



# Residential Contract: Schedule

**1. VENDOR:** Full Name(s): CITY OF SALISBURY, PURSUANT TO s.184 OF THE LOCAL GOVERNMENT ACT 1999

Primary Contact: Given Name: Kathryn Surname: Goldy

Street: 12 JAMES STREET

Suburb: SALISBURY State: SA Postcode: 5108

ABN (if applicable): 82 615 416 895

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

Primary Contact: Given Name: Surname:

Street:

Suburb: State: Postcode:

ABN (if applicable):

Email:

**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 6058 Folio 453

being ~~\*unimproved/improved~~ land located at Street: 169-185 ROBINSON ROAD

Suburb: WATERLOO CORNER State: SA Postcode: 5110

\*Allotment/Section/Unit/Lot 14 on ~~\*Strata/Primary/Community/Deposited~~ Filed Plan No. 114475

in the area named BOLIVAR in the Hundred of PORT ADELAIDE

in the Council area of SALISBURY

Other description of Property:

**5. GST**

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

Is this Agreement concerning the sale of new residential premises or potential residential land as defined in the GST Law? ☐ Yes ☐ No

If Yes, attach Special Condition - New Residential Premises.

**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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# Residential Contract: Schedule

## 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) AND / OR
- ☐ Other (specify)

## 8. SETTLEMENT DATE

- ☐ On the  26th  day of  October  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

REFER ANNEXURE

**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

REFER ANNEXURE

## 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

CAVEAT BY COMMISSIONER OF STATE TAXATION

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# Residential Contract: Schedule

## 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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# Contract - Annexure: Goods and Services Tax (GST)

## Given the Vendor is liable for GST on the Property, then:

- 1 Is GST to be added to the Purchase Price? ☐ Yes ☐ No  
If Yes, clause 1 will apply and include the GST amount as applicable in Item 6.
- 2 Do the parties agree that the Margin Scheme is to be used? ☐ Yes ☐ No  
If Yes, clause 5 will apply.

## Terms and Conditions

- 1 The Vendor and the Purchaser acknowledge and agree that if GST applies to any supply made under or in connection with this Agreement by the Vendor, then:
  - 1.1 The amount payable in respect of the supply is exclusive of GST; and
  - 1.2 The Vendor may, in addition to any amount or consideration expressed as payable in respect of the supply, recover from the Purchaser an additional amount on account of GST; and
  - 1.3 The Purchaser shall pay to or reimburse to the Vendor or to a third party (as the case may be), any additional amount on account of any GST that is or was incurred, paid or payable by the Vendor in respect of that supply; and
  - 1.4 Unless clause 5 applies, the amount payable by the Purchaser to the Vendor or to a third party in respect of that supply shall be increased by the product of:
    - (a) the rate at which GST is imposed at that time; and
    - (b) the amount or consideration payable for the relevant supply; and
  - 1.5 The Purchaser shall pay any additional amount on account of GST at the same time as the payment for the relevant supply is payable or at such other time as the Vendor directs;
  - 1.6 The Vendor shall deliver to the Purchaser a tax invoice for the supply in a form that complies with the GST law.
- 2 The Purchaser acknowledges and agrees that if GST applies to any supply made under or in connection with this Agreement by the Purchaser, that the Purchaser shall be responsible for the payment of any additional amount on account of any GST, in respect of that supply.
- 3 If the property is input taxed because it is residential premises to be used predominantly for residential accommodation then the Purchaser warrants that the property shall be used predominantly for residential accommodation within the meaning of the GST law.
- 4 Clause 1 to 3 (inclusive) shall not merge on completion of this Agreement and shall survive settlement and any termination of this Agreement by either the Vendor or the Purchaser.
- 5 **Margin Scheme** *(strike out if not applicable)*
  - 5.1 The parties hereby acknowledge and agree that the margin scheme will apply for or in relation to any supply made under or in connection with this Agreement and that subject to clause 5.2, the following provisions will apply:
    - (a) the Vendor shall, prior to settlement (if required by the GST law), obtain a valuation of the property as at 1 July 2000 (or other relevant date) that complies with the requirements of the GST law (including any ruling or determination made by the commissioner of taxation) and supply a copy of the valuation to the Purchaser prior to settlement.
    - (b) unless otherwise agreed, the Purchaser shall bear all reasonable costs and expenses of the valuation referred to in clause 5.1(a).
    - (c) the price shall be increased by the amount calculated as follows:  
 $M \times R$ ,  
 Where:
      - (A) M is the difference between the price and the amount of the valuation obtained in accordance with clause 5.1(a); and
      - (B) R is the rate at which GST is imposed at that time.
    - (d) the Purchaser acknowledges that it shall not be entitled to claim any input tax credit for any amount of GST as calculated under clause 5.1(c) that the Purchaser pays to or reimburses to the Vendor.
    - (e) if for any reason the margin scheme does not apply to a supply as contemplated by the parties, then the Purchaser shall on demand pay to the Vendor by way of further consideration for the sale of the property, an amount calculated pursuant to clause 1.3 of this Agreement (less any amount of GST already paid by the Purchaser (if any) pursuant to paragraph 5.1(d)), in addition to any penalties and interest incurred by the Vendor under the GST law in respect of the non-application of the margin scheme upon the provision of a tax invoice by the Vendor.
  - 5.2 Any person who becomes the Vendor or Purchaser under this Agreement agrees that in the event that the Vendor acquired the property using the margin scheme, clauses 5.1(a) and 5.1(b) will have no effect, clauses 5.1(d) and 5.1(e) shall continue to apply and clause 5.1(c) shall be amended such that the price shall instead be increased by the amount calculated as follows:  
 $M \times R$ ,  
 Where:
    - (A) M is the difference between the price and the amount the Vendor paid to acquire the property within the meaning of the GST law; and
    - (B) R is the rate at which GST is imposed at that time.
  - 5.3 The provisions of this clause will survive Settlement and any termination of this Agreement by either the Vendor or the Purchaser.

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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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# Contract: Terms and Conditions

- 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;
  - (c) by email to the email address of a party or a party's representative as provided 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 or if by email then at the time of sending the email; 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

*Initials not required if using electronic signature*





# 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

*Initials not required if using electronic signature*

## ANNEXURE TO CONTRACT : FURTHER TERMS

### CERTIFICATE OF TITLE REGISTER BOOK VOLUME 6058 FOLIO 453.

*Note: For ease of expression the purchaser is referred to in the neuter gender in this Annexure.*

Notwithstanding any other provisions in this Residential Contract agreement or any other annexure to it, the following Further Terms (within the meaning of clause 13 of this Residential Contract) (*the Residential Contract provisions called "clause(s)" and the Further Terms in this Special Annexure called "items" in this document*) apply :

- 1 The Purchaser acknowledges that this sale is an exercise of power by City of Salisbury ("the Council") pursuant to section 184 of the Local Government Act 1999 as amended ("the Act") and that the Council relies upon and is bound by those statutory provisions.
- 2 The Council as vendor is not required to produce any abstract or other proof of title (and in particular the duplicate Certificate of Title) and the Purchaser is not entitled to make any requisition upon the title or call for any muniments of title or any other evidence of existence of the pre-requisites for the exercise of the power of sale or require production of the duplicate Certificate of Title.
- 3 The Purchaser is responsible for payment of any fees imposed by the Lands Titles Office for the provision of a new Certificate of Title.
- 4 The transfer referred to in clause 4.1.1 must include the statutory declaration referred to in s.184(15) of the Act for execution by the Chief Executive Officer of the Council.
- 5 Any sale of the land by the Council pursuant to its powers referred to in item 1 of this Special Annexure will have the effect of discharging the land from any liability to the Council for rates or other moneys due to the Council for any purpose which at the time of the sale were a charge upon the said land (all such rates and charges raised for the financial year during which settlement occurs being adjusted as between the Vendor and the Purchaser to midnight on the day prior to the Settlement Date). The Purchaser must at settlement pay the Council rates payable for the 2018/2019 financial year for the period on and from midnight prior to the Settlement Date to and including 30.6.2019.
- 6 The Purchaser acknowledges and agrees that the Council has no liability for the payment of any rates, charges or taxes or any prescribed liability to the Crown in respect of the land, including but not limited to water and sewer rates, emergency services levy and land tax ("statutory outgoings") other than as contained in s.184 of the Act and the Purchaser has no claim against the Council for any such liability. The statutory outgoings shall, if the Council so requires, be the subject of adjustment at settlement to the intent that the Council will collect from the Purchaser and forward to the relevant authorities the amount of those statutory outgoings calculated from midnight of the day

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prior to the Settlement Date. If the Council requires, the Purchaser must obtain a special water meter reading and supply a copy to the Council without cost to the Council, for the purpose of calculating adjustments in relation to water use.

- 7 If the Council (or its agent or solicitor) supplies information from or copies of searches obtained by Council (or its agent or solicitor) to the Purchaser (other than that included in the Form 1), the Purchaser must reimburse one half of the cost of those searches to the Council including one half of the fees normally charged by Council to third parties for searches of its rates records.
- 8 No objection may be taken by the Purchaser to any error or omission,, misdescription, improper or imperfect description either in any advertisement or at the time of sale and no abatement will be made in the purchase money on account of such error, omission, misdescription, or improper or imperfect description.
- 9 The Purchaser expressly acknowledges that the land may be sold and purchased without the benefit of any inspection whatsoever and the Purchaser takes the risks associated with such purchase. The Council has not inspected the land and gives no warranties or assurances in relation to the state of the land or any fixtures and fittings upon it.
- 10 The Purchaser expressly acknowledges that the Council does not sell as registered proprietor and has no knowledge of matters that would be known or disclosed by a vendor selling as the registered proprietor of the land.
- 11 The Purchaser acknowledges that it shall be responsible for and indemnify the Council against any loss or damage suffered by the Purchaser or any actions or claims against or incurred by either the Council or the Purchaser on and from settlement relating to:
  - 11.1 the requirements, limitations or restrictions imposed by competent authorities or applicable legislation arising as a result of the existence on the Property of any asbestos, soil contamination or other environmental damage; or
  - 11.2 any loss or damage to any property or death or injury to any person arising out of any activity carried on or in connection with the Property by the Purchaser or its successors in title including without limitation, any loss, damage or injury caused by the existence, use, storage, escape, removal or disposal of asbestos, soil contamination or any hazardous substance or waste.
- 12 The Purchaser acknowledges that it shall be responsible for and shall have no claim against the Council in relation to any site remediation or clean-up works which are required as a result of any asbestos, soil contamination or other environmental damage existing on or in the Property prior to settlement. The Purchaser indemnifies the Council against all claims, costs, actions, demands

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and expenses the Council may incur howsoever arising from any site remediation or site clean-up works which are required as a result of any asbestos, soil contamination or other environmental damage existing on or in the Property prior to Settlement.

- 13 In Items 11 and 12 "contamination" means the existence of any substance which is or may be harmful to the environment or the health of any person or which may cause damage to any Property.
- 14 The Council, through its real estate agent, has obtained a search copy of the Certificate of Title that is the subject of this Residential Contract, but neither the Council nor its agent is aware of or the true boundaries of the land the subject of this Residential Contract nor do either of them provide any information or advice in relation thereto. The Purchaser expressly acknowledges and declares that the Council gives no warranties or advice in relation to the said land and the Purchaser relies solely on the Purchaser's own enquiries in relation to:
- 14.1 the location of the true boundaries of the land (regardless of the presence of any fencing, which the Purchaser acknowledges may or may not accurately delineate the boundaries of the land) the subject of this Residential Contract;
- 14.2 any encroachments by the land upon neighbouring land and vice versa;
- 14.3 the state (including the state of repair), quality, fitness or suitability of the land for any purpose whatsoever (including in relation to development of the land);
- and releases and forever indemnifies the Council in relation thereto.
- 15 For the purposes of this Residential Contract "vacant possession" means that the land will be free of human occupation, but the Council is not required to take away any rubbish, chattels or other items which may be on the land at settlement.
- 14 Any compensation to which the Purchaser may be entitled pursuant to clause 9 of the Terms and Conditions of this Residential Contract shall be limited to the Purchase Price.
- 24 Any notice to be served or thing to be done by the Council pursuant to this Residential Contract may be done by its Chief Executive Officer or solicitor.
- 25 The Purchaser warrants that:-
- 25.1 the Purchaser has full power and authority to enter into and perform its obligations under this Agreement; and

- 25.2 the Purchaser has taken all necessary action to authorise the execution, delivery and performance of this Agreement in accordance with its terms; and
- 25.3 this Agreement constitutes legal, valid and binding obligations upon the Purchaser and, subject to any necessary stamping and registration, is enforceable against the Purchaser in accordance with its terms.
- 26 The purchaser further represents, warrants and acknowledges that:
- 26.1 the terms and conditions set out in this contract contain the entire agreement as concluded between the parties as at the date hereof;
- 26.2 notwithstanding any negotiations or discussions held or documents signed or brochures produced or statements prior to the date of this contract, the purchaser has not been induced to enter into this contract by any representations verbal or otherwise made by or on behalf of the Council or its agents which is not set out in the body of this contract
- 26.3 the purchaser has satisfied itself as to the nature, quality, condition of the property including but not limited to, any effects both patent and latent or any infestation or dilapidation
- 26.4 the purchaser has relied entirely upon its own inquiries relating to an inspection of the property, the improvements and any inclusions or exclusions
- 26.5 neither the Council nor any one on behalf of the Council has made any representation or warranty upon which the Purchaser relies as to the fitness or suitability for any particular purpose or otherwise in respect of the property or any part thereof or of any financial return or income to be derived therefrom

The purchaser will make no requisition, objection or claim for compensation concerning any of these matters.

### **Special provisions concerning vacant (human) possession and settlement**

- 27 The Purchaser acknowledges that the land may at sale be occupied by the registered proprietor or persons claiming through the registered proprietor.
- 28 The Purchaser expressly acknowledges that the Council may have to take legal proceedings against the occupant(s) of the land in order to provide vacant possession to the Purchaser. The Purchaser agrees that, notwithstanding any provisions in this Contract to the contrary in relation to settlement, the Vendor may defer the settlement date to enable it to obtain vacant possession of the land for the benefit of the Purchaser. In that event, settlement must occur three (3) days after the Vendor gives Notice to the Purchaser that the Vendor has obtained actual vacant possession of the land

(or at such other time as the parties may agree).

- 29 The Vendor will make every reasonable endeavour to obtain vacant possession of the land for the Purchaser. If after such endeavour, the Vendor is unable to obtain vacant possession of the land, the Vendor must serve a Notice to that effect upon the Purchaser.
- 30 The Purchaser may, by Notice to the Vendor served within three (3) days of service of the Notice referred to in item 29 of this Annexure, waive its contractual right to vacant possession and settle on a date nominated in the Purchaser's said Notice, being a date not less than five (5) days nor more than ten (10) days after service of the Purchaser's notice of waiver.
- 31 If the Purchaser waives the right to vacant possession, the Vendor shall be released absolutely from its obligation to give same and the Purchaser shall have no right to compensation, damages or any other remedies.
- 32 In the alternative to item 30 of this Annexure, the Purchaser may, within five (5) days of service of the Notice referred to in item 29 of this Annexure, terminate this Contract by notice in writing served upon the Vendor.
- 33 If this Contract is terminated by Notice pursuant to item 32 of this Annexure, the Purchaser shall thereupon be entitled as the Purchaser's only claim, remedy or right, to a return of any deposit paid, but the Vendor shall not under any circumstances be liable to the Purchaser in any other way whatsoever.
- 34 If the Vendor serves a Notice pursuant to item 29 of this Annexure and the Purchaser fails to serve a Notice pursuant to item 30 or 32 of this Annexure within the time specified, the Contract shall be deemed to have been terminated.
- 35 If this Contract is terminated by virtue of the provisions of item 34 of this Annexure, the Purchaser shall not be entitled to return of any deposit paid (which deposit shall immediately become the property of the Vendor) and the Vendor shall not under any circumstances be liable to the Purchaser in any way whatsoever.
- 36 For the purposes of this Annexure "days" means days upon which the Lands Titles Office is open for business