



Selling The Legal Aspects

This booklet is not a complete statement of the law. It does not deal comprehensively with your particular situation. This booklet is to provide general information to supplement our specific advice to you. Do not act in reliance on this booklet without our specific advice.

We are responsible only if you give us specific instructions and for the specific advice we give.

This booklet was originally prepared in 1995 and has been updated in 2003 and 2008. It does not reflect changes to the law after that date. You need to take specific advice on the possibility or effect of any such changes.

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Do you need an agent?

We recommend most people instruct a real estate agent. It is possible to market your property yourself but most people benefit from the expertise of an agent.

A real estate agent is an expert on assessing the value of your property, finding a purchaser and assisting you and the purchaser to reach agreement. Very few of us can make an informed assessment of the value of our own property. We are biased to overvalue it. A real estate agent brings an independent experienced perspective. A real estate agent can compare your property to the sale price of other properties recently sold. An agent brings to the transaction the ability to close a deal and work through the different needs of vendor and purchaser to bring them to agreement. Often without a third party involved in the negotiations, minor matters can stall progress towards agreement.

What does a Real Estate Agent cost?

The Real Estate Institute recommends rates of commission. Agents can charge whatever their clients agree. Most agents charge the recommended scale, some a little more. Advertising may cost extra.

The commission varies with the value of the property. The indicative scale figure would be \$4,272 for a \$100,000 property, \$7334 for a \$200,000 property, \$10,364 for a \$300,000 property.

Choosing an Agent

Get two or three of the local agents to inspect your property and give you an appraisal.

Do not choose an agent who is not a specialist in the area. A local agent will not only know the area but also be contacted by purchasers for the area.

The agent who values your property the highest is not necessarily the best. If the property is overvalued it will not sell.

Choose an agent who is professional and knowledgeable. You should get on well with your agent. Choose an agent you can trust.

A good agent will be able to convince you of the value of your property and show you

examples of recent sales to back up that opinion.

Types of agency

Generally, it is best to have only one agent working on your property at a time. If the property has been listed for some time without success, consider changing agents or bringing in a second, but don't chop and change between agents. Give the agent a chance. A property listed with several agents is everyone's responsibility and no-one's responsibility.

Get your agents advice. A good agent will convince you of the best way to market your property.

The agent may ask to be exclusively appointed so any sale for a certain period will earn a commission: including one not organized by the agent. If this period extends until you cancel, don't forget to cancel the agency in accordance with the agreement. This is likely to need written notice.

Types of sale

Most properties in Tasmania are sold by negotiation and contract.

You and your agent should agree on a logical plan and a logical price for marketing your property. An auction might be a useful part of that strategy.

Auctions are not standard in Tasmania. Auctions are useful for a special property or where there will be a lot of competition in the market. Auctions should not be used as a last resort.

What does my lawyer do?

The preparation and exchange of the contracts is the first stage of the sale.

The second stage is the lawyers work is to prepare and arrange for settlement. It is the lawyer's job to make sure you are paid in full and manage fulfilment of the contract.

The lawyer arranges the apportionment of the rates and the land tax between you and

the purchaser so each pays their share.

Your lawyer will check your title is in order and arrange to clear any mortgages outstanding.

Your lawyer will check and arrange for you to sign any necessary transfer documents and make sure the Council, Land Valuation and Land Tax authorities are notified as required by statute.

You will need to arrange and to close your own household accounts, including the electricity and telephone accounts.

The lawyer organises the settlement itself and makes sure that in exchange for your title deeds you receive the money you are entitled to. Your lawyer applies your money to clear outstanding debts and sends you the balance as you direct.

Do I need a lawyer?

It is not illegal to do your own conveyancing.

Most people advising on property transfer suggest you instruct a lawyer.

Your estate agent cannot do the conveyancing. Persons who are not licensed and regulated who do conveyancing for a fee are breaking the law.

The conveyancing process is complex. It requires precision and prompt action. It can be difficult and time consuming.

An inexperienced person is more likely to make mistakes. Without a lawyer, you would bear the cost of mistakes you make. Lawyers are less likely to make mistakes and responsible if they do. They have insurance to protect you if there is a mistake.

What will the Lawyer Cost?

Lawyer's fees vary from lawyer to lawyer. Get a quote from your lawyer.

Fees for this sort of work are completely deregulated. Lawyers compete in the market on price **and quality**.

The Law Society has a recommended scale which varies primarily according to the value of the property.

Is it cheaper where the same firm acts for the Vendor and the Purchaser?

There is variation from firm to firm. At Tierney Law, the cost is slightly but not significantly cheaper for the parties where we act for both the Vendor and the Purchaser. There are some small savings within the firm in efficiency of communication and searching and these savings are passed on to the clients, but these are not the significant costs.

Substantially the same amount of work needs to be done where the same firm acts for the Vendor and the Purchaser. The responsibility is greater not less when the one firm acts for both parties.

At Tierney Law where we act for both the Vendor and the Purchaser, we run two separate files with a separate person acting for each party. We believe this is necessary to maintain our quality standards and to be at maximum alert for possible conflicts of interest.

What Other Costs Apply?

If you have a mortgage to clear the bank will charge you a fee; usually between one and two hundred dollars. There will be tax on clearing the mortgage of slightly more than one hundred dollars.

Check the other costs with your lawyer. They are mainly government taxes. They will

usually be less than one hundred dollars.

What is included in the sale?

Usually a house is sold with the window treatments, light fittings, floor coverings and electric stove. Usually a fixed TV antenna and any water pumps are included. Chattel items beyond that rarely add significantly to the sale price, but they may be a useful sweetener to make a deal if presented as something extra after the first round of negotiations.

If you do not wish to sell any of the usual items, remove them from the property before the purchasers arrive. They may cause a sticking point on negotiations.

What is your property worth?

What will you ask for your house? What will the purchaser offer you?

There can be no agreement until both these questions are answered with the same figure. You can ask what you like for your property but you are wasting your time if no-one will pay what you ask.

Generally, the more you ask for your property the longer it will take for you to sell it. If you ask too much you will never sell it.

Although you can always lower your price and it is hard to put the price up, if the early asking price scares the purchasers away they might not give you a second chance at the lower price. Once turned away by too high a price, purchasers may not come back to a property even though the price has dropped.

You can judge the value of your property by reference to other properties in the area. Be aware other properties have a different asking price to what they actually sell for. Be fair when comparing your property to others. Take account of the disadvantages of your property as well as the advantages.

What tax is payable on sale of your property?

The good news is there is no stamp duty on selling.

Check your liability for Capital Gains Tax and GST before setting a price. Talk to your accountant if necessary. Note the Capital Gains Tax comments below.

If GST is payable, as the Vendor you are the supplier and GST is your problem unless the contract passes the tax on to the Purchaser. If you not registered for GST or required to be registered you do not have to pay GST. If you are subject to GST check the various exemptions. Is it the sale of a going concern or of farm land? Does the residential property exemption apply? Should you use the margin scheme? In some cases if you are subject to GST, you may not be able to finalise the GST treatment till you know the GST status of the Purchase but at least get your position clear in your mind.

Presenting your house?

If you walk into any used car yard, all the cars are clean and tidy. Like a car yard, detail the appearance of your house to get the best price. Look at it not as your home, but as a product you are selling.

Few vendors recover their investment in significant renovations, but making an effort to best present your property can make a difference.

The house needs to be neat and tidy, including paintwork, gardens and windows.

Does the carpet need steam cleaning?

Put away the children's toys. Keep the beds made. Kitchens and bathrooms are particularly important. They make or break the house. Keep the benches clear.

Clear out your rubbish. Your house will look bigger. Have a garage sale. Moving will be easier.

All houses have their own character and smell. Neutralise any strong odour. Pet owners, smokers, and curry eaters beware.

How do I bind the Purchaser?

The parties become bound by signing a contract.

First you must agree on the terms of the agreement with the Purchaser such as:

- the purchase price;
- the amount of the deposit, (*this is usually ten percent but it is open for negotiation*);
- a description of the land (*make sure that you show them a copy of the title and plan of the property*);
- a description of the household goods to be included i.e. fixed floor coverings, light fittings, curtains and blinds, electrical items, TV antennae (these are referred to as “chattels” in the contract);
- the date you want to settle;
- provision in the event that the purchaser needs to organise finance from a bank or to sell their house; any
- other matters which may place an obligation on either you or the purchaser to do something before the contract is settled.

You need to sort out with the purchaser the key variables of the contract.

If you are using an agent the agent will draw the contract.

If there is no agent instruct your lawyer to draw the contract. Your lawyer will need:

- the name and address of the Purchaser; and
- the name of the lawyer for the Purchaser.

Your lawyer will then prepare a contract for your approval and send it to the purchaser’s lawyer for approval.

When you receive the contract check that the details those agreed.

In particular make sure that it includes all the land sold and only the land sold and that all the chattels are listed.

Please let the person drawing the contract know of any discrepancy between the title and the boundaries in reality. Make it clear to if you need anything unusual in the contract or any changes.

If you have any queries on the contract, contact your lawyer.

What Deposit Do I need?

The vendor's interest in the land is a bond for the obligations of the vendor. If the vendor breaks the deal the purchaser can claim against the land. The deposit is a bond of the purchaser's obligation.

There is no legal requirement for any particular amount or for any amount at all. How much does the vendor want/need to feel safe enough? How much does the purchaser have handy?

If the purchaser is running short the purchaser can provide a deposit bond instead which is like an insurance policy for the deposit. The purchaser pay an insurance company to guarantee payment of a deposit.

A deposit of 10 percent of the purchase price is typical but the amount is subject to variation and the amount varies with the negotiation.

Does the Purchaser lose the Deposit?

The deposit is a bond of the purchaser's obligation. If the purchaser wrongfully breaks the deal and if the breach is bad enough, the vendor may be able to call off the contract and then purchaser automatically loses the deposit. Minor breaches do not justify that.

If the contract fails because some agreed pre-condition to the contract does not happen, the purchaser will be able to get the deposit back.

What does the contract say?

At the end of this booklet is a sample copy of the standard contract used throughout Tasmania. This is the contract approved by the Law Society as fair to both sides.

If the purchaser's offer is subject to finance or the purchaser's sale, clause 4 needs to be completed to show the finance or sale details. If the purchaser's offer is

unconditional this clause will be deleted. If the purchaser does not sell or get finance within time, the contract will lapse. Usually the purchaser is then repaid any deposit.

If you wish to have such a contract subject to the purchaser selling their own house, consider providing that you have the right to shut the contract down early if you receive a better offer while waiting for the original purchaser to sell.

How do I get the contract signed?

The agent will usually organise this if there is one. If there is no agent get your lawyer to advise you how to get the contracts signed.

When does the property Change hands?

The parties set the changeover date in the contract. This is recorded as the settlement date.

Settlement is the exchange of the balance purchase monies for the title documents that finalises the transfer of ownership. Settlement is sometimes called completion. You do not need to attend the settlement.

Sometimes matters settle later than the contract date. By agreement of the parties can bring forward the date for settlement. Do not rely on the contract date without first contacting your lawyer. The contract remains binding on both parties even if settlement is delayed.

Most people find it convenient if settlements proceed on Friday, rather than any other day of the week. Where people are moving it is often convenient to have the weekend to settle into the new property. Liaise with the other party to pick a date that is convenient.

Will I have to Pay Capital Gains Tax?

What is capital gains tax?

Capital gains tax (CGT) is the tax that you pay on any capital gain you make and include on your annual income tax return. It is not a separate tax, merely a component of your income tax. You are taxed on your net capital gain at your marginal tax rate.

Your **net capital gain** is:

your total capital gains for the year

minus

your total capital losses (including any net capital losses from previous years)

minus

any CGT discount and small business CGT concessions to which you are entitled.

For detailed information about capital gains tax refer to the following publications:

- *Guide to capital gains tax* (NAT 4151-6.2004) – this publication explains how capital gains tax works and will help you to calculate your net capital gain or net capital loss.
- *Personal investors guide to capital gains tax* (NAT 4152-6.2004) – this is a shorter publication which covers the sale or gift or other disposal of shares or units, distribution of capital gains from managed funds and non-assessable payments from companies or managed funds. It does not cover CGT consequences for bonus shares, shares acquired under an employee share scheme, bonus units, rights and options, and shares and units where a takeover or demerger has occurred – you will need to refer to the *Guide to capital gains tax*.
- *Guide to capital gains tax concessions for small business* (NAT 8384-5.2003) – this publication explains what concessions are available if during the year you sold a small business or an asset of a small business.

Keeping records – don't leave it too late

It's time to start keeping records or start a CGT asset register, if you:

- purchase or inherit an asset;
- receive an asset as part of a divorce settlement or as a gift; or

- make improvements to property.

Incomplete records could mean paying more tax when you dispose of an asset. If you need more information on record keeping and the assets that attract CGT, refer to the *Guide to capital gains tax*.

When does CGT apply?

You usually make a **capital gain** or a **capital loss** if a **CGT event** happens. You can also make a capital gain if a managed fund or other trust distributes a capital gain to you.

For most **CGT events**, your capital gain is the difference between your **capital proceeds** and the **cost base** of your **CGT asset**—for example, if you sell an asset for more than you paid for it, the difference is your capital gain.

You make a capital loss if the **reduced cost base** of your **CGT asset** is greater than your capital proceeds. The capital loss is the difference between the capital proceeds and the reduced cost base.

Where does CGT apply?

Australian residents can make a capital gain (or capital loss) if a CGT event happens to any of their assets anywhere in the world.

How do I know if I have to pay CGT?

To determine whether you have to pay CGT, you will need to know if you have made a net capital gain. For this, you will need to know the following:

- whether a CGT event has happened;
- the date of the CGT event;
- what assets are subject to CGT;
- the date and amount of any expenditure you incurred that forms part of the cost base of the asset; and
- the amount of money and value of property you received - or were entitled to receive - for the asset.

What is a CGT asset?

Many CGT assets are easily recognisable. They **include**:

- real estate—for example, a holiday home;
- shares in a company;
- units in a unit trust or managed investment fund;
- collectables—for example, jewellery; and

- personal use assets—for example, furniture.

Other CGT assets are not so well understood—for example:

- contractual rights;
- options;
- foreign currency; and
- goodwill.

Exemptions and exceptions

Generally speaking, you disregard a capital gain or capital loss on:

- an asset you acquired before 20 September 1985;
- cars, motorcycles and similar vehicles;
- compensation you received for personal injury;
- disposing of your main residence. This can change depending on how you came to own the residence, whether it is on more than 2 hectares of land and what you have done with it—for example, if you have rented it out, you may be liable to some tax when you sell it;
- a collectable—for example, an antique or jewellery—if you acquired it for \$500 or less;
- a personal use asset—for example, items such as boats, furniture, electrical goods and household items used or kept mainly for personal use or enjoyment—if you acquired it for \$10,000 or less. You also disregard any capital loss you make from a personal use asset, irrespective of the cost;
- the exchange of shares and units you own in a company or trust that is taken over if certain conditions are met;
- shares in a company or interests in a trust where there has been a de-merger and certain conditions have been met; or
- disposing of an asset to which the small business 15-year exemption applies. There are a range of concessions that allow you to disregard part or all of a capital gain made from an active asset you use in your small business. For more information see *Guide to capital gains tax concessions for small business* (NAT 8384-5.2003).

What is a CGT event?

CGT events are the different types of transactions or events that may result in a capital gain or capital loss. Many CGT events involve a CGT asset, for example, a sale of shares.

The sale of an asset is simply one of more than 50 CGT events that can produce a capital gain or capital loss. Some of the more common CGT events or situations that may produce a capital gain or capital loss are:

- an asset you own is lost or destroyed;
- you give an asset away;
- you enter into an agreement not to work in a particular industry for a set period of time;
- shares you own are cancelled, surrendered or redeemed;
- shares you own are declared worthless by a liquidator;
- you grant an option to someone to buy an asset that you own;
- you receive a non-assessable payment from a unit trust or managed fund;
- you dispose of a depreciating asset that you used for private purposes; or
- you stop being an Australian resident..

How to calculate your capital gain or capital loss

For most CGT events you have made a capital gain if the amount of money and value of any property you received - or were entitled to receive - from the CGT event is more than the cost base of the asset. You may have to pay tax on your capital gain.

For most CGT events you have made a capital loss if the amount of money and value of any property you received - or were entitled to receive - from a CGT event is less than the reduced cost base of your asset.

You cannot deduct a capital loss from your income, but it can be used to reduce any capital gain you made in the same financial year.

You can only use capital losses from collectables to reduce capital gains from collectables.

You must disregard capital losses from personal use assets.

If your capital losses in a financial year exceeded your capital gains for that year, you have made a net capital loss for that year. You can carry forward this net capital loss to reduce any capital gains you make in future years.

There are three methods you can use to calculate your capital gain or capital loss. They are the:

- **indexation** method;

- **discount** method; and
- '**other**' method (for all CGT events where the asset has been owned for less than 12 months).

Each of these methods is discussed in detail in the publication *Guide to capital gains tax*.

How much tax is payable on a capital gain?

CGT is not a separate tax, but a component of income tax. This means that the rate of tax you pay on a capital gain depends on your other income (see *Individual resident income tax rates*).

Example:

Fran's taxable income of \$56,000 in 2003-04 included a net capital gain of \$1,000. The tax rate which applies to income between \$52,001 and \$62,500 for 2003-04 is 42 cents per dollar plus Medicare levy of 1.5 cents per dollar.

The tax and Medicare levy which applies to Fran's capital gain is \$435 (43.5 cents x \$1,000).

What to read/do next

- *Guide to capital gains tax* (NAT 4151-6.2004) – this publication explains how capital gains tax works and will help you to calculate your net capital gain or net capital loss.
- *Personal investors guide to capital gains tax* (NAT 4152-6.2004) – this is a shorter publication which covers the sale or gift or other disposal of shares or units, distribution of capital gains from managed funds and non-assessable payments from companies or managed funds. It does not cover CGT consequences for bonus shares, shares acquired under an employee share scheme, bonus units, rights and options, and shares and units where a takeover or de-merger has occurred – you will need to refer to the *Guide to capital gains tax*.
- *Guide to capital gains tax concessions for small business* (NAT 8384-5.2003) – this publication explains what concessions are available if during the year you sold a small business or an asset of a small business.



Working with Us

Who is in charge of your file?

Tim Tierney is the principal of the firm. All other persons in the firm are employees.

Andrew Cameron and Tim Tierney are legal practitioners. Others may assist on your file including secretaries and clerks. They are not legal practitioners.

Unless otherwise advised the person who signs your letters is the person primarily responsible for your file. You will be told if the person responsible changes.

The secretaries of Andrew Cameron and Tim Tierney will have a detailed knowledge of the file they deal with. Please direct enquiries to the person responsible for your file or their secretary. Usually others in the office will not have a detailed knowledge of your file. The secretary may be able to answer many queries in relation to your file if you are unable to contact your lawyer. Procedural matters such as organising appointments are best arranged with the secretary. A team approach to your matter is more efficient and cost effective.

Any Concerns?

We aim to give great service. Please let us know if you are dissatisfied, or have some comment that might help us assist you better. Please tell the lawyer dealing with the file of your concerns or dissatisfaction. If this does not resolve your concern, please raise the matter with one of the other lawyers. Things rarely go wrong, but if so, the sooner we know, the sooner we can fix it.

If you are unsure or unclear with the advice given, let the lawyer know. If necessary, we can arrange a second opinion from one of our other lawyers or someone outside of the firm.

If you are not satisfied with our response, let us know. If we are still unable to satisfy you, the Law Society regulates the conduct of lawyers. The address of the Law Society is 28 Murray Street, Hobart, Tasmania 7000.

Other Experts

Let us know if you need non-legal advice related to your matter. Any comment we make about non-legal matters incidental to your matter is on the basis we are only qualified to advise as lawyers. We are not qualified as financiers, accountants, financial planners, land or building surveyors, insurance brokers or

valuers. Any expert advice you need on such matters should be from a qualified adviser. If it would assist, we can refer you to advisers we trust and respect. We will give you a number of advisors from which to select. We do not accept liability for the advice or actions of other advisers. We do not seek or accept fees or commissions from any person or product we recommend.

Cost

We will provide you with an estimate as to what your costs will be after our initial discussions. It may be necessary for us to revise our estimate. It is often difficult to predict the progress and outcome of matters and often difficult to estimate costs exactly. We can provide you with an indication as to your costs to date and an up to date estimate of future costs at any time.

Costs incurred by you are payable even if you decide not to go ahead with your matter.

When dealing with a legal practitioner, you have rights to negotiate a costs agreement, receive a bill of costs and to request an itemised account within 30 days of receipt of a bill.

On some matters, such as property purchases and sales, we charge a fixed fee for the standard elements of a transaction. Outside those standard elements of such matters and where the uncertain future of the matter means we cannot calculate a fixed fee, our fee is based on the time taken to perform the work.

Our time is charged on the basis of six (6) minute units of activity. Each unit or part of a unit is charged at 1/10 of the hourly rate applicable.

The hourly rate at the date of this advice is as follows:

- Tim Tierney \$230.00 + GST \$23.00
- Andrew Cameron \$200.00 + GST \$20.00
- Clerk/Secretary \$90.00 + GST \$9.00

Secretarial time typing dictated correspondence and documents is not separately charged.

We obtain GST exempt and GST free supplies as your agent.

Where the future of the matter is uncertain, we cannot give you a precise estimate of likely costs. If you need some likely range and the details of the variables, please telephone.

You will need to reimburse us for those expenses we reasonably incur on your matter. To distribute the cost fairly between clients, we charge for any significant photocopying, postage, phone charges etc.

We usually send our account when the file is completed but if the matter goes beyond two months, we may send accounts monthly. We can send accounts on earlier request by you.

Our account is payable within twenty-one (21) days of the date of the account.

Keeping in Touch

Let us know if you need an update as to progress with your matter. If you think matters are going too slow, let us know, so we can chase the matter or explain the source of delay. Legal practitioners must give their clients a written report of the progress of the matter within 7 days of a request from the client.

We answer client messages as a priority. Sometimes court and other commitments cause delays. If you leave a message it is often helpful to give details to reception or a secretary. Reception or a secretary may answer the query or get instructions how to deal with it. Please let us know when you leave a message if there is a time constraint on calling you back. If your call is not answered within your time constraints, please call back and mention the delay so we can make sure the matter is dealt with.

Email/ Fax

We like to use email, and if not available faxes, to send written communication quickly and reliably. There is a risk of interception in any form of communication. Electronic communication carries the extra danger of picking up a virus or worm. We use virus checking and firewalls but cannot avoid that risk entirely. So far, our systems have meant we have not had problems.

If you do not wish us to use email or faxes, let us know.

If you do not clear your emails regularly or if you fax location is not secure, ask us to ring before we email or fax.

We often send attachments to our emails in Adobe PDF format and sometimes in Microsoft Word. Let us know if you need us to send in a special format to read attachments to our emails.

Note our file reference number in the subject line of our emails. Please include this number in any emails you send to have the email attached directly to our electronic file

Conflicting Interests

We do not act in contentious matters for more than one side of the dispute. We may be unable to act in contentious matters against persons who have previously been clients of the firm or who are neighbours, friends or relatives of personnel of the firm.

If you are aware of any possible conflict of interest, let us know.

In non-contentious matters, we will give you notice if we act for any other party. Where we act for more than one party we will stop acting if we determine we are unable to continue with the matter without acting contrary to the interests of a party. We may be prevented from disclosing to a party in conflict the full knowledge we have or give advice because it is contrary to the interest of another

party. In those circumstances, we direct each party to other firms and will not act further in that matter for either.

Privacy

We will need to discuss your file with others involved in advancing the transaction: such as the other lawyers, banks or the agent. If you have some one assisting you, please confirm their authority to act for you.

Your File

Let us know if you need a copy of the entire contents of your file documents. We will send you copies of documents we think you need to access. We can give you the complete copy of the file documents if you need it. You will need to pay our account on retrieving your file including the cost of making a copy of the file, before we release the file. We may destroy closed files archived for more than seven years. If you do not wish your file destroyed after seven years, collect it from us before then. We destroy out of date archived files in a way that protects your confidentiality. We may store your archived file digitally rather than on paper.

Office Access

If our stairs present a difficulty to you please tell us. We can arrange to see you in a ground floor office.

Office Hours

Our office is open 9.00 am. to 5.00 pm, Monday to Friday. The lawyers are often in the office outside those times so let us know if you need an after hours appointment.

Contract for Sale of Real Estate

This Contract is made the

Between Mickey Mouse 3 Disney Street, Hollywood
(called "the Vendor")

And Mel Gibson, Max Avenue, Smithton
(called "the Purchaser")

1. Agreement To Sell And Buy

The Vendor agrees to sell, and the Purchaser agrees to buy, free from encumbrances:

- 1.1. The vendor's property at 3 Disney Street, Hollywood as contained in Certificate of Title 2345/1 (called "the Property");
- 1.2. the following items;
- 1.3. Floor coverings, Light Fittings, Stove, Window Treatments, Fixed Heating, TV antennae (called "the Chattels")

2. Price And Deposit

- 2.1. The price is Sixty Five Thousand Dollars (\$65,000.00) , and is payable as follows:
 - 2.1 (a) a deposit of Six Thousand Dollars (\$6,000.00) to Tierney Law as stakeholder upon signing this Contract; and
 - 2.1 (b) the balance, either in cash or by a cheque drawn by a bank, on completion.
- 2.2. The part of the purchase price attributed to the chattels is agreed to be Two Thousand Dollars (\$2,000.00).

3. Completion

- 3.1. This Contract will be completed on the .
- 3.2. On completion the Vendor must ensure that the Purchaser obtains:
 - 3.2 (a) vacant possession of the Property; and
 - 3.2 (b) possession of the Chattels.

4. Conditions Precedent

- 4.1. The following are conditions precedent to completion of this Contract:
 - 4.1 (a) that, unless disclosed in this Contract, there are no restrictions on the use of the Property at this date which may hinder or prevent

the Purchaser from using the Property for the purpose of residential property.

- 4.1 (b) that The ANZ Bank makes available to the Purchaser a loan of Six Thousand Dollars (\$6,000.00) upon terms currently available in transactions of a similar nature within 21 days of this date.
- 4.1 (c) that the Purchaser signs a contract within 60 days of this date for the sale of the Purchaser's property at The ANZ Bank to a person ready willing and able to perform the contract, at a price acceptable to the Purchaser. The Purchaser must not offer the property for sale for more than \$.
- 4.2. The Purchaser must use all reasonable endeavours to fulfil the conditions precedent in clause 4.1 (b) and 4.1 (c) within the time allowed for doing so.
- 4.3. The Purchaser may waive the benefit of any conditions precedent in clause 4.1.
- 4.4. If the Purchaser does not give unconditional notice of fulfilment or waiver of each condition precedent in clause 4.1 (b) and 4.1 (c):
 - 4.4 (a) in one of the ways described in clause 13;
 - 4.4 (b) before the time for fulfilment of each condition expires; and
 - 4.4 (c) then the Vendor may treat this Contract as at an end.

5. Easements & Covenants

The Property is sold:

- 5.1. together with all easements and covenants benefiting it;
- 5.2. subject to all easements which are:
 - 5.2 (a) registered; or
 - 5.2 (b) apparent from an inspection of the Property; and
- 5.3. subject to all easements and covenants disclosed in this Contract.

6. Title

The Vendor warrants to the Purchaser that, at completion:

- 6.1. the Vendor will provide a good marketable documentary title to the Property;
- 6.2. none of the Chattels will be encumbered in any way;
- 6.3. the Chattels and the Property will be the absolute property of the Vendor, or the Vendor will have the power to require a transfer of the title to the Purchaser; and
- 6.4. the Property will be free from charges payable to any authority either now or in the future for anything which has occurred before this date. The Vendor indemnifies the Purchaser against all liability of that kind.

7. Payment And Apportionment Of Charges

- 7.1. The Vendor must pay all land tax, rates, charges and assessments charged or to be charged against the Property for the period ending on the 30th of June after completion.
- 7.2. All payments made by the Vendor under the preceding subclause must be apportioned between the Vendor and the Purchaser as at the earlier of:
 - 7.2 (a) the date of possession; and
 - 7.2 (b) the date of completion.
- 7.3. Land tax must be apportioned as if the Property were the Vendor's only Tasmanian land.

8. Purchaser's Default

- 8.1. If the Purchaser fails to complete the purchase as provided in this Contract, then, unless the failure is due to the Vendor's wilful default:
 - 8.1 (a) the deposit will be forfeited to the Vendor;
 - 8.1 (b) in addition to any other remedies available, the Vendor may:
 - 8.1.b.1. resell the Property and the Chattels in any manner and on any terms the Vendor chooses; and
 - 8.1.b.2. claim any loss on resale from the Purchaser as liquidated damages.
- 8.2. Any profit on resale will belong to the Vendor.

9. Nominee

- 9.1. The Purchaser may nominate, in writing, other persons or corporations to complete this Contract.
- 9.2. If the Purchaser makes a nomination, then the Purchaser remains personally liable to the Vendor for the performance of all of the Purchaser's obligations under this Contract.

10. Removal Of Goods

- 10.1. Prior to completion the Vendor must remove from the Property all items not included in the sale.
- 10.2. The Purchaser will not be 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 by the Purchaser to the Vendor to remove them.
- 10.3. The Vendor must indemnify the Purchaser against all claims made against the Purchaser in respect of items not included in the sale, but left on the Property after completion.

11. Joint And Several Liability

Any liability of a party to this Contract attaches jointly and severally to each person or corporation named as comprising that party.

12. Rights after Completion

- 12.1. the Purchaser retains the benefit of title warranties to the Chattels; and
- 12.2. each party retains the benefit of all provisions requiring or contemplating that the other party do something after completion.

13. Notices

- 13.1. A notice given by one party to the other will be properly given if signed by any one or more persons or companies constituting the party giving the notice, and it is given either:
 - 13.1 (a) by letter:
 - 13.1.a.1. to the receiving party personally; or
 - 13.1.a.2. posted to or left at the address of the receiving party shown on this contract; or
 - 13.1.a.3. posted to or left at the office of the receiving party's solicitor;
 - 13.1.a.4. or
 - 13.1 (b) by facsimile transmission:
 - 13.1.b.1. to the receiving party's facsimile number shown in this Contract; or
 - 13.1.b.2. to the office of the receiving party's solicitor.
- 13.2. A notice may be signed on behalf of the giver of the notice by the giver's solicitor.
- 13.3. A notice may be given to any one or more of the persons or companies constituting the receiving party on behalf of all of them.
- 13.4. A posted notice will be taken to have been delivered when it would have been delivered in the ordinary course of post.

~~14. Depreciation~~ *(delete if not required)*

~~The price attributable to the structural improvements in respect of which depreciation has been claimed for the purposes of income tax is the amount shown in the vendors books of account.~~

Add any annexure below. For Example, Agreement on Fencing.

Either party may be at risk if the property is damaged before completion.

Each party should protect their interest by insurance.

