purchaser within 21 days of the date of this contract, that the previous contract for sale of the Property has terminated:

1. the parties' obligations to complete the Contract shall be void and at an end,
2. the Purchaser shall be entitled to the return of any deposit paid, and
3. neither party shall be entitled to compensation.

Subject to Subdivision Approval

1. It is a condition precedent to completion of this Contract, that the Recorder of Titles issues a separate title to the property.
2. The parties agree that the annexed plan is subject to final subdivision approval and any minor consequential amendment to that plan will not entitle either party to compensation.
3. If a separate title to the property has not been issued within 180 days of the date of this Contract, either party may serve notice on the other calling for issuance of the separate title.
4. If a separate title to the property has not been issued within 90 days of the date of service of a notice calling for issuance of the separate title then;
 - a. the parties' obligations to complete the contract shall be void and at an end,
 - b. the Purchaser shall be entitled to the return of any deposit paid,
 - c. otherwise neither party shall be entitled to compensation for the failure of the titles to issue.
5. The schedule of easements will provide that the Vendor will not be required to fence and such rights required by council in the planning permit, but no other rights will be created over the Property by the subdivision.
6. The Vendor must pay the taxes and surveyor's fees of the subdivision and the plan necessary to do so.

7. The Vendor must satisfy any conditions of any planning permit for the subdivision required by council or other authorities before completion and may not force completion without doing so.
8. Each party must pay the fees of their own lawyer.
9. The Purchaser must pay the taxes on registering the transfer to the Purchaser.
10. The Purchaser must not lodge a caveat over the Property or any larger parcel containing the Property. The Purchaser irrevocably appoints the Vendor, to be the Purchaser's attorney to sign a withdrawal of a caveat lodged by the Purchaser contrary to this clause.
11. The Vendor may deal with the Property prior to completion and without limitation, may mortgage, charge or give other securities over the Property and the Purchaser must not object to any dealings by the Vendor.

Strata Title

1. All contributions levied by the body corporate must be paid by the Vendor to the date of completion.
2. The Vendor shall be entitled to be reimbursed for that portion of any periodical expense included in those contributions that relate to the Purchaser's period of ownership.
3. The Vendor warrants on completion,
 - a. There will be a current insurance in place by the body corporate as required by the Strata Titles Act.
 - b. There will have been no change to the by-laws from the standard by-laws included in the Strata Titles Act except resolutions to allow lot owners to keep pet animals on the lot and bring pets on the common property.
 - c. There has been no other action by the body corporate since its creation,
 - d. There has been no other resolution by the body corporate since its creation.
 - e. There will be no liability outstanding to the body corporate by the unit owner at date of Completion.
 - f. There will be no liability outstanding by the body corporate to any person at date of Completion.

Investment of Deposit

1. The Vendor and the Purchaser request the stakeholder to invest the deposit on call deposit with an Australian Bank in the name of the agent in trust for the joint names of the Vendor and the Purchaser.
2. Any interest earned on the investment of the deposit must:

Select one

 - a. follow the deposit.
 - b. be allocated equally between the Vendor and the Purchaser.
 - c. be allocated to the Purchaser.
 - d. allocated to the Vendor.

3. The agent may advise the bank of the following Tax File Numbers:
 - a. The Vendor ___ / ___ / ___
 - b. The Purchaser ___ / ___ / ___.

Deposit by Bank Guarantee or a Deposit Bond

4. If the Vendor, on signing, accepts a bank guarantee or a deposit bond from the Purchaser instead of a deposit then:
 - a. this Contract is varied to provide that no cash deposit is payable on signing;
 - b. the Purchaser must pay the deposit amount to the Vendor by way of bank cheque on the earlier of;
 - i. the Completion date; or
 - ii. such other time as the Vendor would otherwise be entitled to the release of the deposit in accordance with the provisions of the contract ; or
 - iii. the rescission or otherwise lawful termination of the Contract by the Vendor;
 - c. If the Purchaser fails to comply with this Special Condition the Vendor may make demand for payment of the deposit under the bank guarantee or a deposit bond.

Release of Deposit

1. The Vendor and the Purchaser authorise the stakeholder to release the deposit to the Vendor on signing.
2. The Vendor must repay to the Purchaser the portion of the deposit so released to the Vendor in any circumstances where a stakeholder of the deposit would be bound to pay the deposit to the Purchaser.
3. The Vendor charges the Property with the obligation to repay to the Purchaser the portion of the deposit so released to the Vendor in any circumstances where a stakeholder of the deposit would be bound to pay the deposit to the Purchaser.
4. The Vendor warrants the Sale Price after deduction of sale costs and the released deposit is more than sufficient to satisfy all encumbrances on the Property.

Early Possession

Early possession has risks for both parties.

The Residential Tenancy Act imports a set of standard residential terms where a fee is paid for a right to occupy. Even if the fee is for a periodical right to occupy as part of a sale, the party may be stuck with a Residential Tenancy Act relationship that they did not intend. Vendors might accidentally find they are bound to undertake repairs to have minimum services provided when they thought they had settled on a sale price based on the existing condition of the property.

Sometimes it is better to confront those risks and install a standard residential tenancy agreement using a standard residential template. Rent to buy arrangements for instance are often documented most simply with a standard lease and a standard sale contract with a clause providing for any right of the parties to withdraw from either element of the transaction.

Possession before/after Completion

Vendor may retain Possession after Completion

1. The Vendor may retain Possession for up to 90 days after Completion.
2. The Vendor will be in possession as licensee of the Purchaser and not as Tenant.
3. The Vendor will not be obliged to pay any fee for that possession.
4. The Vendor must;
 - a. maintain the condition of the Property, including its buildings and grounds to a standard clean, neat and tidy to the date of this Contract,
 - b. maintain all chattels in good working order, and
 - c. deliver the Property up to Purchaser on time and in that condition.
5. These warranties will not merge on Completion.
6. The Purchaser will have no obligation to maintain or repair and the Vendor indemnifies the Purchaser against any such liability or expense.
7. The Vendor must, on completion, place ten percent of the Purchase Price on deposit with the Estate Agent to hold in trust as stakeholder for both the Vendor and the Purchaser as a bond to secure the obligations of the Vendor under this clause.

Lease Back

The Vendor will rent back the Property and the Chattels from the Purchaser;

1. at \$... per week,
2. payable ... in advance,

3. for a period of at least ...from Completion,
4. and then determinable by either party on ...weeks notice to the other.

Early Possession

The Purchaser may have possession of the Property from on the following terms:

1. Before taking possession;
 - a. the Purchaser must waive all conditions precedent to Completion.
 - b. The Purchaser must complete all searches and inspections.
 - c. the Purchaser must pay:
negotiate and document some part payment and possible release e.g.
 - a. a total deposit of / the full purchase price, and
 - b. authorise the release of the Deposit/ \$..... to the Vendor
 - c. the Agent must place the Deposit / \$..... on term deposit with an Australian bank and any interest earned on the investment of the purchase price is payable to the Vendor.
2. After taking possession;
 - a. the Purchaser shall make no requisition, claim or demand of whatever nature in relation to the physical condition of the Property or its identity to the offered title particulars,
 - b. the Property and the Chattels are sold in their present state and condition,
 - c. the Purchaser may not claim against the Vendor for any defect or any want of repair in the Property and the Chattels,
 - d. the relationship of the parties will be Vendor and Purchaser and not landlord and tenant,
 - e. the Purchaser must maintain the Property in a good and careful fashion,
 - f. the Purchaser must not make any structural changes to the Property of any nature,
 - g. the Purchaser shall pay the Vendor's costs on a solicitor/client basis on any enforcement proceedings required under the Contract,
 - h. the rights of possession here granted end on the date the Contract is due to settle, but if the Purchaser wrongfully remains in possession after that date, the Purchaser must pay interest on the money still owing at the rate of 9% per annum,
 - i. the Purchaser warrants to the Vendor that the Purchaser has entered this agreement on the basis of the independent advice, personal inspection and investigation of the Purchaser and not relying on any representation by the Vendor or any agent on behalf of the Vendor not recorded in this Contract,
 - j. the Purchaser will indemnify the Vendor from all liability loss or damage arising from the possession and use of the Property by the Purchaser.

Sale Subject To Lease

1. The Property is sold subject to the lease as attached (“the Lease”).
2. The rent and all outgoing payable by the tenant under the Lease (“the Lease Money”) will be apportioned on the Completion date between the Vendor and Purchaser as follows;
 - a. The Vendor will be entitled to all Lease Money payable in respect to the period up to and including the Completion date and the Purchaser will be entitled to all Lease Money payable from the day after that date;
 - b. Where Lease Money is paid to the Vendor for a period expiring after the Completion date the Vendor will allow the Purchaser that proportion for the number of days remaining in the period paid after Completion date;
 - c. If any Lease Money is in arrears the Purchaser will allow those arrears to the Vendor.
3. On Completion the parties must account for any bond in accordance with the Residential Tenancy Act.
4. The Vendor warrants payments on the Lease are up to date at the date of this Contract and the Vendor is not aware of any significant breach of the Lease by the tenants at this date.
5. These conditions as to the Lease will not merge on Completion but remain in the operation as long as necessary to give effect.

Works

Vendor must complete works before Completion

1. The Vendor, before the due date for completion, in a good and workmanlike fashion, must
 - a. *install an exterior power point and a sensor light near the carport, and*
 - b. *install two exterior lights near the dining room.*
2. The Vendor must comply with and give all notices required by any Act of Parliament or by any regulation or by-law of any public utility company or authority which has any jurisdiction and pay the required fees or charges.

Vendor works after Completion

1. The Vendor must install a *Paling Fence as per the attached quotation* within *[Insert deadline] for completion of works.*
2. This obligation is binding after Completion.
3. The Vendor's lawyer must on Completion hold back *[Enter amount held back]* from the proceeds of sale to secure the outstanding obligation of the Vendor to complete the fencing work as stakeholder not as solicitor of either party. The funds are to be released to the Vendor:
 - a. on the Purchaser's confirmation of satisfaction,
 - b. if so agreed by the parties,
 - c. if so ordered by a court or arbitrator, or
 - d. if there is no contrary agreement, court or arbitration order, 4 months after serving notice on both parties requiring they refer the matter to resolution by court or arbitration proceedings.
4. The Vendor's lawyer has no obligation to invest the funds, but may do so on request by and at the cost of the Vendor. Any interest earned will belong to the Vendor.

GST

Who should specify the GST Treatment?

Contract drafters need to get GST right.

Agents cannot be expected to be tax experts. Vendors need to take their own tax advice from lawyers and accountants. At the time of listing, agents should insist Vendors advise agents which GST treatment the vendor wishes to apply.

The Standard Contract calls for an election whether the GST treatment is the most common scenario, no taxable supply, or if there is a required GST provision because it is a taxable supply.

If the supply is taxable, the Standard Contract requires a special clause to set the required GST provision. The Vendor should confirm to the agent, ideally in writing the required clause.

The menu of Special Clauses including various GST scenarios will assist but the Vendor not the agent should be responsible for the choice.

Standard Plus GST Clause

1. The Purchaser must pay to the Vendor;
 - a. any liability of the Vendor for GST on supplies to the Purchaser by the Vendor under this agreement;
 - b. when payment is due to the Vendor on the matter involving the Vendor in GST liability or when the GST is payable by the Vendor whichever comes first.
2. The Vendor must on Completion deliver to the Purchaser tax invoices for the payments and supply under this agreement, in a form that complies with the law on GST.
3. In this agreement "GST" refers to goods and services tax under A New Tax System (Goods and Services Tax) Act 1999 and all related laws and all taxes and assessments of the nature of a consumption, value added or goods and services tax. Any word used in this clause which is defined the GST legislation has that meaning in this clause.

Going Concern GST Clause

4. The parties agree the consideration was negotiated as GST exclusive on the assumption the sale of the Property is expected to be GST free as the supply of a going concern.
5. The Purchaser warrants the Purchaser is registered or is required to be registered under the law on GST.
6. The Vendor must carry on the conduct of the business as a going concern until the Completion of this sale.
7. If for any reason other than default by the Vendor, this sale is not accepted by the Commissioner of Taxation as GST-free, the Purchaser must pay the Vendor any GST liability of the Vendor supplies under this agreement, within 14 days after the Commissioner confirms the liability and the Vendor delivers Tax Invoice.

8. This clause will not merge on Completion.

GST -Farm land

1. The Vendor warrants that the Property is land on which a farming business has been carried on for at least five years preceding the date of this Contract.
2. The Purchaser warrants that the Purchaser intends to carry on a farming business on the Property.
3. The parties have entered into this agreement on the basis that the supply of the Property is GST free and the consideration is exclusive of GST.
4. If the supply of the Property is not deemed to be a GST free supply of farming business land, the Purchaser must pay to the Vendor, within 14 days of presentation of a valid GST tax invoice quoting the vendor's ABN, the amount of GST payable on the sale.
5. This clause will not merge on Completion.

GST- Margin Scheme

1. In this agreement "GST" refers to goods and services tax under A New Tax System (Goods and Services Tax) Act 1999 and all related laws and all taxes and assessments of the nature of a consumption, value added or goods and services tax. Any word used in this clause which is defined the GST legislation has that meaning in this clause.
2. The parties agree the Margin Scheme applies to the supply of the land under this Contract.
3. The Vendor cannot recover from the Purchaser any GST payable on supplies under this Contract;
4. The Vendor makes no warranty that the Purchaser will receive any GST Tax Credits on supplies under this Contract.

Guarantee

1. In consideration of the Vendor entering into this agreement at the request of the Purchaser's Guarantors, the Purchaser's Guarantors guarantee to the Vendor:
 - a. the performance and observance by the Purchaser of all its obligations under this agreement, before, on and after Completion;
 - b. the accuracy and fulfilment of all warranties and representations made by or on behalf of the Purchaser whether in this agreement or to induce the Vendor to enter into or complete this agreement; and
 - c. the payment of any money by the Purchaser to the Vendor or to any third party, in accordance with this agreement.
2. The guarantee given in this clause is a continuing guarantee and binds the Purchaser's Guarantor notwithstanding:
 - a. the subsequent death, bankruptcy or liquidation of any one or more of the Purchaser and/or the Purchaser's Guarantor;
 - b. any indulgence, waiver of extension of time by the Vendor to the Purchaser or to the Purchaser's Guarantor; and
 - c. Completion.
3. In the event of any breach by the Purchaser covered by the guarantee in this clause, the Vendor may proceed to recover the amount claimed as a debt or as damages from the Purchaser's Guarantor without having instituted legal proceedings against the Purchaser and without first exhausting the Vendors remedies against the Purchaser.
4. If a company purchases the Property:
 - a. Any person who signs this Contract will be personally responsible to comply with the terms and conditions of this Contract; and
 - b. The Directors of the company must sign the guarantee attached to this Contract and deliver it to the Vendor within 7 days of the day of sale.