



SPECIAL CONDITIONS

Annexure A

The following are the Special Conditions 5.1 to 5.15 to the Contract of Sale by Offer and Acceptance for the sale of property at Kingston Estate.

Seller: Australian Vanguard Pty Ltd, ACN 069 779 906

Buyer: _____

Property: _____

Contract Date: _____

5.1 Information and Documents

The buyer/s hereby acknowledges that the buyer/s were given the following documents and information.

- a) The document entitled Building Design Guidelines (Annexure B)
- b) A copy of the relevant terms of the Restrictive Covenants relating to use affecting the property (Restrictive Covenants) registered or to be registered in a Deed of Restrictive Covenant (Annexure C).

And agrees to be bound by the terms of those documents and that the property is sold subject to the easement, if any, affecting it. Notwithstanding any provisions to the contrary in the General Conditions, the buyer must either execute a transfer including the terms of the Restrictive Covenants or execute a transfer noting as an encumbrance registered restrictive covenant in the terms of the Restrictive Covenants and the buyer directs its settlement agent/conveyancer to prepare the transfer in compliance with this obligation.

5.2 Seller May Mortgage Land

The Seller shall be entitled at any time during this contract to register mortgages over the land for the purpose of completing the Kingston project or for the refinancing of any existing security. The seller shall discharge any mortgage registered on the property hereby sold prior to or at settlement.

5.3 No Absolute Caveat by Buyer

The buyer shall not lodge an absolute caveat against the land or any part thereof and in the event of any caveat being lodged, the buyer hereby irrevocably appoints the seller as his attorney for the purpose of executing and registering a withdrawal of caveat absolutely.

SPECIAL CONDITIONS

5.4 Joint Form of General Conditions

5.4.1 The 2022 General Conditions

- a) GC 2.4, 2.5, 2.6, 2.7, 2.8, 4.2, 9. 13.6, 13.7 are deleted.
- b) GC 7.1 is amended by replacing “Possession Date” with “Settlement Date” in GC7.1 (a) and GC 7.1(b).
- c) GC 15 is amended by inserting a new clause 15.6 which states “Despite the provisions of this clause 15, the Buyer shall not be entitled to claim compensation in respect of any variation of the location of the boundary of the Property or any variation of the area of the Land”.
- d) GC 24 is amended by replacing the words “12 months”: with the words "any time" in GC 24.6(a), GC 24.10(b), GC24.12(b) and GC 24.11 is deleted.

5.4.2 In the event of any inconsistency between the 2022 Joint Form of General Conditions for the Sale of Land and these Special Conditions, then the latter shall prevail.

5.4.3 Words and phrases defined in the General Conditions have the same meanings in the Deed, unless the context otherwise requires.

5.5 Matters Affecting Land

5.5.1 The Seller sells the Land, and the Buyer takes the Land subject to:

- a) The restrictive covenants which are substantially in the form of the Restrictive Covenants in Annexure C;
- b) Local Development Plan Lot 296 Leisure Drive, Australind – Stage 11 Kingston Estate approved by the Shire of Harvey 30 April 2026
- c) A Notification pursuant to s165 of the Planning & Development Act that:
“this lot is in close proximity to known mosquito breeding areas. The predominant mosquito species is known to carry viruses and other diseases”;
- d) A Notification pursuant to s. 70A of the *Transfer of Land Act 1893* (WA) that:
“This is subject to a Specified Area Rate in accordance with the Local Development Act 1985”.
- e) In relation to Lots 501 – 518 a covenant pursuant to S 150 of the *Planning and Development Act 2005* (WA) in favour of the Shire of Harvey that:
“This lot is subject to Restriction of Access: no road vehicle access to/from Leisure Drive”.

SPECIAL CONDITIONS

- f) In relation to Lots 501,517,518 for (Fenn Court); Lots 511-516 (for Corston Circuit0 and Lots 510-511 (for Baines Entrance): A covenant pursuant to S 150 of the *Planning and Development Act 2005 (WA)* in favour of the Shire of Harvey that:
“*This lot is subject to Restriction of Access: no road vehicle access to/from (Corston Circuit or Fenn Court or Baines Entrance, as the may be)*”.
- g) In relation to Lot 518:
 - a. A restrictive covenant for fire separation in favour of the Electricity Network Corporation:
 - b. A Notification of Transformer Noise pursuant to s.70A of the Transfer of Land Act.
- h) Any other interests, memorials, notifications, easements or other encumbrances notified on proposed Deposited Plan 432858 or required by any Authority or any person whose approval is required by the Seller.

5.5.2 The Buyer acknowledges that the Building Design Guidelines and Restrictive Covenants restrict and control the Buyers use of the Land, for the benefit of the registered proprietor or proprietors for the time being of all other lots in the Estate and are enforceable against other registered proprietors in the Estate by the Buyer, and are enforceable by other registered proprietors in the Estate against the Buyer. They Seller is not liable to the Buyer if the Seller decides in its absolute discretion, not to enforce any restrictive covenant.

5.5.3 Prior to Settlement, the Buyer shall execute a transfer of the Land noting the encumbrances referred to in clause 5.5.1.

5.5.4 The Seller may at any time prior to Settlement assign or transfer all or part of its right title and interest in any part of the Contract or the Land to any person and the Buyer shall sign such papers and do all things necessary to assist the Seller to do so. The Seller shall give the Buyer notice of any such assignment or transfer.

5.5.5 In addition to the matters specified in the General Conditions, the Land is sold subject to and with the benefit of, as applicable:

- a) Any memorial or other notification notified on proposed Deposit Plan 432858 lodged pursuant to the Planning and Development Act, the Transfer of Land Act or any other Act;
- b) Any easements or other encumbrances notified on proposed Deposit Plan 432858 required by any Authority or any person whose approval is required by the Seller, registered over the Site or the Land, or to be registered over the Site or the Land prior to the Settlement Date,

And the Buyer must not delay or refuse to settle, make any objection or claim any compensation, damages or reduction of the purchase price, nor seek to terminate or rescind this Contract as a result of the matters set out in this clause.

5.6 Representations, Warranties, Assurances and Acknowledgements

5.6.1 This Contract and the Annexures together constitute the entire agreement between the parties with respect to the subject matter of this Contract and contain all of the representations, warranties,

SPECIAL CONDITIONS

covenants and agreements of the parties in relation to the subject matter of this Contract as at the Contract Date.

- 5.6.2 Each party acknowledges that it has not relied on any oral statement, representation, brochure, advertisement, summary, undertaking, covenant or agreement or other conduct made before the date of this Contract relating to the subject matter of this Contract and not contained in this Contract or an Annexure to this Contract.
- 5.6.3 The Buyer acknowledges and agrees that the Buyer is relying entirely upon the Buyer's own enquiries relating to:
- a) The fitness or suitability of the Land for any particular purpose;
 - b) The Buyers obligations and rights under this Contract: and
 - c) Any financial return, income and investment advice, despite any forecasts or feasibilities or any information relating directly or indirectly to the purchase of the Land by the Buyer as an investment on any basis whatsoever, provided the Buyer by or on behalf of the Seller.
- 5.6.4 The Buyer acknowledges and agrees that the plans of the Estate shown to the Buyer for the purpose of marketing the Estate:
- a) Are not an exact replication of the Estate:
 - b) Depict the Estate in a general manner only; and
 - c) May vary from the "as built" Estate.
- The Buyer must not delay or refuse to settle, make any objection or claim any compensation, damages or reduction of the Purchase Price, nor seek to terminate or rescind this Contract as a result of the matters set out in this Clause.
- 5.6.5 The Buyer acknowledges and agrees that:
- a) The Buyer is purchasing Land that is part of a subdivision that is yet to receive final approval from all Authorities and be subject of a final survey; and
 - b) As part of the approval process conditions may be imposed on the Site, which may affect the Land, such as the requirement for easements, restrictive covenants, Title of Notifications, or memorials. These may be for varying matters such as building dimensions and appearance, the location of and access to services.
- 5.6.6 The Buyer acknowledges the development of the Estate may not proceed in the manner or at the times indicated in any statement, brochure, advertisement or summary published by the Seller.
- 5.6.7 The parties will sign, execute and complete all further documents, promptly give written directions, respond to any requisitions issued by Landgate, and do all other things reasonably required to complete the matters set out in or contemplated by this Contract.

SPECIAL CONDITIONS

5.6.8 The Seller will install at the Estate pits and pipes in accordance with the standards currently issued by the NBN Co Ltd. The installation of conductors is the responsibility of NBN Co Ltd and is beyond the control of the Seller. The Seller does not warrant that the Estate will be connected to the National Broadband Network at the Settlement Date or at any time. The Buyer acknowledges any Residence on the Land must be constructed in accordance with the requirements of NBN Co Ltd and connected to the telecommunications infrastructure at the Buyer's cost in order to utilise the telecommunications infrastructure installed in the Estate.

5.7 Differential Rates

The Buyer acknowledges that so far as the seller is aware, lots within the Estate may be subject to a differential rate imposed by the Shire of Harvey in the future, at a rate yet to be determined, with the differential imposed being principally for the purpose of covering the costs involved in maintaining to a good standard, the landscaped public open spaces within Kingston.

5.8 First Right to Repurchase

The Buyer grants the Seller the first right to repurchase the property on the following terms:

The Buyer covenants and agrees that for so long as the Buyer has not substantially commenced construction of a complying residence on the property, the Buyer must give the Seller notice in writing (Buyer's Offer Notice) if the Buyer has received or made an offer to sell the property from or to a third party, and the Buyer agrees that so long as the Buyer is obliged to give such notice to the Seller, the Buyer will not sell the property unless the Buyer has first offered the property for sale to the Seller.

Upon receipt by the Seller of a Buyers Offer Notice, the seller will have seven (7) days within which to determine whether to purchase the property on the terms and conditions specified in the Buyer's Offer Notice. If the Seller declines to purchase the property on the terms proposed, the Buyer will be free to sell the property on terms no more favourable than the terms proposed in the Buyers Offer Notice.

5.9 Boundary Fencing and Dividing Fences – Non-Transferable

The Seller agrees to construct boundary fences on the boundaries of the property where it adjoins other lots of a design and specifications determined by the Seller (but complying with the Kingston Building and Design Guidelines) at or about the time any complying residence is being completed by the Buyer, provided this occurs within two (2) years of settlement. Except as mentioned in this Special Condition, the Buyer agrees with the Seller that so long as the Seller remains registered as the proprietor of any land adjoining the boundaries of the property, the Buyer shall not make any claim against the Seller for any contribution to the cost of erecting any dividing fences or walls pursuant to the provisions of the *Dividing Fences Act 1961* or otherwise, including any sums for liabilities which the seller may (although it is not aware of any) have incurred with any adjoining owners, and agrees that the provision of this condition may be pleaded as an absolute bar to any relief compensation or claim sought by the Buyer against the Seller in any action.

SPECIAL CONDITIONS

5.10 Landscaping Package – Non-Transferable

The Seller agrees that the Seller will undertake landscaping works on the property to the areas between the road front and the building line determined by the Seller as being within public viewing in accordance with a design and specification chosen by the Buyer from the designs and specifications prepared for the Seller applicable to the subdivision of which the property forms part and the landscaping package will be implemented by a contractor appointed by the Seller who will carry out its work under the Seller's supervision. The Seller will arrange for the installation of the landscaping package at or about the time that a complying residence is being completed by the buyer of the property, provided this occurs within (2) years of settlement. Any additional landscaping and

reticulation not comprised in the landscaping package must be paid for by the buyer and will not be the responsibility of the Seller.

5.11 “For Sale” Signs

The Buyer agrees that the Buyer must not at any time prior to completion of construction of a complying residence on the property, erect or display a “For Sale” sign or other sign connected with the proposed sale of the property or allow any agent or other person to do so.

5.12 GST – Margin Free Scheme

The Seller and the Buyer acknowledge that:

- a) The purchase price is inclusive of GST (Goods and Services Tax)
- b) The Margin Scheme applies in working out the amount of GST on the sale of the property by the Seller under the contract. The Buyer acknowledges that it will not be entitled to an input tax credit for the acquisition of the property under contract.

The Buyer warrants that it is acquiring the property as residential premises and not as commercial premises (as those terms are defined in the GST Act) and indemnifies the Seller against any amount of GST or other costs the Seller incurs as a result of any breach of this warranty.

5.13 Electronic Execution and Counterparts

This Contract may be executed in any number of counterparts (including counterparts exchanged by email) and or by digital or electronic signature (including the use of software such as DocuSign). All counterparts taken together shall comprise this Contract.

5.14 Definitions and Interpretation

5.14.1 In this Contract, unless the context otherwise requires:

“Estate” means the Kingston Estate established on the Site by the Seller comprising the construction of the Land, all associated works and any building and, where the context requires, includes any stage or portion of it.



SPECIAL CONDITIONS

“General Conditions and GC” means The Law Society of Western Australia (Inc) and The Real Estate Institute of Western Australia (inc) 2022 Joint Form of General Conditions for the Sale of Land a copy of which is attached to this Contract.

“Site” means the Land known as Lot 296 of the Kingston Estate being the land comprising the proposed lots 501-518 (inclusive) on Deposited Plan 432858

5.14.2 Unless the context requires otherwise, terms and expressions which are defined in the Design Guidelines and are used but not defined in this Contract have the same meanings in this Contract.

5.14.3 The words “includes” or “including” and the phrase “in particular” are not words of limitation.

5.14.4 This Contract is executed as a deed.