

Title	<b>This agreement is subject to</b> the purchasers' solicitor's approval of title, Resource Management Act and Building Act matters, drainage, gas-fitting and other certificates, central government and local authority information (including Land Information Memorandum) or legislation and regulations of any kind (existing or proposed) and wording of the contract (with no obligation to approve standard formats) within <b>10 working days</b> of the date of this agreement and general condition 8.2 is deleted accordingly. This clause is inserted for the sole benefit of the purchasers and may be waived by them at any time.
Finance	<b>This agreement is subject to</b> the purchasers arranging finance satisfactory to themselves within ..... <b>working days</b> of the date of this agreement. This clause is inserted for the sole benefit of the purchasers and may be waived by them at any time.
Deposit	<b>Notwithstanding</b> any other term of the contract the deposit is payable upon this contract becoming unconditional.
Sale	<b>This agreement is subject to</b> the purchasers obtaining an unconditional sale of their own property at ..... at a price satisfactory to themselves within ..... <b>working days</b> of the date of this agreement. This clause is inserted for the sole benefit of the purchasers and may be waived by them at any time.
Report	<b>This agreement is subject to</b> the purchasers obtaining a builder's and/or valuer's report and/or architect's report satisfactory to themselves within <b>10 working days</b> of the date of this agreement. This clause is inserted for the sole benefit of the purchasers and may be waived by them at any time.
CCCFA	The parties agree that the settlement date is the earliest date on which they would have agreed that the purchase price was to be payable in any circumstances, and that neither the period between the date of this agreement and settlement date nor any other provision of this agreement evidences any deferment of the purchaser's obligation to pay the purchase price for the purposes of section 6 Credit Contracts and Consumer Finance Act 2003. Accordingly, the parties further agree that this agreement is not a "credit contract" for the purposes of that Act.
Regional Council Clause	<b>This agreement is subject to</b> the purchasers consulting the relevant Regional Council and being satisfied within <b>10 working days</b> of the date of this agreement that: (a) all resource consents necessary for the conduct of the business that the purchasers intend to carry out on the property have been granted and are current; (b) there are no unsatisfied Regional Council compliance requirements for the property or the business conducted on the property in relation to the resource consents or otherwise; and (c) there is nothing likely to adversely affect either the property or the business that the purchasers intend to carry out on the property.
Backup	<b>This agreement is subject to</b> cancellation of the vendors' prior sale contract with ..... (Name). Once the purchasers' offer herein becomes unconditional (subject only to cancellation of the prior contract), the vendors will take all steps to cancel the prior contract as soon as they are able to do so under the prior contract. The vendors agree not to grant any extensions of time for confirmation of the prior contract. The vendors warrant that the final date for confirmation of the prior contract is the ..... (Date).
Fax signature	<b>The parties acknowledge</b> this execution of a facsimile copy of this agreement and transmission thereof by facsimile each to the other or their respective agents or solicitors shall be sufficient to constitute an offer and acceptance and to satisfy the requirements of the Contracts Enforcement Act 1956.
Rollover	<b>If before this contract becomes unconditional</b> the vendors obtain another offer which they wish to accept then they may give the purchasers or their solicitor written notice of receipt of that offer and their intention to cancel this contract. The purchasers shall then have until 4 pm. on the 2nd working day following receipt of such notice (exclusive of the day of service) to give written notice to the vendors or their solicitor that the contract is unconditional. If the purchasers have not made their contract unconditional within that time then this contract shall immediately be deemed to be cancelled without further notice.
Pools	<b>The vendors warrant</b> that the swimming/spa pool and fencing thereof complies with the provisions of the Fencing of Swimming Pools Act 1987 ("the Act"). The vendors will have the fencing inspected and upon settlement will provide the purchasers with a certificate from the Local Authority Health and Safety Unit to the effect that the fencing so complies. If the inspection by the Health and Safety Unit shows that the fencing does not comply with the Act then the vendors shall, prior to settlement, take such steps as may be necessary to ensure that the pool and fencing does comply. Prior to carrying out any work the vendors will reach agreement with the purchasers as to the placing, style, materials and method of construction required to ensure compliance. If agreement cannot be reached then the purchasers may cancel this contract by giving one working days notice in writing.

## Notes on clauses for use in sale & purchase contracts

### ***Buying***

Please ensure the agent uses these clauses in any purchase contract prepared for you. In particular, the first clause labelled "Title" regarding approval of title etc is vital.

Additionally, you need the second clause labelled "Finance" if you are going to have a mortgage over your new property, even if that is only a mortgage being transferred from your existing property.

The "Deposit" clause is optional. The Deposit is an unsecured advance (loan) to the vendor so we strongly recommend that you don't pay more than 5% of the purchase price as a deposit. Agents are likely to say the normal is 10% but that is only what it is normal to ask for – not what its normal to pay. Agents won't be happy with less than 5% because that much is needed to clear their commission and leave a tiny bit over for the vendor. The deposit shouldn't be paid before confirmation because it's too hard to make sure we can get it back for you if we want to cancel.

If you have to sell another property you need the "Sale" clause.

The builders "Report" clause is optional.

The "Regional Council Clause" is very important if you are buying outside the city.

If your offer is a back-up then the "Backup" clause should be used. Please feel free to telephone us to discuss this situation – you may be being "used" to get the first offer to go unconditional in a hurry with no real prospect of being able to buy yourself. In that case you won't want to be spending money on title searches, LIM reports or our work in processing the contract.

Only use the "fax signature" clause if any of the parties are out of town.

Avoid the "Rollover" clause when buying. You can spend a lot of money on title searches, LIM reports, and our processing fees and then find your contract cancelled because a better one has come along.

The "Pools" clause is important if there is a swimming pool or spa pool in the place you are buying so that we can make sure the fencing is correct and the pool is registered.

Please ensure:

- If you might want the property to go into another name (company or trust etc) put "Or Nominee" after your name. If the property is taxable (GST or other) this may not work – please telephone us to discuss before putting in your offer.
- You make sure "Plus GST" is deleted so that its ultra clear that the price includes GST.
- You don't pay more than 5% as a deposit and then only on confirmation.
- The balance of the price is payable "In cash in full on possession date".
- The Possession date is a working day.
- Your late settlement interest rate is not above 14%.
- "Vacant possession" is noted in the place relating to tenancies.
- You carefully check the list of chattels – if in doubt note it down.

### ***Selling***

An escape clause is enclosed labelled "Rollover" in case you want to use it in a sale contract. This clause is frequently off-putting for your purchaser so it should only be used after careful consideration.

### ***Telephone Us***

If you have any queries about these clauses or want further advise please telephone us **BEFORE** you sign your contract. Afterwards is usually too late.

We are very happy to peruse a fax of a proposed contract and discuss it with you by telephone before you sign it.

## ***General Notes***

(These notes are for your guidance only and are based on what usually occurs - there will be exceptions to the general rules and times when you can do things differently. We suggest you discuss anything out of the ordinary with us before you sign anything. In any event always feel free to discuss any queries you have with us before you sign - afterwards is too late!).

1. Definitions:

Confirmation date:	If an offer is made subject to finance or other conditions the day by which the last of those conditions has to be satisfied is called the confirmation date.
Settlement date:	The day when full payment has to be made.
Possession date:	The day when the vendor has to give possession of the property to the purchaser - usually the same as settlement day.

2. If you are obtaining a mortgage, allow 2 weeks between the confirmation date and the settlement date. This time is needed to do documentation.
3. If you are selling a property which has mortgages on it, allow 2 weeks between the confirmation date and the settlement date. This time is needed to get the mortgages discharged.
4. If you need the money out of your present house to buy your new property, the settlement date for your purchase must not be earlier than the settlement date for your sale. Usually they are the same day.
5. Possession day is usually the same day as settlement. Generally speaking, as a purchaser you are not entitled to possession until you have paid; but as soon as you have paid you can expect to be able to move in. This can cause problems because most people want to move over a weekend but payment for the property can only be made on a working day. Most people therefore agree to settle and transfer possession on a Friday. Occasionally the purchaser will agree to allow the vendor to stay in possession after payment has been made (i.e. overnight from Friday to Saturday) and this can be shown on the contract by making settlement date a Friday and separately showing possession date as the Saturday.