

Contract for the Sale and Purchase of Land (Residential)

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.

Property address:

Street: 31 OLIVEDALE STREET

Suburb: BIRDWOOD

State: SA

Postcode: 5234

The Vendor agrees to sell and the Purchaser agrees to buy the Property, being the Land and all Goods sold with the Land, for the Price and on the terms set out in this contract.

The terms of this contract are contained in the -

- Particulars of Sale; and
- Special Conditions, if any; and
- General Conditions,

and, if a provision of one document is inconsistent with a provision of another document, then the above order of priority applies.

Cooling-off period - Section 5 *Land and Business (Sale and Conveyancing) Act 1994* (SA)

You may end this contract within two clear Business Days of the day that you sign the contract or the day you are served the Form 1 Vendor's Statement, whichever is later, and if none of the exceptions listed below applies to you.

You must either give the Vendor or the Vendor's Agent **written** notice that you are ending the contract or leave the notice at the address of the Vendor's Agent to end this contract within this time in accordance with this cooling-off provision.

You are entitled to a refund of all the money you paid EXCEPT for a deposit up to \$100 if you end the contract in this way.

EXCEPTIONS

The cooling-off period does not apply if -

- you received independent legal advice before signing the contract and the legal practitioner signed a certificate in the prescribed form as to the giving of that advice; or
- you bought the Property by auction; or
- you bought the Property on the same day you, or someone on your behalf, bid at the auction for the Property; or
- the sale is by tender and the contract is made not less than five clear Business Days after the day fixed for the closing of tenders and not less than two clear Business Days after the vendor's statement is served on the purchaser; or
- the sale is made by the exercise of an option to purchase not less than five clear Business Days after the grant of the option and not less than two clear business days after the Form 1 vendor's statement is served on the Purchaser; or
- the contract also provides for the sale of a business that is not a small business.

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Particulars of Sale



Vendor's Agent

Company name: _____
Trading name: Brenton Ward Real Estate
Agent Name: Brenton Ward
Email: brenton@brentonward.com.au
ABN/ACN: _____ RLA: 122299
Address: 76 HEWITT AVENUE

Suburb: ROSE PARK State: SA Postcode: 5067
Telephone: 0412 348 212 Facsimile: _____ DX: _____ Ref: _____

Vendor

Name: ADELAIDE HILLS COUNCIL PURSUANT TO s184 OF THE LOCAL GOVERNMENT ACT 1999
Email: sholme@ahc.sa.gov.au ABN/ACN: 23 955 071 393
Address: 63 Mount Barker Road

Suburb: STIRLING State: SA Postcode: 5152

Name: _____
Email: _____ ABN/ACN: _____
Address: _____

Suburb: _____ State: _____ Postcode: _____

Vendor's legal practitioner or conveyancer

Name: _____
Address: _____

Suburb: _____ State: _____ Postcode: _____
Email: _____
Telephone: _____ Facsimile: _____ DX: _____ Ref: _____

Purchaser

Name: _____
Email: _____ ABN/ACN: _____
Address: _____

Suburb: _____ State: _____ Postcode: _____

Name: _____
Email: _____ ABN/ACN: _____
Address: _____

Suburb: _____ State: _____ Postcode: _____

Purchaser's legal practitioner or conveyancer

Name: _____
Address: _____

Suburb: _____ State: _____ Postcode: _____
Email: _____
Telephone: _____ Facsimile: _____ DX: _____ Ref: _____

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Particulars of Sale

Land (General Condition 3) The Land is described in the table below and includes all improvements, fixtures and fittings

~~Lot~~ / Allot: 3 in Plan No: 25414 being Whole / ~~Portion~~* of the land.

Certificate of Title Reference: VOLUME 5384 FOLIO 452 *Delete the inapplicable

Description of the Property:

☒ Improved (built on) ☐ Unimproved (vacant)

Property Address:

Street: 31 OLIVEDALE STREET

Suburb: BIRDWOOD

State: SA

Postcode: 5234

Goods sold with the Land (list or attach schedule)

REFER ANNEXUERE A

Goods excluded from the sale

REFER ANNEXUERE A

Payment (General Conditions 8 and 18)

Price \$

GST (if applicable) \$

Deposit \$ by dd/mm/yyyy (of which \$ has been paid)

Balance \$ payable at Settlement

GST (general condition 20)

The Price includes GST (if any) unless the words '**plus GST**' appear in this box

If this is a sale of a 'farming business' or 'going concern' then add the words '**farming business**' or '**going concern**' in this box

If the margin scheme will be used to calculate GST then add the words '**margin scheme**' in this box

GST Withholding (General Condition 21)

☒ If this box is ticked then the Vendor is not required to give the Purchaser a written notice which complies with section 14-255(1) of schedule 1 of the *Taxation Administration Act 1953* (Cth).

☐ If this box is ticked then the Vendor notifies the Purchaser in accordance with section 14-255(1) of schedule 1 of the *Taxation Administration Act 1953* (Cth) that the Purchaser is not required to make a withholding payment in relation to the supply of the property under section 14-250 of schedule 1 of the *Taxation Administration Act 1953* (Cth).

☐ If this box is ticked then General Condition 21 applies in relation to the supply of the property.

Settlement (General Condition 18)

is due on dd/mm/yyyy

unless the Land is a lot in an undeposited plan of subdivision, in which case Settlement is due on the later of:

- the above date; and
- 14 days after the Vendor gives notice in writing to the Purchaser of deposit of the plan of division.

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Particulars of Sale

Tenancy (General Condition 1)

At Settlement the Purchaser is entitled to vacant possession of the Property unless the words '**subject to Tenancy**' appear in this box, in which case refer to General Condition 1. If the Property is sold '**subject to Tenancy**' then particulars of the Tenancy are:

☐ Commencement date _____ dd/mm/yyyy End date _____ dd/mm/yyyy

or

☐ a periodic tenancy determinable by notice

Rent: \$ _____ per week

Bond: \$ _____ Bond lodged with Consumer and Business Services: ☐ Yes ☐ No

Finance (General Condition 7)

☐ If this box is checked this contract is subject to loan approval.

The following details apply if this contract is subject to a loan being approved:

Lender: _____

Loan amount: not less than \$ _____ Approval Date: _____ dd/mm/yyyy

Exceptions and reservations

Known easements, encroachments or encumbrances (if any):

6906886 ENCUMBRANCE TO DONALD MICHAEL CHISHOLM (SINGLE COPY ONLY)

Alterations or improvements erected without consent (if any):

NONE KNOWN

Notices or orders which will not be discharged on or before Settlement (if any):

NONE KNOWN

If the land is a strata unit or community lot, known breaches of the *Strata Titles Act 1988* (SA) or the *Community Titles Act 1996* (SA) (if any):

N/A

Pool Safety

Is there a pool on the Land or on adjacent land used in association with the Land? ☐ Yes ☒ No

The Vendor is required by law to ensure that any swimming pool is compliant with the relevant pool safety requirements on or before Settlement.

The swimming pool is:

☐ compliant with the *Planning, Development and Infrastructure Act 2016* (SA) (as amended) requirements for swimming pools constructed pre-1 July 1993.

☐ compliant with the *Planning, Development and Infrastructure Act 2016* (SA) (as amended) requirements for swimming pools constructed on or after 1 July 1993.

☐ Non-compliant.

Details of non-compliance: _____

Vendor's Works (General Condition 16)

Works to be carried out by Vendor:

NONE KNOWN

Special conditions

This contract does not include any special conditions unless the words '**special conditions**' appear in this box.

If the contract is subject to '**special conditions**' then particulars of the special conditions are set out after the General Conditions.

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Signing of this Contract

WARNING: THIS IS A LEGALLY BINDING AGREEMENT. YOU SHOULD READ THIS CONTRACT BEFORE SIGNING IT.

Purchasers should ensure that prior to signing this contract, they have received:

- a copy of the full terms of this contract; and
- a copy of the Form 1 vendor's statement (if the purchaser will not have the right to cool off under the contract).

In this contract, **Form 1 vendor's statement** means a statement required to be given by a vendor under section 7 of the *Land and Business (Sale and Conveyancing) Act 1994* (SA).

Signed by the Purchaser

<div></div>	Signature	<div></div>	Signature
<div></div>	Full name	<div></div>	Full name
<div></div>	Date	<div></div>	Date

In the presence of:

<div></div>	Signature	<div></div>	Signature
<div></div>	Witness name	<div></div>	Witness name
<div></div>	Date	<div></div>	Date

(Note: No witness is required if the Purchaser signs using an Electronic Signature)

(Note: No witness is required if the Purchaser signs using an Electronic Signature)

Signed by the Vendor

<div></div>	Signature	<div></div>	Signature
<div></div>	Full name	<div></div>	Full name
<div></div>	Date	<div></div>	Date

In the presence of:

<div></div>	Signature	<div></div>	Signature
<div></div>	Witness name	<div></div>	Witness name
<div></div>	Date	<div></div>	Date

(Note: No witness is required if the Vendor signs using an Electronic Signature)

(Note: No witness is required if the Vendor signs using an Electronic Signature)

Contract for the Sale and Purchase of Land (Residential)

General Conditions

1. Encumbrances

1.1 The Purchaser buys the Property subject to:

- (a) any encumbrance shown in the Form 1 vendor's statement as not to be discharged on or before Settlement;
- (b) all easements, rights or other interests described or referred to in the Certificate of Title for the Land;
- (c) any Tenancy; and
- (d) any exceptions, reservations and encumbrances described in the Particulars of Sale.

1.2 The Purchaser benefits from all rights and proceeds, and is responsible and liable for all obligations under any Tenancy that are to be performed by the Vendor as landlord after Settlement. The Purchaser will pay for all obligations and liabilities of the Vendor as landlord after Settlement.

2. Vendor Warranties

~~**2.1** The warranties in General Conditions 2.2 and 2.3 replace the Purchaser's right to make requisitions and inquiries.~~

2.2 The Vendor warrants that the Vendor:

- (a) has, or by the due date for Settlement will have, the right to sell and transfer the Property;
- (b) is under no legal disability;
- (c) is in possession of the Property, either personally or through a tenant;
- (d) has not previously sold or granted any option to purchase, agreed to a tenancy or granted a pre-emptive right, which is current over the Property and that gives another party rights that have priority over the interest of the Purchaser;
- (e) will at Settlement be the holder of an unencumbered estate in fee simple in the Land; and
- (f) will at Settlement be the unencumbered owner of any Goods sold with the Land.

2.3 The Vendor further warrants that the Vendor has no knowledge of any of the following, which have not been disclosed in this contract or the Form 1 vendor's statement:

- (a) easements over the Land;
- (b) tenancy or other possessory agreement or lease affecting the Land;
- (c) notice or order affecting the Land, which will not be dealt with or discharged on or before Settlement, other than the usual statutory rates and taxes notices;
- (d) legal proceedings, which would render the sale of the Land void or voidable or capable of being set aside.

2.4 The warranties in General Conditions 2.2 and 2.3 are subject to any contrary provisions in this contract and disclosures in the Form 1 vendor's statement.

2.5 Subject to the express Vendor warranties in this General Condition 2 the Purchaser takes the Property in its existing condition and because of its own inquiries and the Vendor makes no other warranties or representations in relation to the Property, its condition or the uses to which it has been or may be put.

3. Identity of the Property

3.1 An omission or mistake in the description of the Property or any deficiency in the area, description or measurements of the Property does not invalidate this contract.

3.2 The Purchaser may not:

- (a) make any objection or claim for compensation for any alleged misdescription of the Property or any deficiency in its area or measurements; or
- (b) require the Vendor to amend the Certificate of Title or pay any cost of amending the Certificate of Title.

4. Services

~~**4.1** The Vendor does not represent that the Services are adequate for the Purchaser's proposed use of the Property and the Vendor advises the Purchaser to make appropriate inquiries. The condition of the Services may change between the Contract Date and Settlement however will be in the same or similar condition at Settlement as they were on the Contract Date subject to fair wear and tear, or any intervening third-party event or weather.~~

4.2 The Purchaser is responsible for the connection of all Services to the property after Settlement and the payment of any associated cost.

5. Consents

~~The Vendor must obtain any necessary consent or licence required to be obtained by the Vendor in order to sell the Property. The contract will be at an end and all money paid must be refunded if any necessary consent or licence is not obtained by Settlement.~~

6. Notices

~~The Purchaser is responsible for compliance with any notice, order, demand or levy imposing liability on the Property that is issued or made on or after the Contract Date that does not relate to the usual statutory rates and taxes notices.~~

7. Finance

7.1 If the Particulars of Sale specify that this contract is subject to a loan being approved, this contract is subject to the lender approving the loan on the security of the Property on or before the Approval Date (or such later date as the Vendor may allow in writing).

7.2 The Purchaser must notify the Vendor in writing as soon as the lender has approved the loan.

7.3 Either party may immediately end the contract by written notice to the other party within two clear Business Days after the Approval Date if:

- (a) the loan is not approved; or
- (b) in the case of the Vendor, if the Vendor is not notified of the approval on or before the Approval Date, and, in the case of the Purchaser giving notice, that notice must include written evidence of the Purchaser's immediate application for, and the lender's rejection or non-approval of, the loan.

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7.4 All money must be promptly refunded to the Purchaser if the contract is ended under this General Condition 7, subject to any amount that may be retained pursuant to the *Land and Business (Sale and Conveyancing) Act 1994* (SA), but only if the Purchaser:

- (a) immediately applied for the loan;
- (b) did everything reasonably required to obtain approval of the loan; and
- (c) is not in default under any other condition of this contract when the notice is given.

8. Payment of Deposit

8.1 In this General Condition:

(a) **'Bank'** means an authorised deposit-taking institution under the *Banking Act 1959* (Cth);

(b) **'Bank Guarantee'** means an irrevocable and unconditional undertaking from a bank to pay on demand an amount equal to the Deposit (or such other amount agreed by the parties) on terms and conditions acceptable to the Vendor (acting reasonably). If the Land is a lot in an undeposited plan of division, the bank guarantee must be in favour of the Vendor's legal practitioner or conveyancer;

(c) **'Deposit Bond'** means an irrevocable and unconditional undertaking from a financial institution resident in Australia acceptable to the Vendor to pay on demand an amount equal to the Deposit (or such other amount agreed by the parties) on terms and conditions acceptable to the Vendor. If the Land is a lot in an undeposited plan of division, the deposit bond must be in favour of the Vendor's legal practitioner or conveyancer; and

(d) **'Financial Institution'** means a bank, building society, credit union, insurance company or other entity, which is authorised to provide finance, issue bank guarantees or deposit bonds in Australia.

8.2 The Purchaser must pay the Deposit on the date specified in the Particulars of Sale:

- (a) to the Vendor's Agent; or
 - (b) if there is no agent, to the Vendor's legal practitioner or conveyancer;
- who will hold the Deposit on trust pending Settlement.

8.3 The Vendor may, at its discretion, agree to accept a Deposit Bond or Bank Guarantee instead of payment of a cash deposit as the Deposit by the Purchaser.

8.4 If the Vendor agrees to accept a Deposit Bond or Bank Guarantee instead of payment of a cash deposit as the Deposit by the Purchaser, the Purchaser must pay the Deposit in cleared funds to the Vendor's legal practitioner or conveyancer on the first to occur of:

- (a) Settlement;
- (b) the date that is 30 days before the Bank Guarantee or Deposit Bond expires;
- (c) any earlier date on which:
 - (i) the Vendor would be entitled to the release of the Deposit to it having regard to the provisions of this contract;
 - (ii) the Vendor rescinds or otherwise terminates this contract for breach or repudiation of the contract by the Purchaser; or

(iii) the Bank Guarantee or Deposit Bond becomes ineffective.

8.5 If General Condition 8.3 applies, when the Purchaser pays the Deposit, the Vendor will return the Bank Guarantee or Deposit Bond to the Purchaser.

8.6 Without limiting any of the Vendor's other rights under this contract, if the Purchaser does not comply with General Condition 8.4, the Vendor or the Vendor's legal practitioner or conveyancer (if the Land is a lot in an undeposited plan of division) can make demand for the amount secured by the Deposit Bond or Bank Guarantee without reference to the Purchaser.

8.7 Any amount paid by the bank or financial institution under General Conditions 8.4 or 8.6 must be dealt with in accordance with General Condition 8.2.

9. Release of Deposit

The stakeholder must pay the Deposit and any interest to the party entitled when the Deposit is released, the contract is settled, or the contract is ended.

10. Liability of Signatory

Any signatory for a proprietary limited company purchaser must be a director or secretary and will be personally liable for the due performance of the Purchaser's obligations as if the signatory were the Purchaser in the case of a default by a proprietary limited company purchaser.

11. Guarantee

The Vendor may require one or more directors of the Purchaser to guarantee the Purchaser's performance of this contract if the Purchaser is a proprietary limited company.

12. Transfer

12.1 Any transfer of land document required to effect a transfer of the Property must be prepared by the Purchaser and delivered to the Vendor five Business Days before Settlement (or such later date as the Vendor may allow). The delivery of the transfer of land document is not acceptance of title.

12.2 The parties must prepare and submit the online duties form or such other forms required to be completed for assessment of duty on this transaction by Revenue SA as soon as practicable before Settlement. Both parties agree to co-operate to complete such forms prior to Settlement.

13. Nominee

The Purchaser may no later than 10 days before the due date for Settlement (or such later date as the Vendor may allow) nominate a substitute or additional transferee, but the named purchaser remains personally liable for the due performance of all the Purchaser's obligations under this contract.

14. Release of Security Interest

~~**14.1** This General Condition applies if any part of the Property is subject to a security interest to which the *Personal Property Securities Act 2009* (Cth) applies.~~

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~~14.2 For the purposes of enabling the Purchaser to search the Personal Property Securities Register for any security interests affecting any personal property for which the Purchaser may be entitled to a release, statement, approval or correction in accordance with General Condition 14.4, the Purchaser may request the Vendor to provide the Vendor's date of birth to the Purchaser. The Vendor must within two days, comply with a request made by the Purchaser under this condition if the Purchaser makes the request at least seven days before the due date for Settlement (or such later date as the Vendor may allow).~~

~~14.3 If the Purchaser is given the details of the Vendor's date of birth under condition 14.2, the Purchaser must:~~

- ~~(a) only use the Vendor's date of birth for the purposes specified in General Condition 14.2; and~~
- ~~(b) keep the date of birth of the Vendor secure and confidential.~~

~~14.4 The Vendor must ensure that at or before Settlement, the Purchaser receives:~~

- ~~(a) a release from the secured party releasing the Property from the security interest;~~
- ~~(b) a statement in writing in accordance with section 275(1)(b) of the *Personal Property Securities Act 2009* (Cth) setting out that the amount or obligation that is secured is nil at Settlement; or~~
- ~~(c) a written approval or correction in accordance with section 275(1)(c) of the *Personal Property Securities Act 2009* (Cth) indicating that, on Settlement, the personal property included in the contract is not or will not be property in which the security interest is granted.~~

~~14.5 A release for the purposes of General Condition 14.4(a) must be in writing.~~

~~14.6 A release for the purposes of General Condition 14.4(a) must be effective in releasing the goods from the security interest and be in a form that allows the Purchaser to take title to the goods free of that security interest.~~

~~14.7 If the Vendor receives a release under General Condition 14.4(a) the Vendor must provide the Purchaser with a copy of the release at or as soon as practicable before Settlement.~~

~~14.8 In addition to ensuring that a release is received under General Condition 14.4(a), the Vendor must ensure that at or before Settlement the Purchaser receives a written undertaking from a secured party to register a financing change statement to reflect that release if the property being released includes goods of a kind that are described by serial number in the Personal Property Securities Register.~~

~~14.9 The Vendor is not required to ensure that the Purchaser receives a release in respect of the Land. This General Condition 14.9 applies despite General Condition 14.1.~~

~~14.10 Words and phrases which are defined in the *Personal Property Securities Act 2009* (Cth) have the same meaning in General Condition 14 unless the context requires otherwise.~~

15. Adjustments

~~15.1 All rates, taxes, levies and charges payable by the Vendor, and any rent and other income received in respect of the Property, must be apportioned between the parties as at midnight on the day before Settlement and any adjustments made as appropriate.~~

~~15.2 The rates, taxes, levies and charges and rent and other income must be apportioned on the following basis:~~

- ~~(a) the Vendor is liable for the rates, taxes, levies and charges and entitled to the rent and other income up to midnight on the day before Settlement;~~
- ~~(b) the Purchaser is liable for the rates, taxes, levies and charges and entitled to the rent and other income from and including the day of Settlement;~~
- ~~(c) the Land is treated as the only land of which the Vendor is owner;~~
- ~~(d) the Vendor is taken to own the Land as a resident Australian beneficial owner; and~~
- ~~(e) any personal statutory benefit available to each party is disregarded in calculating apportionment.~~

~~15.3 Water use will be adjusted on a pro rata daily rate and will be adjusted at Settlement or as soon as practicable after Settlement (with a reasonable amount to be held back at Settlement until such adjustment and any required payment is made).~~

~~15.4 The Vendor must provide copies of all certificates and other information used to calculate the adjustments if requested by the Purchaser.~~

~~15.5 If requested by the Purchaser, the Vendor must provide all information regarding the payment of rent and other moneys under any Tenancy reasonably required by the Purchaser to calculate the adjustments.~~

16. Vendor's Works

~~The Vendor will carry out the Vendor's Works in a proper and competent manner prior to Settlement.~~

17. Loss or Damage Before Settlement

~~17.1 The Purchaser carries the risk of loss or damage to the Property from the Contract Date.~~

~~17.2 The Vendor must deliver the Property to the Purchaser at Settlement in the same condition it was in on the Contract Date, subject to any Vendor's Works, but the Vendor will not be responsible for fair wear and tear or any structural, mechanical or electrical breakdowns or defects occurring or that become evident after the Contract Date, unless caused by the Vendor's negligence.~~

~~17.3 The Purchaser must not delay Settlement because one or more of the Goods sold with the Land is not in the condition required by General Condition 17.2, but may claim compensation from the Vendor after Settlement.~~

~~17.4 The Purchaser may nominate an amount not exceeding \$15,000 to be held by a stakeholder to be appointed by the parties if the Property is not in the condition required by General Condition 17.2 at Settlement.~~

~~17.5 The nominated amount may be deducted from the amount due to the Vendor at Settlement and paid to the stakeholder, but only if the Purchaser also pays an amount equal to the nominated amount to the stakeholder.~~

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~~17.6 The stakeholder must pay the amounts referred to in General Condition 17.5 in accordance with the determination of the dispute, including any order for payment of the costs of the resolution of the dispute.~~

18. Settlement

18.1 Settlement is to take place on the day specified in the Particulars of Sale and at Settlement:

(a) the Purchaser must pay the Balance; and

~~(b) the Vendor must:~~

~~(i) do all things necessary to be done by a registered proprietor of the Land to enable the Purchaser to become the registered proprietor of the Land; and~~

~~(ii) give either vacant possession or receipt of rents and profits in accordance with the Particulars of Sale.~~

18.2 The Purchaser must pay all money other than the Deposit:

(a) to the Vendor, or the Vendor's legal practitioner or conveyancer; or

(b) in accordance with a written direction of the Vendor or the Vendor's legal practitioner or conveyancer.

18.3 Subject to General Condition 19, payments under this contract must be made or tendered:

(a) in cash up to \$10,000;

(b) by cheque drawn on a bank; or

(c) if the parties agree, by electronically transferring the payment in the form of cleared funds. Payment is made by electronic funds transfer when the funds are received and cleared in the recipient's bank account.

18.4 At Settlement, the Purchaser must pay the fees on up to three cheques drawn on a bank. If the Vendor requests that any additional cheques be drawn on a bank, the Vendor must reimburse the Purchaser for the fees incurred.

18.5 Subject to General Condition 19, Settlement must be conducted between the hours of 10.00 a.m. and 4.00 p.m. at the Lands Titles Office of South Australia unless the parties agree otherwise.

18.6 For the purpose of this general condition 'bank' means an authorised deposit-taking institution under the *Banking Act 1959* (Cth).

19. Electronic Conveyancing

19.1 In this General Condition:

(a) **'Discharging Mortgagee'** means any mortgagee, chargee, covenant chargee or caveator whose provision of an electronically signed discharge of mortgage, discharge of charge or withdrawal of caveat is required in order for unencumbered title to the property to be transferred to the Purchaser;

(b) **'ECNL'** means the *Electronic Conveyancing National Law (South Australia)*;

(c) **'Electronic Document'** means an instrument as defined in the *Real Property Act 1886* (SA), which may be created and signed electronically in an electronic workspace;

(d) **'Electronic Transaction'** means a transaction to be conducted for the parties by their legal representatives as subscribers using an ELN and in accordance with the ECNL and the participation rules;

(e) **'Electronic Transfer'** means a transfer of land under the *Real Property Act 1886* (SA) for the Property to be prepared and electronically signed in the electronic workspace established for the purposes of the parties' transaction;

(f) **'Electronic Workspace'** means a shared electronic workspace generated by the ELN;

(g) **'ELN'** means Electronic Lodgement Network under the ECNL;

(h) **'ELNO'** means Electronic Lodgement Network Operator under the ECNL;

(i) **'Participation Rules'** means the participation rules as determined by the ECNL; and

(j) **'Subscriber'** means a person who is authorised under a participation agreement to use an ELN to complete conveyancing transactions on behalf of another person or on their own behalf.

19.2 This transaction is to be conducted as an electronic transaction unless the Registrar-General has determined that lodgment of instruments under this contract (in part or in whole) are not eligible to be lodged electronically in accordance with the ECNL.

19.3 If this transaction is not to be conducted as an electronic transaction this General Condition 19 ceases to apply and this transaction is to be conducted in accordance with this contract otherwise than as an electronic transaction unless the parties otherwise agree in writing.

19.4 If this transaction is to be conducted as an electronic transaction:

(a) to the extent, but only to the extent, that any other provision of this contract is inconsistent with this General Condition, the provisions of this General Condition prevail;

(b) a party must pay the fees and charges payable by that party to the ELNO and the Registrar-General as a result of this transaction being an electronic transaction;

(c) any provision of this contract requiring the physical preparation, signing, delivery or payment of anything that is dealt with digitally or electronically within or using the electronic workspace is amended accordingly;

(d) the parties agree that written communications for the purposes of preparing for and facilitating the electronic transaction may be given and received electronically within the electronic workspace, however, no other notices may be given electronically within the electronic workspace;

(e) any communication from one party to another party in the electronic workspace is taken to have been received by that party at the time determined by the *Electronic Communications Act 2000* (SA); and

(f) despite anything in this contract to the contrary, the electronic transfer is not required to be served five Business Days before the due date for Settlement.

General Conditions

19.5 Each party must:

- (a) be, or engage a representative who is, a subscriber;
- (b) ensure that each other person for whom that party is responsible and who is associated with the transaction is, or engages, a subscriber;
- (c) authorise their representative to act on their behalf in the manner required by the ECNL; and
- (d) conduct the electronic transaction in accordance with the participation rules and the ECNL.

19.6 The Vendor must as soon as reasonably practicable after the Contract Date:

- (a) create an electronic workspace;
- (b) complete the title details for the Property, the due date for Settlement and a time for Settlement; and
- (c) invite the Purchaser and any discharging mortgagee to the electronic workspace.

19.7 As soon as reasonably practicable after receiving an invitation from the Vendor to join the electronic workspace, the Purchaser must:

- (a) join the electronic workspace;
- (b) create and complete an electronic transfer;
- (c) invite any incoming mortgagee to join the electronic workspace; and
- (d) accept the nominated Settlement date and time.

19.8 Before Settlement:

- (a) each party must do everything reasonably necessary to progress the transaction in the electronic workspace to Settlement on the due date for Settlement at the Settlement time;
- (b) the parties must ensure that:
 - (i) all electronic documents which a party must electronically sign to complete the electronic transaction are completed and electronically signed; and
 - (ii) all certifications required by the ECNL are properly given, and
- (c) the parties must complete the electronic workspace with payment details as soon as reasonably practicable before the due date for Settlement.

19.9 On Settlement the electronic workspace must record that the exchange of funds or value (if any) between the accounts of the relevant financial institutions in accordance with the instructions of the parties has occurred.

19.10 If Settlement takes place in the electronic workspace:

- (a) the parties are deemed to agree under General Condition 18.3 that the Balance may be paid by electronically transferring the funds; and
- (b) no party may exercise any rights under this contract or at law to terminate this contract during the time that the electronic workspace is locked for Settlement.

19.11 If Settlement has not occurred by the time that the ELNO usually closes for settlements in South Australia on the due date for Settlement, the parties must do everything reasonably necessary to effect Settlement:

- (a) as an electronic transaction on the next Business Day; or
- (b) if Settlement cannot reasonably be effected as an electronic transaction, then at the option of either party, exercised by giving notice to the other party to that effect, otherwise than as an electronic transaction, as soon as reasonably practicable.

19.12 A party is not in default under this contract if:

- (a) the computer systems of any of Land Services South Australia, Revenue SA, the ELNO or the Reserve Bank of Australia are inoperative for any reason at the settlement time agreed by the parties and there is a failure to complete this contract for that reason; or
- (b) that party is prevented from complying with an obligation because the other party or the other party's financial institution has not done something in the electronic workspace, but that party must comply with that party's obligations as soon as such events cease to apply.

19.13 If the parties do not agree about the delivery before Settlement of one or more documents or things (including keys or other security devices) that cannot be delivered through the electronic workspace, the party required to deliver the documents or things:

- (a) holds them on and from Settlement in escrow for the benefit of; and
- (b) must immediately after Settlement deliver the documents or things to, or as directed by, the party entitled to them.

19.14 Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any mistaken payment made in the electronic workspace and to recover the mistaken payment.

20. GST

20.1 The Purchaser does not have to pay the Vendor any amount in respect of GST in addition to the Price unless the Particulars of Sale specify that the Price is 'plus GST'. However, the Purchaser must pay to the Vendor any GST payable by the Vendor in respect of a taxable supply made under this contract in addition to the Price if:

- (a) GST is payable by the Vendor solely as a result of any action taken or intended to be taken by the Purchaser after the Contract Date, including a change of use;
- (b) if the Particulars of Sale specify that the supply made under this contract is of land on which a farming business is carried on and the supply (or a part of it) does not satisfy the requirements of section 38-480 of the GST Act; or
- (c) if the Particulars of Sale specify that the supply made under this contract is of a going concern and the supply (or a part of it) does not satisfy the requirements of section 38-325 of the GST Act.

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20.2 If the Purchaser is liable to pay GST, the Purchaser is not required to make payment until provided with a tax invoice, unless the margin scheme applies.

20.3 If the Particulars of Sale specify that the supply made under this contract is of land on which a 'farming business' is carried on:

- (a) the Vendor warrants that the Property is land on which a farming business has been carried on for the period of five years preceding the date of supply; and
- (b) the Purchaser warrants that the Purchaser intends that a farming business will be carried on after Settlement on the Property.

20.4 If the Particulars of Sale specify that the supply made under this contract is a 'going concern':

- (a) the parties agree that this contract is for the supply of a going concern;
- (b) the Purchaser warrants that the Purchaser is, or prior to Settlement will be, registered for GST; and
- (c) the Vendor warrants that the Vendor will carry on the going concern until the date of supply.

20.5 If the Particulars of Sale specify that the supply made under this contract is a 'margin scheme' supply, the parties agree that the margin scheme applies to this contract.

20.6 This General Condition will not merge on either Settlement or registration.

20.7 In this General Condition:

'GST Act' means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

21. GST Withholding

21.1 If subdivision 14-E of schedule 1 of the *Taxation Administration Act 1953* (Cth) applies to the sale of the Property, the Vendor must give the Purchaser a written notice, which complies with section 14-255(1) of schedule 1 of the *Taxation Administration Act 1953* (Cth) as soon as practicable before the due date for Settlement.

21.2 If the Purchaser is required to make a payment to the Commissioner of Taxation under section 14-250 of schedule 1 of the *Taxation Administration Act 1953* (Cth), the Purchaser must:

- (a) pay the GST withholding amount specified in the Vendor's notice that the Purchaser is required to pay under section 14-250 of schedule 1 of the *Taxation Administration Act 1953* (Cth) to the Commissioner of Taxation at the time specified in section 14-250(4) of schedule 1 of the *Taxation Administration Act 1953* (Cth); and
- (b) give the Commissioner of Taxation the notice required under section 16-250(2) of schedule 1 of the *Taxation Administration Act 1953* (Cth).

21.3 As soon as practicable before the due date for Settlement, the Purchaser must give evidence to the Vendor that it has complied with General Condition 21.2(b) (if it is obliged to do so) including a copy of the confirmation received from the Commissioner of Taxation following lodgement of the Purchaser's notice, which includes details of the lodgement reference number and payment reference number.

21.4 At Settlement, the Purchaser must (if Settlement is not to take place electronically) give the Vendor a bank cheque for the GST withholding amount specified in the Vendor's notice that is payable to the Commissioner of Taxation. The Purchaser will be taken to have complied with this General Condition if it pays the GST withholding amount by electronic funds transfer to the account nominated by the Commissioner of Taxation via an Electronic Lodgement Network (as defined in the *Electronic Conveyancing National Law (South Australia)*) as part of an electronic settlement.

21.5 After Settlement, the Vendor must give the Commissioner of Taxation any bank cheque received under this General Condition 24, together with any forms required to be provided to the Commissioner of Taxation to confirm that Settlement has been effected.

21.6 The Purchaser is responsible for any penalties or interest payable to the Commissioner of Taxation on account of late payment of the withholding amount, except to the extent that they arise from any failure by the Vendor to comply with its obligations under this contract.

22. Foreign Resident Capital Gains Withholding

22.1 Words defined or used in subdivision 14-D of schedule 1 to the *Taxation Administration Act 1953* (Cth) have the same meaning in this General Condition 22 unless the context requires otherwise.

22.2 This General Condition 22 applies unless:

- (a) the Vendor gives the Purchaser a clearance certificate issued by the Commissioner of Taxation under section 14-220(1) of schedule 1 to the *Taxation Administration Act 1953* (Cth). The specified period in the clearance certificate must include the Contract Date and the day the Vendor provides the certificate to the Purchaser; or
- (b) the transaction is excluded under section 14-215(1) of schedule 1 to the *Taxation Administration Act 1953* (Cth).

22.3 If the Vendor has not given the Purchaser a clearance certificate issued by the Commissioner of Taxation under section 14-220(1) of schedule 1 to the *Taxation Administration Act 1953* (Cth) at least two Business Days prior to Settlement, the Purchaser may withhold an amount determined under section 14-200(3)(a) of schedule 1 to the *Taxation Administration Act 1953* (Cth), or such lower percentage or amount specified in a written notice issued by the Commissioner of Taxation under section 14-235 of schedule 1 to the *Taxation Administration Act 1953* (Cth), and that withholding will constitute discharge of the Purchaser's obligation to pay the price to the extent of the withholding.

22.4 The Purchaser must:

- (a) prior to Settlement lodge a *Foreign Resident Capital Gains Withholding Purchaser Notification Form* with the Australian Taxation Office for each person comprising the Purchaser and give copies to the Vendor with the payment reference numbers;
- (b) within two Business Days of Settlement:
 - (i) pay, or ensure payment of, the withholding amount to the Commissioner of Taxation in the manner required by the Commissioner of Taxation; and

General Conditions

- (ii) promptly provide the Vendor with proof of payment.

The Purchaser will be taken to have complied with this General Condition if it pays the withholding amount by electronic funds transfer to the account nominated by the Commissioner of Taxation via an Electronic Lodgement Network (as defined in the *Electronic Conveyancing National Law (South Australia)*) as part of an electronic settlement.

22.5 The Purchaser is responsible for any penalties or interest payable to the Commissioner of Taxation on account of late payment by it of the withholding amount.

23. Breach

A party who breaches this contract must pay to the other party on demand:

23.1 compensation for any reasonably foreseeable loss to the other party resulting from the breach; and

23.2 any interest due under this contract as a result of the breach.

24. Interest

Interest at a rate that is 2% above the Reserve Bank of Australia "cash rate" as set from time to time accrues daily and is payable on any money owing under the contract during the period of default, without affecting any other rights of the offended party.

25. Default Notice

25.1 Except in an instance of an action urgent or interlocutory in nature, a party is not entitled to exercise any rights arising from the other party's default, other than the right to receive interest and the right to sue for money owing, until the other party is given and fails to comply with a written default notice.

25.2 The default notice must:

- (a) specify the particulars of the default; and
- (b) state that it is the offended party's intention to exercise the rights arising from the default unless, within 14 days of the notice being given:
 - (i) the default is remedied; and
 - (ii) the reasonable costs incurred as a result of the default and any interest payable are paid.

26. Default Not Remedied

26.1 All unpaid money under the contract becomes immediately payable to the Vendor if the default has been made by the Purchaser and is not remedied and the costs and interest are not paid.

26.2 The contract immediately ends if:

- (a) the default notice also states that unless the default is remedied and the reasonable costs and interest are paid, the contract will be ended in accordance with this General Condition; and
- (b) the default is not remedied and the reasonable costs and interest are not paid by the end of the period of the default notice.

26.3 If the contract ends by a default notice given by the Purchaser:

- (a) the Purchaser must be repaid any money paid under the contract and be paid any interest and reasonable costs payable under the contract;

- (b) all those amounts are a charge on the Land until payment; and

- (c) the Purchaser may also recover any loss otherwise recoverable.

26.4 If the contract ends by a default notice given by the Vendor:

- (a) the Deposit is forfeited to the Vendor as the Vendor's absolute property (if it is not paid it is immediately due and payable);
- (b) the Vendor is entitled to possession of the Property;
- (c) in addition to any other remedy, the Vendor may either:
 - (i) retain the Property and sue for damages for breach of contract; or
 - (ii) resell the Property in any manner and recover any deficiency in the Price on the resale and any resulting expenses by way of liquidated damages;
- (d) the Vendor may retain any part of the Price paid until the Vendor's damages have been determined and may apply that money towards those damages; and
- (e) any determination of the Vendor's damages must take into account the amount forfeited to the Vendor.

26.5 The ending of the contract does not affect the rights of the offended party as a consequence of the default.

27. Time

27.1 Time is of the essence of this contract.

27.2 Time is extended until the next Business Day if the time for performing any action falls on a day that is not a business day.

28. Service

28.1 Any document sent by:

- (a) regular post is taken to have been served on the sixth Business Day after posting, unless proved otherwise;
- (b) priority post is taken to have been served on the fourth Business Day after posting, unless proved otherwise;
- (c) express post is taken to have been served on the next Business Day after posting, unless proved otherwise; or
- (d) email is taken to have been served at the time of receipt within the meaning of the *Electronic Communications Act 2000* (SA).

28.2 Any demand, notice or document required to be served by or on any party may be served by or on the legal practitioner or conveyancer for that party. It is sufficiently served if served—

- (a) personally;
- (b) by pre-paid post;
- (c) in any manner authorised by law or the Supreme Court for service of documents, including any manner authorised for service on or by a legal practitioner regardless of whether the person serving or receiving the document is a legal practitioner; or
- (d) by email.

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28.3 This General Condition applies to the service of any demand, notice or document by or on any party. In this contract, the expression 'serve' includes 'give' and 'served', 'served' and 'given' have corresponding meanings.

29. Counterparts and Execution

29.1 This contract may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument of the relevant document.

29.2 A copy of an original executed counterpart given or served by facsimile machine, email or link emailed:

- (a) will be treated as an original counterpart;
- (b) is sufficient evidence of the execution of the original; and
- (c) may be produced in evidence for all purposes in place of the original.

29.3 The person signing this contract warrants that they have full authority to sign on behalf of the party they represent and has the authority to bind that party.

29.4 Each party consents to the contract and the Form 1 Vendor's statement being signed by any other party in accordance with an electronic communication method and being given or served by electronic communication, including by link emailed to a party to download an electronic copy.

29.5 Without limiting General Condition 29.4, the parties acknowledge and agree that:

- (a) electronic signatures will constitute a signature and have the same quality of integrity as a written signature including if the signature is:
 - (i) computer generated;
 - (ii) by computer pen;
 - (iii) by a typed mark or name;
 - (iv) physically signed on paper and scanned electronically; or
 - (v) any electronic symbol, or process attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record or document.

29.6 Where either party applies an electronic signature to this contract or any other document attached or annexed to such:

- (a) that party confirms that the method of identifying the person, their intention to be bound and method of signing is reliable and conclusive evidence of that party's intention to be legally bound by that document;
- (b) each party is able to rely on the electronic signature as if that party had signed the relevant document by manuscript signature in accordance with all legal requirements; and
- (c) each party consents to the conduct of an electronic transaction and the method of electronic signature used by the other party.

29.7 Each party agrees that it will not contest the validity or enforceability of this contract, another contract or document because it was signed or transmitted electronically. Each party will not dispute the admissibility or authenticity of this contract, another contract or document on the grounds that it is not an original or that any signature was not manually affixed.

30. Definitions

30.1 In this contract, unless the context otherwise requires:

- (a) **'Approval Date'** means the date by which any loan approval condition is required to be satisfied, as specified in the Particulars of Sale.
- (b) **'Balance'** means the amount described as such in the Particulars of Sale.
- (c) **'Business Day'** means any day that is not a Saturday, Sunday or proclaimed public holiday in South Australia.
- (d) **'Contract Date'** is the date upon which both parties have signed this contract and if the parties sign this contract on different dates, is the date upon which the last party signs.
- (e) **'Deposit'** means the amount described as such in the Particulars of Sale.
- (f) **'Goods sold with the Land'** means those items described as such in the Particulars of Sale.
- (g) **'Land'** means the land described as such in the Particulars of Sale.
- (h) **'Price'** means the amount described as such in the Particulars of Sale.
- (i) **'Property'** means the Land, together with all Goods sold with the Land.
- (j) **'Purchaser'** means each purchaser described in the Particulars of Sale and if there is more than one means each purchaser jointly and severally
- (k) **'Registrar-General'** means the Registrar-General of the Lands Titles Office of South Australia.
- (l) **'Services'** means all electricity, gas, water, sewer, telecommunications or other services or utilities supplied to the Property.
- (m) **'Settlement'** means settlement of the sale and purchase of the Property.
- (n) **'Tenancy'** means the tenancy, lease or licence to occupy (if any) described as such in the Particulars of Sale.
- (o) **'Vendor'** means the vendor or vendors described as such in the Particulars of Sale.
- (p) **'Vendor's Agent'** means the entity described as such in the Particulars of Sale.
- (q) **'Vendor's Works'** means the works described as such in the Particulars of Sale.

30.2 Governing law

This contract is governed by the laws of South Australia and the parties submit to the exclusive jurisdiction of the courts of South Australia.

30.3 Variations

Any variation to this agreement must be in writing and signed by the parties

30.4 Costs

- (a) The Purchaser must pay any stamp duty assessed on this contract or the sale and purchase of the Property (including any penalties or interest).
- (b) The parties will otherwise bear their own costs of this contract and the sale and purchase of the Property.

Contract for the Sale and Purchase of Land (Residential)



General Conditions

The following special conditions (if any) apply in respect of this contract.

ANNEXURE A

This Residential Contract is subject in all respects to the following Further Terms. For the avoidance of doubt and notwithstanding any other provisions in this Residential Contract or any other annexure to it, the following Further Terms apply to this Residential Contract and the Further Terms prevail to the extent of any inconsistency between the Further Terms and the terms contained in the Contract for Sale and Purchase of Land (Residential):

1. Warranty

The Vendor does not provide any warranties in respect of the Property, and the Purchaser acknowledges that:

- 1.1 The Vendor is not the registered owner of the Property.
- 1.2 The Vendor is not in possession of the Property.
- 1.3 The Vendor is a local government body exercising its power of sale pursuant to section 184 of the *Local Government Act 1999* (SA) for the non-payment of council rates.
- 1.4 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.
- 1.5 The Purchaser expressly acknowledges that the Property may be sold and purchased without the benefit of any inspection whatsoever and the Purchaser takes the risks associated with such purchase. The Vendor has not inspected the Property and gives no warranties or assurances in relation to the state of the Property or any fixtures and fittings upon it.
- 1.6 The Purchaser expressly acknowledges that the Vendor 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 Property.
- 1.7 The Purchaser expressly acknowledges the Vendor as it is not the registered proprietor of the Property, and as such has no knowledge of the registered proprietor's tax residency status. Therefore the Vendor may not be able to provide to the Purchaser a clearance certificate to the prior to settlement pursuant to section 14-220(1) of Schedule 1 of the *Taxation Administration Act 1953* (Cth). If so, the Purchaser is to withhold the amount determined under section 14-200(3)(a) of Schedule 1 of the *Taxation Administration Act 1953* (Cth), and that withholding will constitute

discharge of the Purchaser's obligation to pay the purchase price to the extent of the withholding. The Purchaser shall be responsible for the lodgement of all forms and payment of the withholding amount to the Australian Taxation Office in accordance with the relevant legislation and regulations. The Purchaser is solely responsible for any penalties or interest associated with any late payment to the Australian Taxation Office of the withholding amount.

- 1.8 The Vendor, 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 Vendor nor its agent is aware of or the true boundaries of the Property 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 Vendor gives no warranties or advice in relation to the said Property and the Purchaser relies solely on the Purchaser's own enquiries in relation to:
- 1.8.1 the location of the true boundaries of the Property (regardless of the presence of any fencing, which the Purchaser acknowledges may or may not accurately delineate the boundaries of the Property) the subject of this Residential Contract; and
 - 1.8.2 any encroachments by the Property upon neighbouring property and vice versa; and
 - 1.8.3 the state (including the state of repair), quality, fitness or suitability of the Property for any purpose whatsoever (including in relation to development of the Property); and
- and releases and forever indemnifies the Vendor in relation thereto.
- 1.9 Any notice to be served or thing to be done by the Vendor pursuant to this Residential Contract may be done by its Chief Executive Officer or solicitor.
- 1.10 The Purchaser warrants that:
- 1.10.1 the Purchaser has full power and authority to enter into and perform its obligations under this Residential Contract; and
 - 1.10.2 the Purchaser has taken all necessary action to authorise the execution, delivery and performance of this Residential Contract in accordance with its terms; and
 - 1.10.3 this Residential Contract 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.

- 1.11 The Purchaser further represents, warrants and acknowledges that:
- 1.11.1 the terms and conditions set out in this Residential Contract contain the entire agreement as concluded between the parties as at the date hereof; and
 - 1.11.2 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 Residential Contract by any representations verbal or otherwise made by or on behalf of the Vendor or its agents which is not set out in the body of this Residential Contract; and
 - 1.11.3 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; and
 - 1.11.4 the Purchaser has relied entirely upon its own inquiries relating to an inspection of the property, the improvements and any inclusions or exclusions; and
 - 1.11.5 neither the Vendor nor any one on behalf of the Vendor 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; and

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

- 1.12 The Purchaser is responsible, and at its own risk and cost, for removing any and all impediments that will prevent a transfer of the Property from the Vendor to the Purchaser under this Residential Contract.
- 1.13 The Purchaser acknowledges that it shall be responsible for and shall have no claim against the Vendor 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.
- 1.14 The Purchaser indemnifies the Vendor against all claims, costs, actions, demands and expenses the Vendor 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.
- 1.15 In Items 1.12 and 1.13 above "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.

- 1.16 The Purchaser is required to satisfy any and all outstanding Outgoings in respect of the Property up to and including the date of Settlement;
- 1.17 The Purchaser is responsible for the payment of council rates on the Property accrued on and from the date of Settlement, including any pro rata amount for council rates accrued prior to the date of Settlement but relating to the period on and from Settlement; and
- 1.18 The Purchaser has made an allowance in the Purchase Price for the discharge of any Outgoings in respect of the Property and the removal of any and all impediments to a transfer of the Property to the Purchaser.

2. Power of sale

- 2.1. This Residential Contract shall automatically terminate if the Vendor:
 - 2.1.1. ceases to have the power to sell the Property by virtue of section 184 of the *Local Government Act 1999* (SA) or any other statutory instrument or obligation; or
 - 2.1.2. is unable, for any reason, to pass any resolution or do any act required by the *Local Government Act 1999* (SA) or any other legislation to effect a sale of the Property; or
 - 2.1.3. is otherwise prevented from effecting a transfer of the Property to the Purchaser.
- 2.2. The Vendor shall incur no liability in the event that the Residential Contract is terminated in accordance with Special Condition 2.1 above and the Purchaser releases and forever holds harmless the Vendor from any and all claims for or damage caused by or in any way connected with the Property or this Residential Contract.

3. Deletion of clauses

The following clauses of this Residential Contract shall be deleted and are not applicable:

- 3.1. Clause 2;
- 3.2. Clause 4.1;
- 3.3. Clause 5;
- 3.4. Clause 6;
- 3.5. Clause 14;

- 3.6. Clause 15;
- 3.7. Clause 16;
- 3.8. Clause 17
- 3.9. Clause 18.1(b)

4. Vacant Possession

The Purchaser acknowledges and agrees that:

- 4.1. the Vendor, in undertaking the sale of the Property, is exercising its power to sell the Property for the non-payment of rates pursuant to section 184 of the *Local Government Act 1999* (SA); and
- 4.2. the Vendor is not and will not be in possession of the Property on the date of this Residential Contract, or on the Settlement Date; and
- 4.3. the Vendor will not, and has no ability to enter the Property and/or to ensure that the Purchaser is provided with vacant possession on and from the Settlement Date; and
- 4.4. the Purchaser enters into this Residential Contract on the basis that no vacant possession will be provided by the Vendor, and the Purchaser waives any rights the Purchaser may otherwise have as against the Vendor with respect to such vacant possession; and
- 4.5. subsequent to settlement under this Residential Contract, the Purchaser may be required to commence legal action, including under section 192 of the *Real Property Act 1886* or otherwise, in order to obtain vacant possession of the Property and any such action will be at the Purchaser's own cost in all things; and
- 4.6. any unclaimed goods or chattels remaining on the Property at Settlement / when the Purchaser takes possession of the Property will be the Purchaser's responsibility; and
- 4.7. the cost of securing the Property will be borne solely by the Purchaser.

5. Outgoings

- 5.1. "**Outgoings**" means all rates, levies, community corporation contributions, taxes (including but not limited to Property tax), assessments, charges and all other amounts payable or chargeable to the Property, excluding council rates.
- 5.2. The Purchaser acknowledges and agrees that:
 - 5.2.1. the Purchaser is aware of the Outgoings currently outstanding in

relation to the Property as disclosed in the Form 1; and

- 5.2.2. any funds received by Vendor in respect of the sale of the Property will be applied in accordance with subsection 184(11) of the *Local Government Act 1999* (SA). However, there may be insufficient funds to pay the outstanding Outgoings identified in subsection 184(11), or there may be other Outgoings not specified in subsection 184(11), which the Vendor will not be responsible for discharging on or before Settlement; and
- 5.2.3. the Vendor is not responsible for the payment or discharge of Outgoings on or before Settlement; and
- 5.2.4. any Outgoings not satisfied on or before Settlement will be the liability of the Purchaser; and
- 5.2.5. the Purchaser must make its own enquiries in respect to each Outgoing with the relevant authority.

6. Discharge of Mortgages and Charges

The Purchaser acknowledges and agrees that:

- 6.1. the Property is sold by the Vendor under section 184 of the *Local Government Act 1999* (SA) and (by virtue of section 184(14) of that Act) the title vested in the Purchaser on the Settlement Date will be free of all mortgages and charges and caveats (subject to caveats held by the Crown as outlined in paragraph 7.1. below); and
- 6.2. the Purchaser will be responsible, at its own cost in all things, for any administrative actions required (if any) to effect formal discharge or withdrawal of any mortgages or charges affecting the Property (to the extent that such discharge or withdrawal does not automatically occur); and
- 6.3. for the avoidance of doubt, the term 'charge' as referred to in these Further Terms includes any charge on the Property relating to payment of water rates or water service charges, emergency service levies or any other statutory charges affecting the Property.

7. Caveats

The Purchaser acknowledges and agrees that:

- 7.1. the Property is sold by the Vendor under section 184 of the *Local Government Act 1999* (SA) and (by virtue of section 184(14a) of that Act) the presence of caveats held by an agency or instrumentality of the Crown registered on the Property may prevent title vesting in the Purchaser until otherwise removed; and

- 7.2. the Purchaser will be responsible, at its own cost in all things, for any action required to effect a warning or withdrawal of any and all caveats affecting the Property including the issuing or conduct of legal proceedings (where applicable) with respect to any such caveat; and
- 7.3. the Vendor will not be required to take any action to assist the Purchaser, and the Purchaser shall not so demand, in warning or otherwise withdrawing any caveat on the Property unless required to do so by law or an order of the Court.

8. Indemnities and Warranties

- 8.1. The Purchaser hereby fully releases and indemnifies the Vendor against any claim, action, demand, loss, cost or expense howsoever incurred or suffered by or brought or made or recovered against or imposed upon the Vendor and howsoever arising in relation to:
- 8.1.1. any mortgage, charge, Court order, warrant for sale, caveat or other dealing registered, or capable of being registered, on the Property; and
 - 8.1.2. any Outgoings with respect to the Property; and
 - 8.1.3. the securing of vacant possession of the Property; and
 - 8.1.4. any contamination on the Property, whether such contamination existed prior to or following settlement of the Property under this Residential Contract; and
 - 8.1.5. any of the matters referred to in these Further Terms.
- 8.2. The terms and conditions of these Further Terms survive termination of this Residential Contract.