

**ANNEXURE A**

Referred to in the Contract For Sale of Land by Offer and Acceptance

made between \_\_\_\_\_  
as Buyer

and **Ardross Estates Pty Ltd** ACN 008 683 887 as Seller

for **Lot** \_\_\_\_\_, **Jurien Bay**

**GENERAL CONDITIONS**

1. The Buyer acknowledges that in addition to the restrictive covenants set out in Condition **15** of this Annexure A (**Restrictive Covenants**), the Property is sold subject to:

(a) the provisions of the relevant Shire of Dandaragan Local Planning Scheme (**TPS**), which is currently LPS No 7 (**Scheme**), in general and the provisions of the Scheme which relate to the Property in particular, including, but not limited, to Appendix 12 of the Shire of Dandaragan Local Planning Scheme No. 7 (**Specific Scheme Provisions**); and

(b) the Design Guidelines, a copy which is annexed to this Contract (**Design Guidelines**).

2. The Buyer must forward to the Seller for its written approval, two sets of true copies of its final plans and specifications for the construction of any residence, buildings, outbuildings and other structures (including but not limited to fencing, swimming pools, pergolas, patios, paving, sheds) on the Property prior to making application to the Shire of Dandaragan (**Shire**) for a building licence.

The Seller will not withhold its consent or require any amendments to such plans and specifications if they comply with the Conditions contained in this Annexure A, the Design Guidelines, the Scheme and the Restrictive Covenants.

The Seller undertakes to respond, in writing, to any complete submission made by the Buyer under this Condition, within 10 Business Days of receipt of the same.

The Buyer must comply with all reasonable requests by the Seller for the purposes of ensuring that the plans and specifications comply with the Conditions contained in this Annexure A, the Design Guidelines, the Scheme and the Restrictive Covenants.

Nothing contained in this Condition affects the Buyer's obligation to comply with the provisions of the Scheme and to seek the appropriate licences and approvals from the Shire and other relevant authorities for the construction of the residence and any outbuildings, structures and landscaping on the Property.

3. The Seller reserves the right to install street trees in the verge adjacent to the Property as part of the overall streetscape enhancement of the Estate, as agreed to by the Shire of Dandaragan.

The Buyer must at all times, and within a reasonable period of time, replace any damaged trees, reticulation, piping and sprinklers installed by the Seller contained in any verge adjacent to the Property which are damaged by the Buyer, its agents, employees and contractors at any time after the Contract Date.

In the event that the Buyer fails to carry out such repairs within 14 days from the date on which the Seller serves notice in writing on the Buyer to do so, the Seller (without being obliged to do so), is entitled to enter into and upon the Property with its agents, employees and contractors to

Seller's initials: \_\_\_\_\_

Buyer's initials: \_\_\_\_\_

carry out the repairs which in its absolute discretion, the Seller considers necessary to comply with the above obligations of the Buyer.

The costs of any repairs carried out by the Seller pursuant to its rights under this Condition will be payable by the Buyer to the Seller upon demand.

4. The Buyer must complete the construction of a driveway with a crossover, in strict compliance with the Restrictive Covenants and other relevant provisions of this Contract, prior to the Buyer taking occupation of any residence constructed on the Property.
5. The Buyer acknowledges that until the Seller has signed this Contract, it is not obliged to accept the Buyer's offer for the purchase of the Property and may in its absolute discretion, accept any other offer for the Property, whether prior in time to the Buyer's offer or not, and on such terms and conditions as it sees fit.
6. It is agreed by the Buyer and Seller that:
  - (a) clause 6.1 in the 2009 General Conditions is deleted; and
  - (b) the definition of "Possession Date" in Condition 26.1 of the 2009 General Conditions is deleted and the following substituted in its place: .

"Possession Date" means the later of:

- (i) the Contract Date;
- (ii) the date the Contract ceases to be conditional upon the approval of finance;  
and
- (iii) the date on which the plan of survey is marked "In Order for Dealing".

Outgoings shall be adjusted as at the Possession Date.

7. Condition 16 of the 2009 General Conditions is hereby deleted from this Contract and the following is substituted in lieu of it:

"16. The Buyer is not entitled to deliver any requisition on or objection to the title of the Seller and hereby unconditionally waives the right to do so."
8. The Seller has elected to use the Margin Scheme to comply with the GST Legislation. GST is included in the Purchase Price and the Buyer acknowledges that it will not be able to claim an input tax credit on the purchase of the Property.
9. In this Condition the term "Seller's Legal Practitioners" means and includes the firm nominated below and any other Legal Practitioners appointed by the Seller from time to time in place of them.

The Seller and the Buyer agree that the Deposit and any other monies payable to the Seller prior to Settlement shall be paid to the Seller's Legal Practitioners to be held by the Seller's Legal Practitioners on the terms set out in this Condition.

The Buyer authorises and directs the Seller's Legal Practitioners to pay the Deposit and any other monies held by the Seller's Solicitors to such party as the Seller directs the Seller's Legal Practitioners in writing so to do upon written confirmation from the Seller to the Seller's Legal Practitioners that all Mortgages over the Property have been discharged.

The Buyer further authorises and directs the Seller's Legal Practitioners to pay the Deposit and any other monies held by the Seller's Legal Practitioners pending Settlement to any other legal

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practice or settlement agency nominated by the Seller by notice in writing to the Buyer and the Seller's Legal Practitioners and that the Seller's written request to the Seller's Legal Practitioners to transfer the Deposit and any other monies payable to the Seller prior to the Settlement held in the Seller's Legal Practitioners Trust Account to another firm pursuant to such notice may be relied upon by the Seller's Legal Practitioners as authority from the Buyer to do so without the necessity of either firm having to obtain any further written authority from the Seller or the Buyer.

The Seller's Legal Practitioners are entitled to rely on this written confirmation of the Seller in full and final satisfaction of the obligations of the Seller's Legal Practitioners to deal with the Deposit on behalf of the Buyer but if the Contract is terminated due to the default of the Seller, the Seller's Legal Practitioners are hereby authorised by the Seller to repay the Deposit to the Buyer.

The Nominated Seller's Legal Practitioners are **Freehills**.

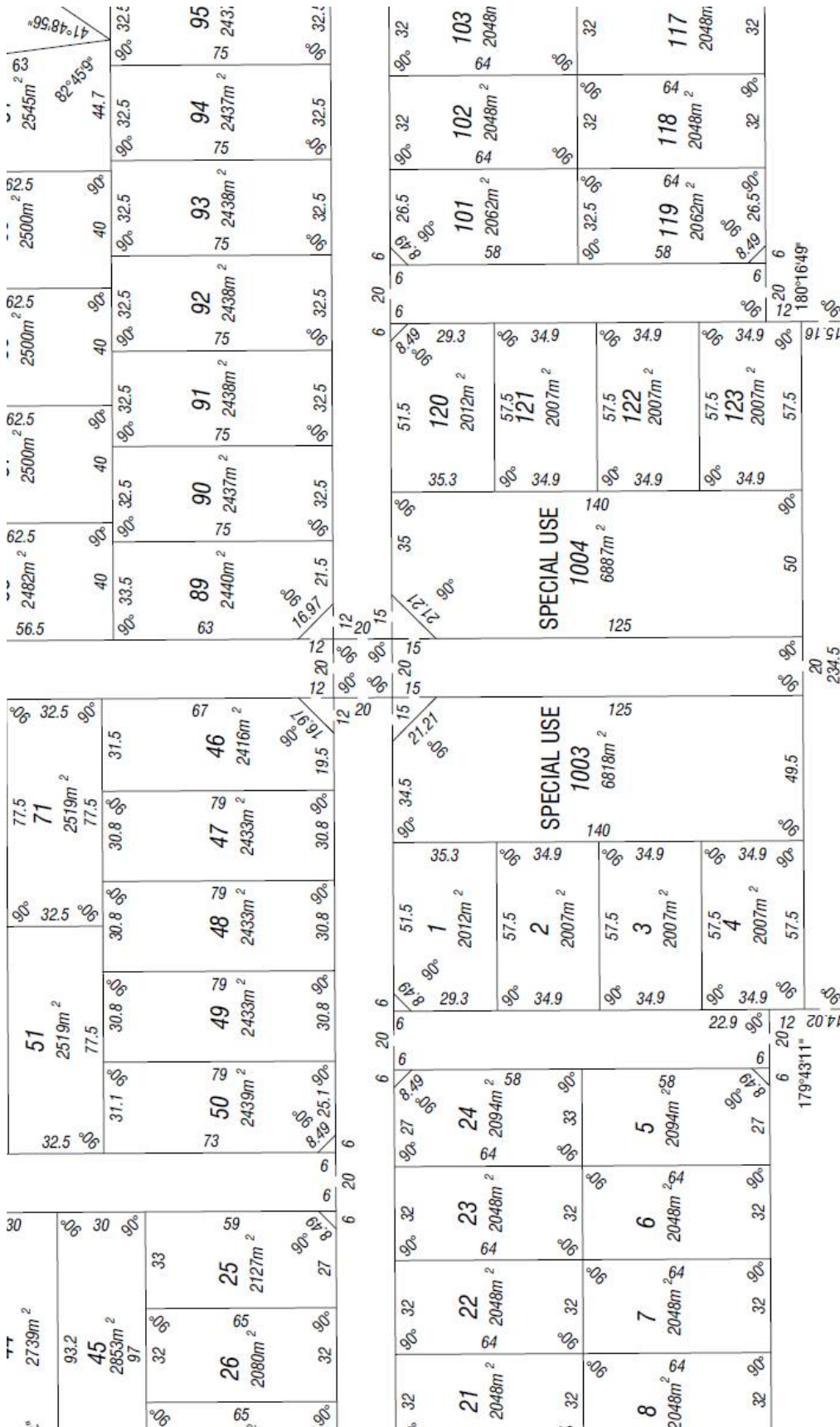
The provisions of clause 1.2 of the 2009 General Conditions do not apply to this Contract.

10. The Parties confirm that the provisions of this Annexure A will survive Settlement and continue to be binding on and for the benefit of the Parties as the context of this Annexure A so admits or requires.
11. If any part of this Contract is, or becomes void or unenforceable, that part is or will be severed from this contract to the extent that all parts that are not, or do not become void or unenforceable, remain in full force and effect and are unaffected by that severance.

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**Plan**



Seller's initials: \_\_\_\_\_

Buyer's initials: \_\_\_\_\_

## **SPECIAL CONDITIONS**

### *PRE-SELLING PROVISIONS RELATING TO THE SUBDIVISION*

12. If as at the Contract Date, the subdivision of the Original Land has not been completed and the proposed lot to be purchased hereunder is not yet a lot as defined in the Planning and Development Act 2005 (as amended), the following provisions apply:
- (a)
- (i) The Buyer acknowledges that the final boundary dimensions and area of the Property are subject to a Subdivision Plan and whilst the Seller intends that those final boundary dimensions and area should be as similar as possible to those shown on the Plan attached to this Contract as a part of Annexure A, the Seller reserves the right to effect such adjustments to the boundary dimensions and area of the Property that may be necessary to obtain the approval of the Planning Commission and/or the Inspector;
  - (ii) The Buyer shall not be entitled to make any objection, requisition or claim for compensation by reason of any variation as to the boundary dimensions and the area of the Property as a consequence or condition of the Seller obtaining the approval of the Planning Commission and/or the Inspector to the subdivision of the Original Land of which the Property forms part PROVIDED THAT in the event of a variation to the boundary dimensions or area of the Property as shown on the Plan attached to this Contract as a part of Annexure A, by more than 5% in total in either case, and to either a greater or lesser extent and such variation or variations affect the use to which the Property could be put as at the Contract Date, the Buyer has the right by notice in writing to the Seller or the Seller's Representative to that effect to cancel this Contract at any time within (but not after the expiration of) FIVE (5) Business Days of the Seller advising the Buyer or the Buyer's Representative that the Subdivision Plan is marked "In Order for Dealing" by notice in writing to the Buyer or the Buyer's Representative to that effect. Upon notice being given by the Buyer or the Buyer's Representative to the Seller or the Seller's Representative to terminate this Contract on the grounds and within the time mentioned above, the Seller will cause the Deposit money to be repaid to the Buyer together with interest at the rate of 4% per annum and any other moneys paid by the Buyer to the Seller under this Contract without deduction except in respect of any financial institutions duty and taxes payable on the interest accrued, and this Contract will be at an end and cease to be of any further force or effect but for the provisions of this sub-paragraph (ii);
  - (iii) Time is strictly of the essence in relation to the Buyer's right to cancel this Contract under sub-paragraph (a)(ii) of this Condition 12; and
  - (iv) The Property shall be purchased subject to all such sewerage and drainage easements, which shall be required by any Authority as a condition of the subdivision of the Original Land.
- (b) Subject to the terms of this Contract the Seller shall use its best reasonable endeavours to complete the subdivision of the Original Land and to obtain the issue of a separate Certificate of Title for the Property as expeditiously as possible.
- (c) The Buyer shall not lodge any caveat against the Original Land at any time before the date on which a separate Certificate of Title for the Property issues from Landgate, and in order to more effectively enforce this Condition the Buyer hereby appoints the Seller the attorney of the Buyer to sign or execute for and on behalf of and as the act and deed of the Buyer, any withdrawal of caveat or other instrument necessary to rectify any breach of the Buyer's undertakings of this Condition and to do all things necessary to

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Buyer's initials: \_\_\_\_\_

lodge a withdrawal of any caveat lodged by the Buyer in breach of this Condition at Landgate.

- (d) The Buyer agrees that if there is any delay in obtaining a separate Certificate of Title for the Property, the Seller shall not be liable to compensate the Buyer for any additional costs or expenses of whatsoever nature including those relating to any price increases pursuant to a building contract entered into by the Buyer which are caused, directly or indirectly, by any delay in obtaining a separate Certificate of Title for the Property.
- (e) The Buyer acknowledges and agrees to the intent that this Condition prevails over any other provisions of the Contract and the 2009 General Conditions, the Seller is entitled to grant to the Shire of Dandaragan or any other Authority having jurisdiction over the Property, such rights easements and covenants as are necessary to enable the Seller to comply with any conditions contained in any approval to subdivide the Original Land of which the Property forms part provided that any works of a structural or developmental nature necessary to create such easements shall be at the cost of the Seller.
- (f) Should settlement not take place by the date specified under General Condition 13.9 of the 2009 General Conditions due to a delay at Landgate then Settlement shall be effected within TEN (10) Business Days after the Seller notifies the Buyer or the Buyer's Representative by notice in writing that the Certificate of Title for the Property has been issued by Landgate.

### 13. CONDITION - PROJECT FEASIBILITY

- (a) This Contract is subject to and conditional on the Seller entering into five Contracts for Sale of lots in Stage 1 in addition to this Contract on or before 30 June 2011.
- (b) In the event that the Seller has not advised the Buyer that either Condition 13(a) has been satisfied or is waived by the Seller (for whose benefit the Condition applies) on or before 14 July 2011 by notice in writing to the Buyer, the Buyer may by notice in writing to the Seller at any time from and including 15 July 2011 up to and including 28 July 2011, terminate this Contract and the provisions of Condition 13(c) will apply.
- (c) In the event that the Seller does not achieve the sales referred to in paragraph (a) of this Condition, the Seller may by notice in writing to the Buyer or the Buyer's Representative at any time after 30 June 2011, but no later than 14 July 2011, terminate this Contract in which case, this Contract will immediately cease to be of any further force or effect except for this Condition 13 and neither Party will have any further claim of whatsoever nature against the other of them.
- (d) If this Contract is terminated by either Party under this Condition, the Seller must repay any money that has been paid to the Seller by the Buyer without deduction.
- (e) Time is of the essence for both the Seller and the Buyer under this Condition.

### 14. BOUNDARY FENCING

#### PART A – SPECIAL CONDITIONS

It is agreed between the Buyer and the Seller that:

- (a) the Buyer shall not make any claim against the Seller for fencing under the provisions of the Dividing Fences Act whether in respect to the Property or any adjoining lands;

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Buyer's initials: \_\_\_\_\_

- (b) General Condition 9.1(a)(5) of the 2009 General Conditions is expressly excluded from this Contract;
- (c) except as provided for in Part B of this Condition 14, the Seller has no obligation to construct or repair or contribute to the costs of construction or repair of any fence between the Property and any adjoining property or land; and

**PART B – FENCING REBATE OFFER**

- (d) Subject to the Buyer completing the construction of a residence, on the Property, in strict accordance compliance with the Restrictive Covenants, within forty-eight (48) months from the Settlement Date, but not otherwise; the Seller will, pay the amount of \$7,500 (inclusive of GST) as a “Fencing Allowance” to the Buyer, upon installation (in strict compliance with the Restrictive Covenants) of dividing fencing, immediately following receipt of an application to the Seller (with accompanying supporting evidence verifying installation of fencing in strict compliance with the Restrictive Covenants) from the Buyer.
- (e) If prior to the Contract Date, the Seller has constructed or commenced construction of a fence on any boundary of the Property, the Buyer accepts the Seller has completely satisfied its obligations under this PART B to contribute to the cost of a dividing fence for the Buyer on that boundary.
- (f) The Buyer acknowledges and agrees:
  - (i) that the Buyer’s total benefit under this PART B is limited to its half share in the ownership of any fences constructed along any common boundary;
  - (ii) that the Seller makes no warrantee, warranty or representation as to the supply and installation of any fence and the materials comprised in it;
  - (iii) that the entitlements of the Buyer contained in this PART B are for the sole benefit of and personal to the Buyer named as a party to this Contract and are not transferable to any other party, including subsequent owners of the Property;
  - (iv) the Seller shall be under no obligation to construct the fencing unless and until the Buyer requests the Seller in writing to do so and which written request must contain a certificate from a licensed surveyor identifying the boundaries of the Land, following completion of the residence and at the Buyer’s expense.

*PROVISIONS RELATING TO RESTRICTIVE COVENANTS AND OTHER NOTIFICATIONS RELATING TO USE*

**15. SPECIAL COVENANTS RELATING TO USE**

The Buyer acknowledges that the Property will be encumbered by and is sold subject to the Restrictive Covenants to be imposed by the Seller as set out in the pro-forma Deed of Restrictive Covenant (“**Deed**”) annexed to this Contract or substantially in the same form as set out in the Deed by way of a separate Deed under Section 136D of the Transfer of Land Act 1893 or if already registered at Landgate as at the Contract Date, then in that registered form, PROVIDED THAT the Seller will at its cost and expense pay for the preparation of the Deed, the stamp duty and any registration fees payable on it.

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The Buyer must make their own enquiries about the impact of the Restrictive Covenants as they affect the Land and shall be taken to have satisfied itself about the Restrictive Covenants prior to the Contract Date.

The Seller accepts no responsibility for the enforcement of the above Restrictive Covenants but reserves the right to enforce any of them as long as it is registered as the proprietor of, a lot in the Deposited Plan in which the Original Land is comprised, or a lot specifically benefited by the Deed as stipulated on the notifications panel of the Deposited Plan.

The Buyer acknowledges that it has read and fully understands the Restrictive Covenants contained above, and that such restrictive covenants will be included in the transfer of the Property to be purchased under this Contract For Sale of Land by Offer and Acceptance and will encumber the title for such Property.

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Buyer.....

Buyer.....

Witness.....

Witness.....

Date.....

Date.....

Seller.....

**Ardross Estates Pty Ltd**  
A.C.N. 008 683 887

Witness.....

Date.....

Seller's initials: \_\_\_\_\_

Buyer's initials: \_\_\_\_\_