



# Residential Contract: Schedule

**1. VENDOR:** Full Name(s): ANTHONY JAMES AND PETER JAMES AND ELIZABETH ANNE JAMES AS EXECUTORS FOR RONALD JAMES (DECEASED) AND EFFIE COLLETT JAMES (DECEASED)

Primary Contact: Given Name: PETER Surname: JAMES

Street: 53 HEWITT AVENUE

Suburb: ROSE PARK State: SA Postcode: 5067

ABN (if applicable):

**2. PURCHASER:** Full Name(s):

Primary Contact: Given Name: Surname:

Street:

Suburb: State: Postcode:

ABN (if applicable):

**3. AGENT:** Company Name/Legal Entity: Brenton Ward Real Estate

Company Representative: Brenton Ward

Street: 76 Hewitt Avenue

Suburb: Rose Park State: SA Postcode: 5067

ABN (if applicable): 57501064871 RLA No: 122299

Telephone: W: 0412 348 212

M: 0412 348 212

F:

Email: brenton@brentonward.com.au

## 4. THE LAND:

The ~~\*whole/part~~ of the land in Certificate of Title, Volume 5697 & 5866 Folio 726 & 136

being ~~\*unimproved/improved~~ land located at Street: 19 GRANDVIEW GROVE

Suburb: TOORAK GARDENS State: SA Postcode: 5065

\*Allotment/Section/Unit/Lot 97 & 56 on ~~\*Strata/Primary/Community/Deposited/Filed~~ Plan No. 2459

in the area named TOORAK GARDENS in the Hundred of ADELAIDE

in the Council area of BURNSIDE

Other description of Property:

## 5. GST

Is the Vendor liable for GST on the Property? ☐ Yes (if Yes then attach relevant GST Annexure) ☒ No

**Note:** The Agent is not qualified to provide advice on GST and other taxation issues relating to the sale or purchase of the Property. The Vendor or Purchaser must obtain their own independent professional taxation advice

## 6. PURCHASE PRICE

The sum of: Amount Payable for the Property \$

GST (if applicable): \$

Total Purchase Price: \$

(\* Delete as applicable)

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## 7. DEPOSIT PAYABLE: \$

- ☐ on the next business day following the expiration of the cooling off period (section 5 of the *Land and Business (Sale and Conveyancing) Act 1994*); OR
- ☐ upon signing of this Agreement; OR
- ☐ on or before  /  / 20  OR
- ☐ secured by Guarantee (pursuant to Annexure – Provision of Deposit by way of Guarantee) OR
- ☐ Other (specify)

## 8. SETTLEMENT DATE

- ☒ On the  23rd  day of  March  20  18
- OR
- ☐ Within  days of the satisfaction of the Special Condition(s) (if any), whichever is the later
- AND/OR Other date as may be agreed between the parties in writing

## 9. INCLUDED CHATTELS: ☐ Not applicable ☒ Specify

ALL VENDORS FIXTURES AND FITTINGS, FIXED FLOOR COVERINGS, LIGHT FITTINGS AND WINDOW TREATMENTS

**Note:** Any included chattels subject to hire purchase or other finance arrangement must be paid out on or prior to Settlement by the Vendor, at the Vendor's expense, so that chattels are transferred free of encumbrance to the Purchaser at Settlement.

## 10. EXCLUDED CHATTELS: ☐ Not applicable ☒ Specify

ALL VENDORS LOOSE FURNITURE AND PERSONAL EFFECTS

## 11. EXCEPTIONS: ☒ None Known ☐ Easements ☐ Encumbrances ☐ Rights Of Way ☐ Party Wall Rights

Details Or Any Other Exceptions:

## 12. TENANCIES: Is sale subject to an existing tenancy? ☐ Yes ☒ No

Managing Agent  T.

Tenant (Name/s)

Term: ☐ Fixed: Commencement Date  /  / 20  End Date  /  / 20

☐ Periodic: Commencement Date  /  / 20

Rent Payable: \$  per

Payable in advance ☐ Weekly ☐ Fortnightly ☐ Calendar monthly ☐

Security Bond: Amount \$  Lodged in Residential Tenancies Fund ☐ Yes ☐ No

## 13. NOTICES AND ORDERS: ☒ None known ☐ Specify

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## 14. KNOWN BREACHES OF STRATA TITLES ACT 1988/COMMUNITY TITLES ACT 1996:

☐ None known

☒ Not applicable

Body Corporate Manager:

Telephone:

Details of breach:

## 15. ALTERATIONS, REPAIRS AND IMPROVEMENTS ERECTED WITHOUT CONSENT:

☒ None known

☐ Specify

## 16. KNOWN ENCROACHMENTS AND FENCES NOT ON BOUNDARIES:

☒ None known

☐ Specify

## 17. COMPLIANCE WITH POOL SAFETY REQUIREMENTS

☒ Not Applicable

☐ Not known

☐ Compliant with *Development Act 1993* (as amended) requirements relating to pre 1993 swimming pools (for swimming pools built prior to June 1993).

☐ Compliant with *Development Act 1993* (as amended) requirements relating to post 1993 swimming pools (for swimming pools built after June 1993).

☐ Not compliant

☐ Specify details of non-compliance

NOTE: Where a pool is constructed prior to June 1993, immediately prior to settlement that pool must comply with the *Development Act 1993* in respect of pool safety barriers (the requirements being outlined in Ministerial Specification SA 76D). Where a pool is constructed after June 1993, immediately prior to settlement that pool must comply with the *Development Act 1993* in respect of all pool safety requirements outlined in that Act (and associated regulations).

## 18. WORKS TO BE CARRIED OUT BY VENDOR:

☒ Not applicable

☐ Specify

## 19. SPECIAL CONDITIONS:

☐ Not Applicable

☐ Subject to Finance – refer Annexure

☐ Subject to Sale and Settlement of Purchaser's Property – refer Annexure

☐ Subject to Settlement of Purchaser's Property – refer Annexure

☐ Subject to the Foreign Resident Withholding Regime – Refer Annexure

☐ Other – refer Annexure

## 20. FURTHER TERMS OF SALE:

☐ Not Applicable

☐ Other – refer Annexure

☐ Provision of Deposit by way of Guarantee - refer Annexure

☐ As described below

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# SPECIAL CONDITION

## Foreign Resident Withholding Regime

### 1. Foreign Resident Withholding

- (a) This special condition applies (despite any other provision of the Agreement) if:
  - (1) the Purchase Price of the Property is \$750,000 or more and the Vendor does not provide a Clearance Certificate to the Purchaser at least 5 Business Days before Settlement; or
  - (2) for any other reason the Purchaser is obliged to pay a Withholding Amount to the Commissioner.
- (b) If this special condition applies:
  - (1) the Purchaser must deduct the Withholding Amount from the Purchase Price and pay the Withholding Amount to the Commissioner by no later than Settlement;
  - (2) if the Purchaser provides to the Vendor at Settlement:
    - (A) evidence from the Commissioner or the Australian Taxation Office that the Withholding Amount has been paid to the Commissioner; or
    - (B) a written undertaking from the Purchaser (or Purchaser's Representative) to pay the Withholding Amount to the Commissioner immediately following Settlement; or
    - (C) any other evidence relating to the payment of the Withholding Amount that is acceptable to the Vendor, the Purchaser is not required to pay that part of the Purchase Price to the Vendor;
- (c) if special condition 1(b)(2)(B) applies, the Purchaser will be treated as having given an irrevocable authority and direction to the Purchaser's Representative to pay the Withholding Amount to the Commissioner immediately following Settlement.
- (d) Any Variation Notice not provided to the Purchaser at least 5 Business Days before Settlement is to be disregarded for the purposes of determining that amount.
- (e) In this special condition 1:
 

**Clearance Certificate** means a current certificate issued by the Commissioner of Taxation under section 14-220 of Schedule 1 to the Tax Administration Act that applies to the Vendor (and if the Vendor consists of more than one person, to each person who comprises the Vendor) in respect of the sale of the Property.

**Commissioner** has the meaning given in the Tax Administration Act 1953.

**Tax Administration Act** means the Tax Administration Act 1953 (Cth).

**Variation Notice** means a written notice issued by the Commissioner under section 14-235 of the Tax Administration Act to vary the amount otherwise payable by the Purchaser under section 14-200 of the Tax Administration Act.

**Withholding Amount** means the amount which the Purchaser is required by section 14-200 of Schedule 1 to the Tax Administration Act to pay to the Commissioner in respect of the purchase of the Property.

**For Information Only - This Annexure MUST BE USED for any contract of sale executed on or after 1 July 2017 that is sold at or above \$750,000**

INITIALS (paper only)



# SPECIAL CONDITION

## Grant of Probate

1. This Agreement is subject to the Vendor obtaining a Grant of Probate as executors of the estate of the late  

EFFIE COLLETT JAMES

  
 by the Supreme Court of South Australia within 

60

 days of the date of this Agreement.
  
2. The Vendor must use best endeavours to do all things necessary to obtain Probate within the time specified in paragraph 1 of this Special Condition.
  
3. In the event paragraph 1 of this Special Condition is satisfied, Settlement is subject to registration of the relevant transfer of the Land at the Lands Titles Office in favour of the Vendor as executors of the estate of the late  

EFFIE COLLETT JAMES

  
 within 

90

 days of this Agreement.
  
4. In the event the Transfer is not registered within the period specified in paragraph 3 of this Special Condition, the Deposit will be refunded to the Purchaser, and the Agreement terminated. Neither party will have any claim against the other apart from any claim arising out of any rights either party may have against the other as a result of any breach of this Agreement prior to the termination of the Agreement in accordance with this paragraph 4.
  
5. The date of Settlement will be the 

7

 days after the Purchaser receives written notice from the Vendor that the Transfer referred to in paragraph 3 has been registered in the name of the Vendor.

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# Contract: Terms and Conditions

## Notice to purchaser:

**This is a contract for the sale of residential land. You may be bound by the terms of this contract if it is signed by both you and the vendor. You should seek independent legal advice if you are unsure about the terms contained in this contract. It is advisable to check section 5 of the *Land and Business (Sale and Conveyancing) Act 1994* regarding any cooling-off rights that you may have and how to exercise them.**

### 1. Agreement for Sale and Purchase

The Vendor agrees to sell the Property and the Purchaser agrees to buy the Property for the Purchase Price on the terms and conditions of this Agreement.

### 2. Definitions and Interpretation

#### 2.1 Definitions

In this Agreement, unless a contrary intention appears:

- 2.1.1 "Act" means the *Land and Business (Sale and Conveyancing) Act 1994* as amended;
- 2.1.2 "Agent" means the person or entity specified in Item 3 of the Schedule;
- 2.1.3 "Agreement" means this Agreement, the Schedule and any Annexure;
- 2.1.4 "Annexure" means an annexure to this Agreement;
- 2.1.5 "Certificate of Title" means the Certificate of Title or other best evidence of the Vendor's interest in the Property;
- 2.1.6 "Default Rate" means the rate of interest on the date default occurs, five (5) percentage points above the cash rate notified by the Reserve Bank of Australia;
- 2.1.7 "Deposit" means the sum of money specified in Item 7 of the Schedule;
- 2.1.8 "Exceptions" means any easements, rights, privileges and appurtenances referred to on the Certificate of Title and any encumbrances, charges, exceptions, reservations and other interests specified in Item 11 of the Schedule or the Form 1, to which the Property is sold subject to;
- 2.1.9 "Excluded Chattels" means the items specified in Item 10 of the Schedule;
- 2.1.10 "Form 1" means the Vendor's statement required under section 7 of the Act;
- 2.1.11 "Further Terms" means the terms specified in Item 20 of the Schedule;
- 2.1.12 "GST" means any goods and services tax or similar or comparable tax imposed by and defined in the GST Law;
- 2.1.13 "GST Law" means the A New Tax System (Goods and Services Tax) Act 1999 and any other Act or Regulation pursuant to, associated with, amending or replacing that Act. Any expression used in this Agreement that is also defined in the GST Law shall have the meaning used or attributed to that expression by the GST Law;
- 2.1.14 "Included Chattels" means the items specified in Item 9 of the Schedule;
- 2.1.15 "Income" means all rent, fees, benefits and other monies received or receivable by the Vendor that are directly attributable to the use by any third party of the Property;
- 2.1.16 "Outgoings" means all rates, levies, taxes (including, but not limited to land tax), assessments, charges and all other amounts payable by or chargeable to the Vendor in respect of the Property;
- 2.1.17 "Property" means the land specified in Item 4 of the Schedule together with:
  - (a) the easements, rights, privileges and appurtenances referred to on the Certificate of Title or Form 1; and
  - (b) any improvements and fixtures and fittings; and
  - (c) the Included Chattels;
- 2.1.18 "Purchase Price" means the sum of money specified in Item 6 of the Schedule;
- 2.1.19 "Purchaser" means the person or entity specified in Item 2 of the Schedule;
- 2.1.20 "Settlement" means completion of the sale and purchase of the Property from the Vendor to the Purchaser;
- 2.1.21 "Settlement Date" means the date specified in Item 8 of the Schedule;
- 2.1.22 "Special Condition" means a special condition set out in or annexed to this Agreement;
- 2.1.23 "Tenancies" means any tenancy specified in Item 12 of the Schedule;
- 2.1.24 "Transfer" means a Memorandum of Transfer (or other appropriate conveyance) of the Property and where applicable, any other documents supplied by the Vendor to the Purchaser necessary to transfer title to the Property to the Purchaser;
- 2.1.25 "Vendor" means the person or entity specified in Item 1 of the Schedule;
- 2.1.26 "Works" means the items specified in Item 18 of the Schedule.

#### 2.2 Interpretation

In this Agreement, unless a contrary intention appears:

- 2.2.1 words which denote the singular include the plural and vice versa;
- 2.2.2 words which denote natural persons include corporations and vice versa; and
  - (a) reference to a natural person includes that person and that person's personal representatives, assigns and permitted nominees; and
  - (b) reference to a corporation includes such corporation and its successors, assigns and permitted nominees;
- 2.2.3 where a party to this Agreement consists of more than one person then:
  - (a) any covenant or obligation to be performed by that party shall bind each of those persons jointly and severally; and
  - (b) any reference to that party shall include any one or more of those persons;
- 2.2.4 headings are included in this Agreement for convenience and do not form any part of this Agreement or affect its interpretation.
- 2.2.5 may be signed in any number of counterparts and by different persons on separate counterparts. The combination of all counterparts will together constitute the one Agreement.

### 3. Payment

- 3.1 All monies payable by the Purchaser prior to Settlement will be paid to the Agent to be held in trust until Settlement and will be applied to any amounts due to the Agent and then to the Purchase Price.
- 3.2 The balance of the Purchase Price will be paid at Settlement as directed by the Vendor.

### 4. Prior to Settlement

- 4.1 The Purchaser must execute and deliver to the Vendor at least seven (7) days before the Settlement Date:
  - 4.1.1 a Transfer; and

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# Contract: Terms and Conditions

- 4.1.2 any assignment or other instrument required to transfer title to the Property to the Purchaser.
- 4.2 In the event the Purchaser does not provide the Vendor with the Transfer in accordance with clause 4.1, the Purchaser authorises the Vendor to prepare the Transfer at the Purchaser's expense.
- 4.3 The Vendor must notify the Purchaser at least two (2) business days before the Settlement Date of the details of any bank cheques required at Settlement Date.
- 4.4 In the event the Vendor fails to notify the Purchaser in accordance with clause 4.3, the Purchaser must tender the total amount due to the Vendor at Settlement.
- 5. Settlement**
- 5.1 Unless otherwise agreed, Settlement must occur at the Lands Titles Office in Adelaide on the Settlement Date.
- 5.2 At or before Settlement (provided the Purchaser has complied with its obligations under this Agreement), the Vendor must hand to the Purchaser the duly executed Transfer and any other documents required to transfer title to the Property to the Purchaser.
- 5.3 All Outgoings and Income will be adjusted to midnight of the day prior to the Settlement Date.
- 5.4 For the purposes of clause 5.3, the following method of adjustment will apply (as applicable):
- 5.4.1 the current annual water allowance and the water consumed by the Vendor during the current water consumption year will be calculated on a daily basis. Any water consumed in excess of the allowance prior to the Settlement Date is to be adjusted, either before or as soon as possible after the Settlement Date, at the price of water for the current year;
- 5.4.2 land tax will be adjusted on a single holding basis;
- 5.4.3 if the Property comprises a unit in a deposited strata plan or a lot in a deposited community plan, then clause 8 applies.
- 5.5 If the Vendor incurs any cost in complying with a statutory requirement (which it did not have notice of prior to entering into this Agreement) between the date of this Agreement and the Settlement Date, the Purchaser must pay the Vendor that amount on Settlement.
- 5.6 The parties may settle under protest if there is a dispute in respect of amounts payable under this Agreement and Settlement will not in any way constitute a waiver of the rights of either party.
- 6. Vacant Possession**
- 6.1 Subject to any Tenancies, the Vendor will provide the Purchaser with vacant possession at Settlement.
- 6.2 For the purposes of clause 6.1, providing vacant possession includes, but is not limited to:
- 6.2.1 the removal of the Excluded Chattels and making good any damage arising from that removal;
- 6.2.2 giving possession of the Included Chattels free of any debt or encumbrance;
- 6.2.3 delivering all keys and security devices to the Property to the Purchaser.
- 7. Title and Risk**
- 7.1 Subject to clause 7.2, from the date of this Agreement the Property shall be at the risk of the Purchaser;
- 7.2 the Vendor must use the Property with all reasonable care so as to maintain its current state of repair and condition, fair wear and tear excluded.
- 7.3 The Certificate of Title will be conclusive evidence of the Vendor's title.
- 8. Strata and Community Title**
- If the Property comprises a unit in a deposited strata plan or a lot in a deposited community plan, the following provisions apply:
- 8.1 The following further adjustments between the parties shall be made:
- 8.1.1 if, at the Settlement Date, the Vendor has paid any monies to a fund or funds established under section 27 of the Strata Titles Act 1988 or Section 6 of the Community Titles Act 1996, before the due date for payment, the total amount of the pre-payment will be adjusted and paid by the Purchaser to the Vendor at Settlement; and
- 8.1.2 if there is no such fund or funds or there is a deficiency to meet the reasonably ascertainable outstanding current liabilities, or if the Vendor is in default in the payment to the Strata or Community Title Corporation, the proportion of the deficiency applicable to the Property or the amount by which the Vendor is in default (as the case may be) shall be adjusted and paid by the Vendor to the Purchaser at Settlement.
- 8.2 The Vendor declares that, to its best knowledge, and except as shown in Item 14 of the Schedule, there is presently no breach of the Strata Titles Act 1988, or the Articles of the Strata Corporation, or the Community Titles Act 1996, or the by-laws of the corporations.
- 8.3 The Vendor will use its best endeavours to obtain from the Strata or Community Title Corporation and give to the Purchaser, at least fourteen (14) days before the Settlement Date, copies of the documents which must be supplied to the Vendor by a Strata Corporation pursuant to section 41 of the Strata Titles Act 1988 or by a Community Title Corporation pursuant to section 139 of the Community Titles Act 1996 and any associated costs shall be paid by the Purchaser to the Vendor at Settlement.
- 8.4 If requested by the Purchaser in writing, the Vendor will apply to the Secretary of the Strata or Community Title Corporation to authorise the Purchaser to inspect the records of the Corporation in accordance with the provisions of section 41 of the Strata Titles Act 1988 or section 139 of the Community Titles Act 1996 as the case may be, and any associated costs shall be paid by the Purchaser to the Vendor at Settlement.
- 9. Misdescription**
- Subject to any applicable laws, this Agreement may not be terminated for any error, omission or misdescription of the Property but either party will be entitled to compensation from the other for any loss or damage arising from the error or misdescription if notified and demanded within fourteen (14) days of Settlement.
- 10. Vendor Warranties**
- Except as outlined in the Schedule or the Form 1, the Vendor warrants that, to the best of its knowledge, at the date of this Agreement that:
- 10.1 there are no outstanding matters regarding the repair or erection of a fence between the Property and any adjoining properties under the *Fences Act 1975*;
- 10.2 there are no outstanding demands, orders or requisitions relating to the Property;
- 10.3 there are no proposals for the redirection or alteration of any road adjoining the Property that would materially affect the value or use of the Property;
- 10.4 there are no amounts owing to any authority for any works performed by that authority in respect of the Property;
- 10.5 where there is a pool on the Property, that unless specified in Item 17 of the Schedule, the pool complies with all relevant safety requirements as specified in relevant legislation, regulations and standards governing pool safety;
- 10.6 since becoming the registered proprietor of the Property, no unapproved building work has been carried out on the Property.

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# Contract: Terms and Conditions

## 11. Boundaries

The Vendor does not warrant that:

- 11.1 there are no fences, buildings or improvements which are not on or within the boundaries of the Property;
- 11.2 there are no improvements or fixtures upon adjoining land encroaching on the Property;
- 11.3 there are no improvements or fixtures on the Property encroaching on adjoining land.

## 12. Works

Before Settlement, the Vendor will carry out the Works (if any).

## 13. Further Terms

- 13.1 The parties agree to comply with the Further Terms (if any).
- 13.2 In the case of inconsistency between these terms and conditions and the Further Terms, the Further Terms shall apply to the extent of any inconsistency.

## 14. Special Conditions

- 14.1 This Agreement is subject to the satisfaction of the Special Conditions (if any).
- 14.2 The party required to satisfy a Special Condition must use its best endeavours to do so on or before the date specified in that Special Condition (or if not specified, within twenty one (21) days of the date of this Agreement).
- 14.3 If a party fails to satisfy a Special Condition then:
  - 14.3.1 if the party required to satisfy the Special Condition complies with clause 14.2 and such other terms and conditions as specified in the Special Condition, then either party may terminate this Agreement upon written notice to the other party; or
  - 14.3.2 if the party required to satisfy the Special Condition fails to comply with clause 14.2, or is otherwise in breach of such other terms and conditions specified in the Special Condition, then such an event will be deemed a default under this Agreement and:
    - (a) if the Purchaser is in default, clauses 15.3 and 15.4 will apply; or
    - (b) if the Vendor is in default, clauses 16.1 and 16.2 will apply.
- 14.4 If this Agreement is terminated pursuant to clause 14.3.1, then any monies paid by or on behalf of the relevant party under this Agreement shall be refunded to that party.
- 14.5 If this Agreement is terminated pursuant to, or as a result of clause 14.3.2 then:
  - 14.5.1 if the Purchaser is in default, clauses 15.10 and 15.11 will apply; or
  - 14.5.2 if the Vendor is in default, clause 16.2 will apply

## 15. Purchaser's Default

- 15.1 If for any reason whatsoever, except for the neglect or default of the Vendor, Settlement does not occur on the Settlement Date (or some other date as agreed in writing between the parties), the Purchaser must pay interest on the total Purchase Price (less any deposit paid) from the Settlement Date until the earlier of the date full payment is made or the date of termination, at the Default Rate.
- 15.2 The payment of interest under clause 15.1 shall be in addition to, and without prejudice to any other rights or remedies the Vendor has by reason of the Purchaser's default.
- 15.3 Without prejudice to any other rights, if the Purchaser fails to pay the Deposit or any part of the Deposit, or otherwise fails to observe or perform any obligations imposed on the Purchaser under this Agreement prior to the Settlement Date (or such other date as specified), the Vendor may give the Purchaser written notice requiring the Purchaser to remedy the default ("Notice of Default") within three (3) business days of the date of the Notice of Default. If the Purchaser fails to remedy the default within the time specified in the Notice of Default, the Agreement will automatically terminate at the expiration of that period unless the Vendor withdraws the notice in writing.
- 15.4 A Notice of Default under clause 15.3:
  - 15.4.1 may be given at any time after the occurrence of the default;
  - 15.4.2 must state that unless the default identified in the Notice of Default is remedied within the time specified, this Agreement will automatically terminate.
- 15.5 If the Purchaser fails to complete Settlement on the Settlement Date and does not settle within three (3) business days from the Settlement Date, the Vendor may provide the Purchaser with a notice to complete settlement ("Notice of Completion").
- 15.6 The Notice of Completion must appoint a time for Settlement (with a minimum ten (10) business days notice) and require the Purchaser to settle at the time provided in the Notice of Completion.
- 15.7 If the Purchaser does not comply with the Notice of Completion, the Vendor may terminate this Agreement by further written notice to the Purchaser without prejudice to any of its other rights.
- 15.8 A Notice of Completion can be given more than once.
- 15.9 The Vendor may, but is not obliged to, waive its right to a re-adjustment of Outgoings if Settlement is postponed due to the Purchaser's default.
- 15.10 If this Agreement is terminated in accordance with this clause 15, the Vendor may retain the Deposit and (at the Vendor's option):
  - 15.10.1 retain the Property; or
  - 15.10.2 resell the Property; and
 in either event sue the Purchaser for damages for breach of contract.
- 15.11 If the Vendor elects to resell the Property pursuant to clause 15.10.2, then:
  - 15.11.1 the Purchaser will forthwith be required to pay to the Vendor:
    - (a) any deficiency between the Purchase Price and the price obtained upon reselling the Property; and
    - (b) all costs, expenses and fees associated with or arising from the resale, by way of liquidated damages (the Purchaser receiving credit for any Deposit); and
  - 15.11.2 the Vendor will be entitled to any surplus of the sale price over the Purchase Price.
- 15.12 The Vendor is not required to tender a Transfer before exercising any of its rights under this clause 15.
- 15.13 If the Settlement Date is postponed, all Income from the Property shall be readjusted as at midnight on the day preceding Settlement, but Outgoings shall remain adjusted to the Settlement Date.

## 16. Vendor's Default

- 16.1 Without prejudice to any other rights, if the Vendor is in breach of this Agreement, the Purchaser must give the Vendor written notice to remedy the default within three (3) business days of service of the notice.
- 16.2 Where the Vendor fails to comply with that notice, the Purchaser may:

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- 16.2.1 terminate this Agreement by further written notice in which case all monies paid by the Purchaser must be refunded by the Vendor forthwith; or
- 16.2.2 postpone the Settlement Date until such time as the breach is remedied in which case the Vendor will pay to the Purchaser (at the Purchaser's absolute discretion):
  - (a) interest at the Default Rate on the full Purchase Price from the Settlement Date to the date when the breach ceases and is notified to the Purchaser; or
  - (b) the amount of the actual damage suffered by the Purchaser.

16.3 If the Settlement Date is postponed, all Outgoings from the Property shall be readjusted to midnight on the day preceding Settlement, but Income remains adjusted to the Settlement Date.

## 17. Time

Time is of the essence in respect of any obligation under clause 15 and clause 16.

## 18. Goods and Services Tax (GST)

If the Vendor and Purchaser acknowledge that GST applies to any supply made under or in connection with this Agreement by the Vendor, then it applies in accordance with the GST Annexure to this Agreement.

## 19. Miscellaneous

19.1 Notices under this Agreement:

- 19.1.1 must be in writing and signed by the party giving notice, or its authorised agent;
- 19.1.2 may be served:
  - (a) by being left at the last known residence or place of business of the intended recipient; or
  - (b) by being sent by ordinary post in a pre-paid envelope to the address of the party set out in this Agreement;
- 19.1.3 will be deemed served if posted in accordance with clause 19.1.2(b), two (2) business days after posting; and
- 19.1.4 will be deemed sufficiently served if served in accordance with this clause on one of several persons comprising the Vendor or the Purchaser.
- 19.1.5 either party may charge the other party for its reasonable costs for preparing and serving any Default Notice or Notice to Complete under this Agreement up to a maximum amount of \$700 (exclusive of GST) per notice together with any incidental out of pocket costs reasonably incurred (including the costs of service), and any amount so charged must be paid at Settlement or on termination of this Agreement.

19.2 No Merger

The provisions of this Agreement shall not merge upon Settlement.

19.3 Cheques

- 19.3.1 The Deposit may be paid by cheque but if it is not honoured on presentation, the Purchaser shall immediately and without notice be in default.
- 19.3.2 Any other payment due under this Agreement shall be made either in cash, by bank cheque or electronic transfer of funds to the Parties nominated bank account

19.4 Costs

The costs of and incidental to the preparation of the Transfer (but not of any document needed to clear the title of the Vendor to the Property) and all stamp duty, registration fees and Government fees, duties and all disbursements in respect of those documents and this Agreement must be paid by the Purchaser.

19.5 Date of this Agreement

The date of this Agreement is the date on which the last of the parties executes it.

19.6 Legal Capacity of Purchaser

- 19.6.1 The Purchaser warrants that each natural person included in the description of the Purchaser has full legal capacity.
- 19.6.2 The Purchaser further warrants that it is not (except as set out in any Special Condition) required to seek approval for purchase under the Foreign Acquisitions and Takeovers Act 1975 as amended and any breach of this clause entitles the Vendor to terminate.

## 20. Privacy Act 1988

- 20.1 The parties agree and acknowledge that the Agent uses personal information collected from the Purchaser and Vendor to act as the Vendor's agent and to perform their obligations under this Agreement.
- 20.2 The Agent may disclose this information to other parties including conveyancers, legal advisers, financial institutions and government bodies.
- 20.3 The Agent will only disclose information in the way described in clause 20.2 as required to perform its duties under this Agreement, to achieve the purposes specified above or as otherwise allowed under the Privacy Act 1988.
- 20.4 If the Vendor or Purchaser would like to access this information or correct or update this information, they can do so by contacting the Agent at the address and telephone number provided in this Agreement.

## 21. Other Conditions

This Agreement includes other terms and conditions as specified in or attached to this Agreement (including Annexures).

## 22. Governing Law

This Agreement is governed by and construed in accordance with the laws from time to time in force in South Australia and the parties submit to the non-exclusive jurisdiction of the Courts of South Australia.

## 23. General

If any provision of this Agreement shall be found by a Court of competent jurisdiction to be invalid or unenforceable in law, then in such case the parties hereby request and direct such court to sever such provision from this Agreement.

## 24. eConveyancing Conditions

- 24.1 If each party is or has engaged an Australian Legal Practitioner and/or Licensed Conveyancer (Legal Representative), the parties may agree in writing not less than 5 business days before Settlement, to elect that Settlement take place using an Electronic Lodgement Network (Electronic Conveyancing).
- 24.2 If the Settlement is to take place by Electronic Conveyancing in accordance with 24.1 above, the parties hereby agree that they will be bound by the Model Rules for Electronic Conveyancing (Model Rules) as in force at the date of Settlement and available at the REISA website [www.reisa.com.au](http://www.reisa.com.au).

INITIALS



# Contract: Execution

## EXECUTION

**SIGNED** by or on behalf of **THE PURCHASER**

on the  day of  20

in the presence of:

Witness: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Purchaser/s

**SIGNED** by or on behalf of **THE VENDOR**

on the  day of  20

in the presence of:

Witness: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Vendor/s

### Vendor / Purchaser Please Note:

1. REISA recommends that you should not sign any document unless you are satisfied that you understand its terms.
2. Use of this Agreement by a non-member of REISA is a breach of Copyright.

### RECEIPT OF FORM R3

In executing this Agreement, the Purchaser acknowledges receipt of Form R3 prior to signing this Contract

### OFFICE USE ONLY

Form R3 provided to Purchaser prior to signing of Contract

### AUCTION CONDITIONS

- ☐ Applicable
- ☒ Not Applicable

The Conditions of Sale of Real Property by Public Auction of the Real Estate Institute of South Australia exhibited prior to the Auction shall apply to the Agreement. If sold by auction then the deposit of 10% of the Purchase Price (or such other amount determined by the auctioneer or Agent prior to the auction and advised by the Purchaser prior to the auction) is payable immediately upon the highest successful acceptance of the bid above the reserve.

**Note:** There is no "cooling-off" period under the Act for sale under auction conditions or if the Purchaser waives the right to "cool-off" by obtaining independent legal advice and delivering a Certificate (section 5 of the Act) to the Agent.

**NOTE: ALL PARTIES SHOULD INITIAL ALL PAGES**

INITIALS

# Form R3

## Buyers information notice

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*Land and Business (Sale and Conveyancing) Act 1994 section 13A*

*Land and Business (Sale and Conveyancing) Regulations 2010 regulation 17*

Before you buy a home there are a number of things that you should investigate and consider. Though it may not be obvious at the time, there could be matters that may affect your enjoyment of the property, the safety of people on the property or the value of the property.

The following questions may help you to identify if a property is appropriate to purchase. In many cases the questions relate to a variety of laws and standards. These laws and standards change over time, so it is important to seek the most up to date information. Various government agencies can provide up to date and relevant information on many of these questions. To find out more, Consumer and Business Services recommends that you check the website: [www.cbs.sa.gov.au](http://www.cbs.sa.gov.au)

Consider having a professional building inspection done before proceeding with a purchase. A building inspection will help you answer some of the questions below.

The questions have been categorised under the headings **Safety**, **Enjoyment** and **Value**, but all of the issues are relevant to each heading.

### Safety

- Is there **asbestos** in any of the buildings or elsewhere on the property eg sheds and fences?
- Does the property have any significant **defects** eg **cracking** or **salt damp**? Have the wet areas been waterproofed?
- Is the property in a **bushfire** prone area?
- Are the **electrical wiring, gas installation, plumbing and appliances** in good working order and in good condition? Is a **safety switch** (RCD) installed? Is it working?
- Are there any prohibited **gas appliances** in bedrooms or bathrooms?
- Are **smoke alarms** installed in the house? If so, are they hardwired? Are they in good working order and in good condition? Are they compliant?
- Is there a **swimming pool and/or spa pool** installed on the property? Are there any safety barriers or fences in place? Do they conform to current standards?
- Does the property have any **termite** or other pest infestations? Is there a current preventive termite treatment program in place? Was the property treated at some stage with persistent organochlorins (now banned) or other **toxic** termiticides?
- Has fill been used on the site? Is the soil contaminated by **chemical residues** or waste?
- Does the property use **cooling towers** or manufactured warm water systems? If so, what are the maintenance requirements?

## Enjoyment

- Does the property have any **stormwater** problems?
- Is the property in a **flood prone** area? Is the property prone to coastal flooding?
- Does the property have an on-site **wastewater treatment facility** such as a septic tank installed? If so, what are the maintenance requirements? Is it compliant?
- Is a **sewer mains connection** available?
- Are all gutters, downpipes and stormwater systems in good working order and in good condition?
- Is the property near **power lines**? Are there any trees on the property near power lines? Are you considering planting any trees? Do all structures and trees maintain the required clearance from any power lines?
- Are there any **significant** trees on the property?
- Is this property a unit on **strata or community title**? What could this mean for you? Is this property on strata or community title? Do you understand the restrictions of use and the financial obligations of ownership? Will you have to pay a previous owner's debt or the cost of planned improvements?
- Is the property close to a hotel, restaurant or other venue with entertainment consent for live music? Is the property close to any industrial or commercial activity, a busy road or airport etc that may result in the generation of **noise** or the **emission of materials or odours** into the air?
- What appliances, equipment and fittings are included in the sale of the property?
- Is there sufficient car parking space available to the property?

## Value

- Are there any **illegal or unapproved additions**, extensions or alterations to the buildings on the property?
- How **energy efficient** is the home, including appliances and lighting? What **energy sources** (eg electricity, gas) are available?
- Is the property connected to SA Water operated and maintained **mains water**? Is a mains water connection available? Does the property have a **recycled water** connection? What sort of water meter is located on the property (a **direct or indirect meter** – an indirect meter can be located some distance from the property)? Is the property connected to a water meter that is also serving another property?
- Are there water taps outside the building? Is there a watering system installed? Are they in good working order and in good condition?
- Does the property have **alternative sources** of water other than mains water supply (including **bore or rainwater**)? If so, are there any special maintenance requirements?

For more information on these matters visit: [www.cbs.sa.gov.au](http://www.cbs.sa.gov.au)

Disclaimer: There may be other issues relevant to the purchase of real estate. If you are unable to ascertain enough information about the questions raised in this form and any other concerns you may have we strongly recommend you obtain independent advice through a building inspection, a lawyer, and a financial adviser.