

**ACT GOVERNMENT ASBESTOS RESPONSE TASKFORCE
CONTRACT FOR GRANT OF CROWN LEASE
PUBLIC AUCTION – POST DEREGISTRATION
SCHEDULE**

| | | | |
|--|---|--|--|
| DATE OF THIS CONTRACT | | 201 | |
| LEASE DETAILS | | | |
| LAND | | Block | Section |
| | | Division/District | |
| As specified in the Deposited Plan, also known as | | | |
| OCCUPANCY | | Vacant Possession | |
| CO-OWNERSHIP | Mark one | <input type="checkbox"/> Tenants in common <i>(Show shares)</i> | <input type="checkbox"/> Joint Tenants |
| SELLER DETAILS | | | |
| TERRITORY | Full Name | AUSTRALIAN CAPITAL TERRITORY , the body politic established by section 7 of the <i>Australian Capital Territory (Self-Government) Act 1988 (Cth)</i> for and on behalf of ACTPLA C/- Environment, Planning and Sustainable Development Directorate GPO Box 158, Canberra City ACT 2601 | |
| | Address | | |
| SELLER'S SOLICITOR | Firm | Meyer Vandenberg Lawyers | |
| | Ref | Christine Murray/Rebecca Rezuk | |
| | Phone | (02) 6279 4499 | |
| | Fax | (02) 6279 4455 | |
| | Address | Level 2, 121 Marcus Clarke Street Canberra City ACT 2601 GPO Box 764, Canberra ACT 2601 | |
| BUYER DETAILS | | | |
| BUYER | Full name | | |
| | ACN | | |
| | Address | | |
| BUYER'S SOLICITOR | Firm | | |
| | Ref | | |
| | Phone | | |
| | Fax | | |
| | Address | | |
| PAYMENT DETAILS | | | |
| PRICE | Price Less Deposit Balance | (The Price is GST inclusive) (10% of Price) | |
| EARLIEST DATE OF EXPIRY OF DEPOSIT BOND OR BANK GUARANTEE | Expiration of bond or bank guarantee must not be earlier than this date | 45 Working Days from the Date for Completion | |
| DATE FOR COMPLETION | | 60 Days from the Date of this Contract | |
| DEMOLITION WORKS TO BE COMPLETED | | As specified in the Schedule of Retained Improvements | |
| RESIDENTIAL WITHHOLDING TAX | Buyer required to make a withholding payment? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| | Subdivision of potential residential land? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| SPECIAL CONDITIONS | Indicate whether any special conditions apply | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| ANNEXURES | | | |
| ANNEXURES | Documents attached to this Contract | Annexure A – Specimen Standard Lease Annexure B – Deposited Plan Annexure C – Schedule of Retained Improvements Annexure D – Title Search and Deregistration Statement Annexure E – Certificate of Completion of Demolition and Building Work Annexure F – Temporary Fencing Notice | |
| READ THIS BEFORE SIGNING | | | |
| Before signing this contract you should ensure that you understand your rights and obligations. You should get advice from your solicitor. | | | |
| Authorised Delegate of the Australian Capital Territory signature: | | Buyer's signature: | |
| Delegate name: | | Buyer name: | |
| Witness signature: | | Buyer signature: | |
| Witness name: | | Buyer name: | |
| | | Witness signature: | |
| | | Witness name: | |

1 GRANT OF THE LEASE

- 1.1 The Seller will procure the grant of the Lease to the Buyer on Completion.
- 1.2 The Lease will be granted substantially upon the terms and conditions of the Specimen Standard Lease.

2 TERMS OF PAYMENT

- 2.1 On Completion the Buyer must pay to the Seller in Canberra the Balance of the Price by unendorsed bank cheque.
- 2.2 On the Date of this Contract, the Buyer must pay the Deposit to the Seller.
- 2.3 The Seller agrees to accept payment of the Deposit in two instalments as follows:
 - (a) 5% of the Price by cheque on the date of this Contract (**First Instalment**); and
 - (b) the remainder of the 10% Deposit (if it has not already been paid) by bank cheque on the Date for Completion (**Second Instalment**), and in every respect time is of the essence of this clause 2.3.
- 2.4 The Deposit and all instalments of the Deposit are released to the Seller (when paid) and become the Seller's property absolutely (being part payment of the Price).
- 2.5 If the Deposit or any instalment of the Deposit is:
 - (a) not paid on time and in accordance with clause 2.3; or
 - (b) paid by cheque and the cheque is not honoured on first presentation, the Buyer is in default and the Seller may terminate this Contract immediately by written notice to the Buyer (without the notice otherwise necessary under clause 22) and clause 23 applies.
- 2.6 If the Seller does not terminate this Contract in accordance with clause 2.5, then this Contract remains on foot, subject to this clause 2.6, until the Seller terminates the Contract pursuant to clause 2.5 or waives the benefit of this clause 2.5 pursuant to clause 2.8.
- 2.7 This clause 2 is for the benefit of the Seller and the obligations imposed on the Buyer by this clause 2 are essential. The obligations imposed on the Buyer by this clause 2 bind the Buyer notwithstanding any indulgence, waiver or extension of time by the Seller to the Buyer.
- 2.8 The Seller may at any time before this Contract is terminated notify the Buyer in writing that the benefit of this clause 2 is waived.
- 2.9 If the Deposit is paid in accordance with clause 2.3, the Seller will no longer have the benefit of this clause. Any money payable to the Seller by the Buyer must be paid to the Seller or as the Seller's Solicitor directs in writing and payment in accordance with that direction will be sufficient discharge to the person paying.
- 2.10 If the Contract is:
 - (a) rescinded; or
 - (b) terminated due to the default of the Seller, and the Buyer is entitled to a refund of the Deposit,

then the Seller will account to the Buyer for the Deposit paid.

- 2.11 The Seller is not liable to pay interest on any refunded Deposit provided that the Deposit is refunded to the Buyer within 15 Working Days of the date the Contract is rescinded or terminated.
- 2.12 The payment of the Deposit by the Buyer to the Seller does not create a charge over the Land to the value of the Deposit.

3 DEPOSIT BOND AND BANK GUARANTEE

- 3.1 The 10% Deposit to be paid pursuant to clause 2.2 may be paid by a Deposit Bond or Bank Guarantee on the Date of this Contract provided that at least 3 Working Days prior to the Date of this Contract the Buyer:
- (a) informs the Seller of their intention to provide a Deposit Bond or Bank Guarantee; and
 - (b) provides the Seller with a copy of the proposed Deposit Bond or Bank Guarantee for approval.
- 3.2 The expiry date for the Deposit Bond or Bank Guarantee must not be earlier than the Earliest Date of Expiry of Deposit Bond or Bank Guarantee specified in the Schedule.
- 3.3 The Deposit Bond or Bank Guarantee must show the Seller as the beneficiary of the Deposit Bond or Bank Guarantee.
- 3.4 The Buyer must pay the amount stipulated in the Deposit Bond or Bank Guarantee to the Seller by unendorsed bank cheque or cash on Completion.
- 3.5 The Buyer is in default if:
- (a) the Deposit Bond or Bank Guarantee has an expiry date prior to the Earliest Date of Expiry of Deposit Bond or Bank Guarantee and is not renewed to the satisfaction of the Seller at least 10 Working Days prior to the expiry of the Deposit Bond or Bank Guarantee; or
 - (b) the provider of the Deposit Bond or Bank Guarantee is placed under external administration of any nature before Completion and the Buyer has not provided a replacement Deposit Bond or Bank Guarantee to the same value and on the same terms and conditions from a solvent party within 5 Working Days of the provider being placed in such administration.
- 3.6 If the Buyer is in default under clause 3.5 it will be deemed to be a failure by the Buyer to pay the Deposit under clause 2 and immediately, and without the notice necessary under clause 22, clause 23 applies.

4 SIGNING OF LEASE

- 4.1 Following the receipt of the Lease, the Buyer must, no later than 10 Working Days from the date the Seller serves the Lease on the Buyer, sign each copy of the Lease and return the signed Leases to the Seller's Solicitor.

5 DEMOLITION AND DEREGISTRATION

- 5.1 The Buyer acknowledges and agrees that at the Date of this Contract:
- (a) the Seller has completed the Demolition Works unless specified in the Schedule (see Annexure C and E); and
 - (b) a Deregistration Statement has been issued and the Land has been removed as an Affected Property from the Registers (see Annexure D).
- 5.2 A Contour and Detail Survey will be provided on Completion.

5.3 In this Contract, "Demolition Works":

(a) include:

- (i) the demolition and removal of the Dwelling and Unapproved Structures except for the Retained Improvements pursuant to Annexures C and E;
- (ii) the removal of all temporary Utility Services, plant, facilities, amenities and protection at the Seller's sole and absolute discretion;
- (iii) the decommission of all Utility Services to the Dwelling;
- (iv) the removal of all rubbish, surplus materials, plant and equipment from the Land caused by the demolition of the Dwelling, to leave the Land in a clean and tidy condition;
- (v) scraping soil from the footprint of the Dwelling as required; and
- (vi) the implementation of sediment control measures, at the Seller's sole and absolute discretion.

(b) do not include:

- (i) the excavation of the Land to fill in the Land or level the Land to Natural Ground Level;
- (ii) at the Seller's sole and absolute discretion, demolition of any improvements outside the footprint of the Dwelling on the Land, subject to clause 6.

5.4 For the avoidance of doubt, if Demolition Works to be Completed are described in the Schedule, those Demolition Works will be completed prior to Completion.

6 RETAINED IMPROVEMENTS

6.1 This clause applies if the Retained Improvements Schedule includes any Retained Improvements.

6.2 The Buyer acknowledges and agrees that:

- (a) the Seller is under no obligation to maintain the Retained Improvements from the Date of this Contract to Completion;
- (b) the Retained Improvements may have been or be damaged, destroyed or otherwise diminish in value by the Demolition Works or otherwise (including, but not limited, to the forces of nature) at the Date of this Contract or any time prior to Completion, and in that event the Seller is under no obligation to repair or replace those Retained Improvements prior to Completion; and
- (c) the Seller is under no obligation and is in no way responsible for any associated items connected to the Retained Improvements, including any key/s, alarm system or alarm system remote devices, or warranty manuals, or any other access device required in respect to the Retained Improvements (collectively the "Accessories"); and
- (d) the Accessories may have been damaged, destroyed or lost and the Seller is under no obligations to repair or replace the Accessories in respect to the Retained Improvements, nor is the Seller responsible for any diminishment in value for the Retained Improvements if the Retained Improvements no longer operate correctly, or are damaged as a result of damaged, destroyed or lost Accessories; and

(e) the value (if any) of the Retained Improvements are included in the Price.

6.3 The Buyer may make no claim, requisition, objection, delay Completion or rescind or terminate this Contract in respect of any matter set out in clause 6.2.

7 CONDITION OF THE LAND FOLLOWING DEMOLITION

7.1 On Completion, the Seller gives no warranties as to the state of repair of any of the Retained Improvements or Unapproved Structures (if applicable) or condition of the Land including the soil classification, except as required by law.

7.2 The Buyer acknowledges and agrees that the Seller makes no warranty or representation as to the environmental condition or state of the soil, ground water, contamination or the existence or non-existence of any Substance on or affecting the Land.

7.3 The Buyer understands and accepts that the existence of the Retained Improvements including any Unapproved Structures, decommissioned Utility Services, footings, regrading, fill, contamination or a soil classification of or upon the Land may result in work for the construction of any building on the Land being more extensive and expensive than it may have been in the absence of such Retained Improvements including any Unapproved Structures, decommissioned Utility Services, footings regrading, fill, contamination or soil classification.

7.4 The Seller will leave the Land clean and tidy on Completion. The Buyer acknowledges and agrees that sediment control measures may be in place on Completion.

7.5 If a swimming pool does not form part of the Retained Improvements and has been or will be removed:

(a) it may not be filled, and will only be filled at the Seller's sole and absolute discretion; and

(b) if filled, the fill will be uncontrolled fill pursuant to Australian Standard AS 2870-2011 ("Uncontrolled Fill").

7.6 The Buyer acknowledges and agrees that the Buyer will make their own enquiries in relation to the bearing capacity of the founding material and appropriate reinforced concrete footing and slab design.

7.7 The Buyer may make no claim, requisition, objection, delay Completion or rescind or terminate this Contract in respect of any matter set out in clause 7.

8 TEMPORARY FENCING

8.1 This clause applies if the Seller has installed temporary fencing on or adjacent to the Land ("Temporary Fencing") prior to Completion.

8.2 Unless otherwise agreed, for the benefit of the Buyer and at the Buyer's own risk, the Buyer permits the Temporary Fencing to remain on or adjacent to the Land following Completion.

8.3 The Buyer acknowledges and agrees that:

(a) the Temporary Fencing is the property of the fencing contractor;

(b) the Seller may release the Buyers contact details (Buyers telephone number or address) to the Fencing Contractor in relation to the temporary fencing on the Land;

(c) title to the Temporary Fencing does not pass to the Buyer on Completion;

(d) the Temporary Fencing on the Land does not form part of the Retained Improvements; and

(e) subject to clause 8.4 below, the Buyer permits the Seller's fencing contractor to enter the Land and remove the Temporary Fencing without notice at the Seller's cost, within 10 Working Days following Completion.

8.4 On or before Completion, the Buyer must notify the Seller whether the Buyer requires the Temporary Fencing to be removed following Completion by issuing a Temporary Fencing Notice in accordance with Annexure F. The Seller will verify the contents of the notice with the fencing contractor.

8.5 If the contents of the Temporary Fencing Notice state that the Temporary Fencing is not to be removed and the details, specified in the Temporary Fencing Notice are not verified with the fencing contractor by the Seller, the Seller may remove the Temporary Fencing at any time.

8.6 The Buyer may make no claim or raise any requisition or objection against the Seller in relation to the Temporary Fencing, including its removal or any arrangements the Buyer makes with the fencing contractor.

9 INDEMNITIES AND RELEASE

9.1 On and from the date of Completion, the Buyer is liable for, releases the Seller, and indemnifies and shall keep the Seller indemnified, from and against all demands, actions, claims, losses, damages, proceedings, liabilities and expenses (collectively Liabilities) whatsoever and however arising from or in respect of the condition of the Land and surrounding areas (including the presence of any Substance or contamination on the Land).

9.2 Nothing in clause 9.1 has the effect of releasing the Seller or the Commonwealth of Australia from liability arising in respect of sickness, physical injury or death from exposure to contaminants on the Land giving rise to such Liability before the Date of this Contract.

10 BUSHFIRE PROTECTION

10.1 The Buyer acknowledges that the Land may be affected by legislation and regulations in connection with bushfire protection and that those requirements are subject to change.

10.2 Part 3.7.4 of the National Construction Code Series Volume 2 2015 "Bushfire Areas" may require buildings to be constructed in accordance with Australian Standard 3959 -2009. The Seller makes no warranty or representation in relation to the standards of construction required on the Land.

10.3 The Buyer may make no claim, requisition, objection, delay Completion or rescind or terminate this Contract in respect of any matter set out in clause 10

11 VARIATION TO LAND AND PLANNING CONDITIONS

11.1 The Buyer acknowledges that the Specimen Lease and any plans in relation to the Land may be affected by:

- (a) the requirements of legislation;
- (b) variations to the Territory Plan;
- (c) the requirements of government authorities; and/or
- (d) physical conditions affecting the Demolition Works (if applicable);

and may result in one or more of the following:

- (e) minor redefinition of the boundaries of the Land;

- (f) minor road re-alignment or dedication; and
 - (g) minor variations of the easements relating to the provision of electricity, gas, water, sewerage and stormwater services.
- 11.2 Any redefinition, road realignment or dedication or variation of easements will be deemed to be minor if it does not materially and detrimentally affect the use of the Land.
- 11.3 The Buyer cannot make a claim or objection or rescind or terminate or make a claim for compensation under clause 21 of this Contract in respect of any matter set out in clause 11.1 and 11.2.
- 11.4 The Buyer acknowledges that the Planning and Land Authority is responsible for all development consents and approvals sought by or on behalf of the Buyer in relation to the Land and the Buyer therefore releases the Seller from any liability, cause of action or any other claim in relation to disturbance, loss or detriment caused by the Planning and Land Authority granting or denying any consent or approval in relation to the Land.
- 11.5 The Buyer acknowledges the obligation to make its own enquiries and satisfy itself as to the currency and accuracy of information contained in the Territory Plan.
- 11.6 The Buyer acknowledges that the Planning and Land Authority is responsible for the Territory Plan and the Buyer will make no claim against the Seller whatsoever in this regard.
- 11.7 The Buyer acknowledges that nothing in this Contract or the fact of Completion implies or means that any required approvals, consents or licences regarding planning, design, siting and any other matters relating to the Buyer's development of the Land will be granted by the regulatory authorities or other agencies of the Australian Capital Territory with or without conditions.

12 ENTIRE AGREEMENT

The Buyer agrees that this Contract sets out the entire agreement of the parties on the subject matter of this Contract and supersedes any prior agreement, advice, material supplied to the Buyer or understanding on anything connected with the subject matter of this Contract.

13 BUYER RELIES ON OWN ENQUIRIES

- 13.1 The Buyer acknowledges and agrees that it relies on its own enquiries in relation to the Land and warrants that in entering into this Contract the Buyer:
- (a) has not relied on any express or implied statement, warranty or representation whether oral, written or otherwise made by or on behalf of the Seller to the Buyer in connection with the Land;
 - (b) has not relied on any documentation made available by or on behalf of the Seller to the Buyer in relation to the Land other than documentation annexed to this Contract;
 - (c) has made its own enquiries as to any Unapproved Structures, Demolition Works to be Completed, or whether the Land is subject to any heritage guidelines; and
 - (d) is satisfied as to the nature, quality and condition of the Land and the purposes for which the Land may be used.
- 13.2 The Buyer is not entitled to make any requisitions on the title to the Property.
- 13.3 The Buyer cannot make a claim or objection or rescind or terminate or make a claim under clause 21 of this Contract in respect of:

- (a) any encroachment by or upon the Land;
- (b) any Retained Improvement, decommissioned Utility Services or footings;
- (c) a Utility Service for the Property being a joint service or passing through another property, or any Service for another property passing through the Property;
- (d) a wall being or not being a party wall or the Property being affected by an easement for support or not having the benefit of an easement for support;
- (e) any Breach of Covenant;
- (f) the location of any dividing fence;
- (g) the demolition, damage or diminishment of value in, a Retained Improvement;
- (h) the environmental condition or state of the soil, ground water, contamination or the existence of any substance on or affecting the Land;
- (i) the contours of the Land or the existence of regrading or fill;
- (j) any sediment control measures implemented by the Seller;
- (k) any Utility Service ties to the Land;
- (l) the existence of regrading, fill or contamination of or upon the Land, whether caused by the Commonwealth of Australia, the Seller, previous occupants of the Land or otherwise;
- (m) any soil classification in relation to the Land;
- (n) any heritage requirements affecting the Land or any development on the Land;
- (o) the presence of any Substance or contamination on the Land;
- (p) a promise, representation or statement about this Contract, the Property or the Lease, not made in this Contract;
- (q) an Unapproved Structure (as applicable); or
- (r) anything disclosed in this Contract.

14 SELLER WARRANTIES

14.1 The Seller warrants that at the Date of this Contract the Seller:

- (a) will be able to complete at Completion;
- (b) has no knowledge of any unsatisfied judgment, order or writ issued by a court or tribunal affecting the Land; and
- (c) has no knowledge of any current or threatened claims, notices or proceedings that may lead to a judgment, order or writ issued by a court or tribunal affecting the Land.

14.2 The Seller warrants that on Completion:

- (a) the Seller will have the capacity to complete;

- (b) there will be no unsatisfied judgment, order or writ issued by a court or tribunal affecting the Land; and
- (c) the Seller has no knowledge of any current or threatened claims, notices or proceedings that may lead to a judgment, order or writ issued by a court or tribunal affecting the Land.

15 CO-OWNERSHIP

Where the Buyer consists of more than one person, as between themselves, they agree to buy the Land in the specified manner of Co-ownership or if one alternative is not marked, as joint tenants.

16 NON MERGER

If any term of this Contract may be given effect to after Completion that term will not merge but will continue in force for as long as necessary to give effect to it.

17 ADJUSTMENTS

As the Lease will be granted on Completion, there will be no adjustments of Income or Land Charges.

18 TERMS OF POSSESSION

The Seller must give the Buyer vacant possession of the Land on Completion.

19 INSPECTION OF PROPERTY

The Buyer may on reasonable notice to the Seller inspect the Property during the period between the date 10 Working Days prior to the Date for Completion and the Date for Completion.

20 ERRORS AND MISDESCRIPTIONS

20.1 The Buyer will be entitled to compensation on Completion (and the Price will be reduced accordingly) for an error of any kind or misdescription if the Buyer makes a claim for compensation before Completion.

20.2 This clause applies even if the Buyer did not take notice of or rely on anything in this Contract containing or giving rise to the error or misdescription.

20.3 The Buyer is not entitled to compensation to the extent the Buyer knew the true position before the Date of this Contract.

21 COMPENSATION CLAIMS BY BUYER

21.1 This clause 21 applies to claims for compensation arising out of this Contract made by the Buyer against the Seller including claims under clause 20.

21.2 To make a claim for compensation (including a claim under clause 20) the Buyer must give notice to the Seller before Completion specifying the amount claimed and;

- (a) the Seller can rescind if in the case of a claim that is not a claim for delay:
 - (i) the total amount claimed exceeds 5% of the Price;
 - (ii) the Seller gives notice to the Buyer of an intention to rescind; and
 - (iii) the Buyer does not give notice to the Seller waiving the claim within 10 Working Days after receiving the notice;

- (b) if the Seller does not rescind under clause 21.2(a), the parties must complete and:
 - (i) the claim must be finalised (subject to clause 21.2(b)(ii)) either by agreement or, failing agreement, by an arbitrator appointed by the parties or, if an appointment is not made within 20 Working Days of Completion, by an arbitrator appointed by the President of the Law Society of the Australian Capital Territory at the request of a party;
 - (ii) the decision of the arbitrator is final and binding save for:
 - A. manifest error by the arbitrator obvious on its face in the final determination by the arbitrator;
 - B. error in the application of law by the arbitrator in making his or her determination; or
 - C. improper or unlawful conduct by the arbitrator or either party that affected or might reasonably be thought to affect the arbitrator's determination;
 - (iii) the costs of the arbitration must be shared equally by the parties unless otherwise determined by the arbitrator;
 - (iv) the Buyer is not entitled, in respect of the claim, to more than the total amount claimed and the costs of the Buyer; and
 - (v) the claim lapses if the parties do not appoint an arbitrator and neither party asks the President of the Law Society of the Australian Capital Territory to appoint an arbitrator within 90 days after Completion.

22 NOTICE TO COMPLETE AND DEFAULT NOTICE

- 22.1 If Completion does not take place by the Date for Completion, either party may, at any time after the Date for Completion, serve the other party a Notice to Complete.
- 22.2 A Notice to Complete must appoint a time during business hours and a date being not less than 10 Working Days after service of the Notice to Complete (excluding the date of service) by which and a place in Canberra at which to complete this Contract.
- 22.3 At the time the Notice to Complete is served the party serving the Notice to Complete must:
- (a) not be in default; and
 - (b) be ready, willing and able to complete but for some default or omission of the other party.
- 22.4 Completion at the time, date and place specified in the Notice to Complete is an essential term.
- 22.5 Where one party is in default (other than failing to complete) the other party may at any time after the default serve the party in default a Default Notice.
- 22.6 A Default Notice must:
- (a) specify the default; and
 - (b) require the party served with the Default Notice to rectify the default within 10 Working Days after service of the Default Notice (excluding the date of service).
- 22.7 At the time the Default Notice is served, the party serving the Default Notice must not be in default.

- 22.8 The time specified in a Default Notice to rectify the specified default is an essential term.
- 22.9 Clauses 23 or 23.2 will apply as appropriate where the party served does not comply with the Notice to Complete or the Default Notice which complies with this clause.
- 22.10 If the party serving a notice under this clause varies the time referred to in the notice at the request of the other party:
- (a) the time agreed to in the variation remains an essential term; and
 - (b) consent to the variation must be in writing and be served on the other party.
- 22.11 The parties agree that the time referred to in clauses 22.2 and 22.6(b) is fair and reasonable.

23 TERMINATION – BUYER DEFAULT

- 23.1 If the Buyer does not comply with a Notice to Complete or a Default Notice or is otherwise in breach of an essential term then the Seller may by notice served on the Buyer terminate and may then keep, or recover and keep, the Deposit (except so much of it as exceeds 10% of the Price) and either:
- (a) sue the Buyer for breach; or
 - (b) re-sell the Land and any deficiency arising on the resale and all expenses of and incidental to the resale or attempted resale and the Buyer's default are recoverable by the Seller from the Buyer as liquidated damages provided the Seller has entered into a contract for the resale of the Land within 12 months of termination.
- 23.2 In addition to any money kept or recovered under clause 23.1, the Seller may retain on termination any other money paid by the Buyer as security for any damages awarded to the Seller arising from the Buyer's default provided that proceedings for the recovery of damages are commenced within 12 months of termination.

24 TERMINATION – SELLER DEFAULT

If the Seller does not comply with a Notice to Complete or a Default Notice or is otherwise in breach of an essential term the Buyer may by notice served on the Seller either:

- (a) terminate and seek damages; or
- (b) enforce without further notice any other rights and remedies available to the Buyer.

25 RESCISSION

If this Contract is rescinded, it is rescinded from the beginning, and unless the parties otherwise agree:

- (a) the Deposit and all other money paid by the Buyer must be refunded to the Buyer immediately without any further authority being necessary; and
- (b) neither party is liable to pay the other any amount for damages, costs or expenses.

26 DAMAGES FOR DELAY IN COMPLETION

26.1 If Completion does not occur by the Date for Completion, due to the default of the Buyer, then the Buyer must pay the Seller as liquidated damages on Completion:

- (a) interest on the Price at the rate of 10% per annum calculated on a daily basis from the Date for Completion to Completion; and

- (b) the amount of \$550.00 (GST inclusive) to be applied towards any legal costs and disbursements incurred by the Seller if Completion occurs later than 5 Working Days after the Date for Completion.

26.2 The Buyer agrees that:

- (a) the amount of any damages payable under clause 26.1 to the Seller is a genuine and honest pre-estimate of loss to that party for the delay in Completion; and
- (b) the damages must be paid on Completion.

27 FOREIGN BUYER

27.1 The Buyer warrants the Commonwealth Treasurer cannot prohibit and has not prohibited the transfer of the Lease under the *Foreign Acquisitions and Takeovers Act 1975* (Cth).

27.2 This clause is an essential term.

28 GST

28.1 The Buyer and Seller agree that the Margin Scheme applies to the supply of the Lease for the Land.

28.2 The Seller warrants that it can use the Margin Scheme and promises that it will.

29 POWER OF ATTORNEY

Any party who signs this Contract or any document in connection with it under a power of attorney must, on request and without cost, provide the other party with a true copy of the registered power of attorney.

30 NOTICES, CLAIMS AND AUTHORITIES

30.1 Notices, claims and authorities required or authorised by this Contract must be in writing.

30.2 To serve a notice a party must:

- (a) leave it at; or
- (b) send it by a method of post requiring acknowledgement of receipt by the addressee to, the address of the person to be served as stated in the Schedule or as notified by that person to the other as that person's address for service under this Contract; or
- (c) serve it on that party's solicitor in any of the above ways; or
- (d) by delivering it to an appropriate place in the facilities of a document exchange system in which the recipient solicitor has receiving facilities (and in the latter case service is deemed effected on the Working Day following delivery); or
- (e) send it by facsimile to a party's solicitor, unless it is not received a notice is taken to have been received at the time shown in the transmission report that the whole facsimile was sent.

30.3 A party's solicitor may give a notice, claim or authority on behalf of that party.

30.4 If a notice is served in accordance with clause 30.2(a), the notice is taken to have been received on the day that it is delivered or, if not delivered before 5:00pm on a Working Day, on the next Working Day.

- 30.5 If a notice is served in accordance with clause 30.2(b), the notice is taken to have been received on the day 2 Working Days after it was posted.
- 30.6 In addition to the means stipulated in clause 30.2, the Seller may serve a notice by electronic mail to the Buyer's or the Buyer's Solicitor's email address (whether the Buyer's Solicitor's firm generally or specifically to the practitioner specified in the Schedule) as notified by the Buyer or the Buyer's Solicitor from time to time.
- 30.7 If a notice is served in accordance with clause 30.6, the notice is taken to have been received on the day shown in the delivery receipt produced by the electronic mail system used to send the message or if not sent before 5:00pm on a Working Day, on the next Working Day.

31 COUNTERPARTS

This Contract may be executed in any number of counterparts. Each counterpart is an original but the counterparts together are one and the same.

32 NO TRUST

The Buyer confirms that, other than as disclosed in the description of the Buyer on the front page of this Contract, it is not acting as a trustee of any trust.

33 SERVICE PROVIDERS

- 33.1 Buyers are reminded that the Seller is not a Utility Service provider and the "Demolition Works" in the Contract for Sale do not include actual connections to services, substations or transformers that may be required for such connections.
- 33.2 The Buyer will be responsible for contacting all relevant service providers for Utility Services as soon as practicable to arrange servicing of the Land by those service providers to avoid delays to their construction caused as a consequence of being unable, for example, to access water or power.

34 ACCESS TO THE LAND

- 34.1 This clause applies only if the Seller has agreed to give the Buyer access to the Land before Completion.
- 34.2 The Buyer must not before Completion make any change or structural alterations or additions to the Land
- 34.3 The Buyer must accept risk as to public liability insurance in respect to all persons, agents and contractors including surveyors and soil classification geotechnical consultants, entering the Land arising out of the Buyer's access to the Land prior to Completion.
- 34.4 The Buyer indemnifies and releases the Seller from and against all demands, actions, claims, losses, damages, proceedings, liabilities and expenses (collectively Liabilities) whatsoever and however arising from or in connection with the access to the Land prior to Completion of persons, agents and contractors including surveyors and soil classification geotechnical consultants

35 DEFINITIONS

Definitions appear in the Schedule and as follows:

Affected Property means a property noted as a property affected by the loose-fill asbestos insulation scheme on the Registers;

ATO means the Australian Taxation Office, and includes the Commissioner for Taxation;

Bank Guarantee means a bank guarantee issued by a bank operating in Australia in a form satisfactory to the Seller;

Breach of Covenant means:

- (a) a Development not approved under the Planning Act including a development for which design and siting approval has not been obtained; or
- (b) an Unapproved Structure;

CGT Asset has the meaning in the *Income Tax Assessment Act 1997 (Cth)*;

Clearance Certificate means a certificate issued under section 14-220 of the Withholding Law that covers the date of Completion.

Completion means the time at which this Contract is completed;

Contour and Detail Survey means a survey identifying the Natural Ground Level of the Land, Retained Improvements and easements;

Contract means the Schedule, terms and conditions and any annexure, additional clauses and attachments forming part of this Contract;

Default Notice means a notice in accordance with clauses 22.5 and 22.6;

Demolition Works has the meaning specified in clause 5;

Deposit Bond means a deposit insurance bond issued to the Seller at the request of the Buyer in a form satisfactory to the Seller;

Deregistration Statement means a statement issued by the Seller's delegate requiring the removal of the Land as an Affected Property from the Registers, following receipt of:

- (a) all asbestos removal clearance certificates prepared by a licensed asbestos assessor (one of which must be a post demolition asbestos removal clearance certificate)
- (b) a site soil validation report prepared either by a licensed asbestos assessor or by a contaminated sites auditor; and
- (c) a Certificate of Completion (of Demolition) issued by the Construction Occupations Registrar.

Development has the meaning in the Planning Act;

Dwelling means the dwelling and any other buildings, structures and fixtures erected on and forming part of the Land prior to the Demolition Works affected by loose fill asbestos;

Encumbrance includes an unregistered or statutory encumbrance, but does not include an encumbrance that is to be released or discharged on or before Completion;

GST has the meaning ascribed to it under the GST Law and, where appropriate, includes voluntary and Notional GST. Expressions used in this Contract of Sale which are defined in the GST Law have the same meaning as given to them in the GST Law;

GST Law means the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;

Income means the rents and profits derived from the Land;

Land Charges means rates, land rent, land tax and other taxes and outgoings of a periodic nature in respect of the Land;

Lease means a Standard Lease which may, where the Land is affected by an easement identified in the Deposited Plan, include an annexure or additional provisions detailing the terms of the easement;

Natural Ground Level has the meaning specified in the Territory Plan;

Notice to Complete means a notice in accordance with clauses 22.1 and 22.2 requiring a party to complete;

Notional GST means, where the supplier is the Commonwealth and an obligation exists to make voluntary or notional GST payments under section 177-1 of the GST Law, those voluntary or notional payments are made by or on behalf of the Commonwealth. For the avoidance of doubt Notional GST amounts will be calculated as if the GST Law applies to the relevant supplies;

Planning Act means the *Planning and Development Act 2007* (ACT);

Planning and Land Authority means the body corporate established in accordance with the Planning Act;

Property means the term of the Lease and the improvements;

Registers means:

- (a) the Affected Residential Premises Register established and administered by the Asbestos Response Taskforce of the Chief Minister, Treasury and Economic Development Directorate pursuant to the *Dangerous Substances Act 2004* (ACT);
- (b) the land titles register administered by the ACT Land Titles Office of the Office of Regulatory Services pursuant to the *Land Titles Act 1925* (ACT); and
- (c) Building File and Planning and Land Management database administered by the ACT Planning and Land Authority of the Environment and Planning Directorate.

Relevant Percentage means the percentage amount stated in section 14-200(3)(a) and 14-205(4)(a) of the Withholding Law;

Relevant Price means the higher of:

- (a) the Price (including GST); and
- (b) the market value of the CGT Assets sold under this Contract,

as at the Date of this Contract;

Retained Improvement means the improvements to be retained as specified in the Schedule of Retained Improvements (including all plants, shrubs and other vegetation) attached at Annexure C, as inspected;

Schedule means the schedule being the front page to this Contract;

Specimen Standard Lease means the draft crown lease annexed to this Contract at Annexure A;

Standard Lease means a crown lease that will be granted in accordance with the Planning Act in a form similar to the Specimen Standard Lease;

Substance means any substance or thing which is or may be an emission to the environment or harmful to the environment or the health or safety of any person or may cause damage to property and includes:

asbestos, polychlorinated biphenyls, heavy metals, chemicals, contaminants and any other matter whether in solid, liquid or gaseous form, or whether naturally occurring or man-made;

Territory Plan means the *Territory Plan 2008 (ACT)* as amended and varied from time to time;

Unapproved Structure has the meaning in the *Civil Law (Sale of Residential Property) Act 2003 (ACT)*;

Utility Service includes drainage, electricity, garbage collection, gas, sewerage, telecommunications or water;

Variation Certificate means a certificate issued under section 14-235 of the Withholding Law that covers the date of Completion;

Withholding Amount means, subject to clause 37.5, the Relevant Percentage of the first element of the CGT Asset's cost base (for all CGT Assets sold under this Contract) as at the Date of this Contract;

Withholding Law means Subdivision 14-D of Schedule 1 of the *Taxation Administration Act 1953 (Cth)* and associated provisions; and

Working Days has the meaning given to it by the *Legislation Act 2001 (ACT)*.

36 INTERPRETATION

36.1 In this Contract:

- (a) a reference to the Seller or to the Buyer includes the executors, administrators and permitted assigns of any of them, if an individual, and the successors or permitted assigns of any of them, if a corporation;
- (b) the singular includes the plural, and the plural includes the singular;
- (c) a reference to a person includes a body corporate;
- (d) a term not otherwise defined has the meaning in the *Legislation Act 2001 (ACT)*; and
- (e) a reference to an Act includes a reference to any subordinate legislation made under it or any Act which replaces it.

36.2 Headings are inserted for convenience only and are not part of this Contract.

36.3 If the time for something to be done or to happen is not a Working Day, the time is extended to the next Working Day, except in the case of clause 2.

36.4 If there is more than one buyer or more than one seller the obligations which they undertake bind them jointly and individually.

37 FOREIGN RESIDENT WITHHOLDING TAX

- 37.1 If the Relevant Price is less than the dollar amount stated in section 14-215(1)(a) of the Withholding Law as at the Date of this Contract, the parties acknowledge that there are no obligations under the Withholding Law.
- 37.2 If a Clearance Certificate for the Seller is attached to this Contract or provided to the Buyer prior to Completion, the parties acknowledge that there are no obligations under the Withholding Law.
- 37.3 If neither clauses 37.1 or 37.2 apply, then:
- (a) the Seller must provide to the Buyer any information required to enable the Buyer to comply with clause 37.3(b)(i), within 5 days of written request from the Buyer;
 - (b) the Buyer must:
 - (i) lodge a purchaser payment notification form with the ATO; and
 - (ii) give evidence of compliance with clause 37.3(b)(i) to the Seller,no later than 5 days before the Date for Completion;
 - (c) the Seller irrevocably instructs the Buyer to draw as part of the Price, and the Buyer must draw and retain on Completion, an unendorsed bank cheque payable to the ATO for the Withholding Amount; and
 - (d) the parties must both, on the date of Completion, attend the offices of an authorised collection agent of the ATO to deposit the bank cheque referred to in clause 37.3(c) in payment of the Withholding Amount following Completion.
- 37.4 If clause 37.3 applies and the parties do not comply with clause 37.3(d):
- (a) the Buyer indemnifies the Seller for any loss or damage resulting from the Buyer's delay in remitting and/or failure to remit the Withholding Amount to the ATO; and
 - (b) the Buyer charges the Land (for the benefit of the Seller) with the Buyer's obligations under this clause 37.4.
- 37.5 Where the Seller gives the Buyer a Variation Certificate prior to Completion, the Withholding Amount is the amount stated in the Variation Certificate.
- 37.6 Where a Clearance Certificate is provided by the Seller to the Buyer, the Seller warrants to the Buyer that the Seller is the entity referred to in the Clearance Certificate and is the relevant taxpayer for capital gains tax payable on the sale of the CGT Assets sold under this Contract.

38 RESIDENTIAL WITHHOLDING TAX

Warning: The following clauses 38.1 to 38.14 are subject to the Withholding Law, and do not encompass all obligations under the Withholding Law.

- 38.1 Despite any other provision of this Contract to the contrary, in this clause 38 the following words have the following meanings:

ATO means the Australian Taxation Office, and includes the Commissioner for Taxation;

RW Amount means the amount which must be paid under section 14-250 of the Withholding Law;

RW Amount Information means the information set out in the table entitled "RW Amount (Residential Withholding Payment) — Further Details" set out in this Contract; and as provided or updated under this Contract;

RW Percentage means the percentage amount stated in section 14-250(6), (8) and (9) of the Withholding Law, as applicable to the supply of the Land from the Seller to the Buyer; and

Withholding Law means Subdivision 14 of Schedule 1 of the *Taxation Administration Act 1953* (Cth) and associated provisions.

- 38.2 The Seller must provide the Buyer with the RW Amount Information no later than 28 days prior to the Date for Completion.
- 38.3 If the 'Buyer required to make a withholding payment?' option on the Schedule is selected 'no' or if no selection is made, the Seller warrants to the Buyer that the Buyer is not required to make a payment under section 14-250 in relation to the supply of the Land from the Seller to the Buyer.
- 38.4 The following clauses 38.5 to 38.14 inclusive only apply if the 'Buyer required to make a withholding payment?' option on the Schedule is selected 'yes'.
- 38.5 Subject to any adjustments to the Price or non-monetary consideration that may arise after the date that the RW Amount Information is provided in accordance with clause 38.2 and which affect the RW Amount, the Seller warrants to the Buyer on the date that the RW Amount Information is provided to the Buyer that the Seller has provided the Buyer with the information required under section 14-255 of the Withholding Law in relation to the supply of the Land from the Seller to the Buyer, and that this information is true and correct to the Seller's knowledge.
- 38.6 The Buyer must provide the Seller with a copy of the 'GST property settlement withholding notification online form' confirmation email (or emails, if applicable) issued to the Buyer by the ATO at least 10 Working Days prior to the Date for Completion.
- 38.7 The Buyer must provide the Seller with evidence of submission by the Buyer to the ATO of the 'GST property settlement date confirmation online form', with such evidence to be provided prior to or on Completion.
- 38.8 The Seller irrevocably instructs the Buyer to draw as part of the Price, and the Buyer must draw and give to the Seller on Completion, an unendorsed bank cheque payable to the ATO for the RW Amount.
- 38.9 The Seller must forward the unendorsed bank cheque provided under clause 38.8 to the ATO within 5 Working Days following Completion and provide the Buyer with evidence of payment of the RW Amount to the ATO.
- 38.10 The Buyer and Seller must comply with all ATO requirements in relation to the Withholding Law and must also assist and co-operate with each other in order to ensure that those requirements are met. If necessary to give effect to this clause, the Buyer appoints the Seller as its agent of the purpose of completing any notification required to be given by the Buyer to the ATO.
- 38.11 The Seller may provide the Buyer with updated RW Amount Information at any time, and (if necessary) on more than one occasion, prior to Completion. If the Seller provides the Buyer with updated RW Amount Information in accordance with this clause, the Buyer must, within 3 Working Days of receipt of the RW Amount Information, provide the Seller with a copy of the 'GST property settlement withholding notification online form' confirmation email (or emails, if applicable) issued to the Buyer by the ATO including the updated RW Amount Information.
- 38.12 The Seller indemnifies the Buyer against the amount of any penalties or interest charges imposed by the ATO on the Buyer (or the relevant recipient of the supply) arising from any failure by the Seller to forward the unendorsed bank cheque required by clause 38.8 to the ATO.

Potential Residential Land

38.13 If the 'Subdivision of potential residential land?' option on the Schedule is selected 'yes' and the Buyer (or the relevant recipient for GST purposes) is:

- (a) registered for GST purposes; and
- (b) acquiring the Land for a creditable purpose;

the Buyer must provide the Seller with a statement to that effect on the earlier of:

- (c) 10 Working Days before the Date for Completion; or
- (d) 20 Working Days after the Date of this Contract.

38.14 Where the Buyer has provided the statement referred to in clause 38.13 the Buyer indemnifies the Seller against the amount of any penalties or interest charges imposed by the ATO on the Seller (or the relevant entity making the supply of the Land).

RW Amount

(Residential Withholding Payment) — Further Details

The supplier will frequently be the Seller. However, sometimes further information will be required as to which entity is liable for GST (eg if the Buyer is part of a GST group, where the GST representative has the GST liability). If more than one supplier, provide details for each supplier.

| | | | | |
|------------------------------------|---|---|-------|---|
| Supplier | Name | Environment, Planning and Sustainable Development Directorate | | |
| | ABN | 31 432 729 493 | Phone | 02 6207 5111 |
| | Business address | Level 2, 221 London Circuit, Canberra ACT 2601 | | |
| | Email | ARTFinanceTeam@act.gov.au | | |
| Residential Withholding Tax | Supplier's portion of the RW Amount: | | | \$ |
| | RW Percentage: | | | 7% |
| | RW Amount (ie the amount that the Buyer is required to pay to the ATO): | | | \$ |
| | Is any of the consideration not expressed as an amount in money? | | | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| | If 'Yes', the GST inclusive market value of the non-monetary consideration: | | | \$ |
| | Other details (including those required by regulation or the ATO forms): | | | |

ANNEXURE A – SPECIMEN STANDARD LEASE

SAMPLE

ANNEXURE B – DEPOSITED PLAN

SAMPLE

ANNEXURE C – SCHEDULE OF RETAINED IMPROVEMENTS

SAMPLE

ANNEXURE D – TITLE SEARCH AND DEREGISTRATION STATEMENT

SAMPLE

ANNEXURE E - CERTIFICATE OF COMPLETION OF DEMOLITION AND BUILDING WORK

SAMPLE

ANNEXURE F – TEMPORARY FENCING NOTICE

SAMPLE

TEMPORARY FENCING NOTICE

| Buyer Name(s) | Block | Section | Suburb | Known as (Address) | Temporary Fencing removed? (yes/no) |
|---------------|-------|---------|--------|--------------------|-------------------------------------|
| | | | | | |
| | | | | | |

THE ABOVE BUYER(S) GIVE NOTICE THAT:

1. The following fencing contractor has erected Temporary Fencing on the Land specified above as defined in the Contract for Sale between me/us and the Australian Capital Territory (“Contract”).
2. The Seller may release the Buyers contact details (Buyers telephone number or address) to the Fencing Contractor in relation to the temporary fencing on the Land.
3. The Temporary Fencing on the Land is to be removed in accordance with this notice.
4. If I/we indicated “yes” the Temporary Fencing is to be removed, I/we understand and agree that the Temporary Fencing will be removed within approximately 10 Working Days following Completion of the Contract for Sale.
5. If I/we indicated “no” the Temporary Fencing is not to be removed:
 - a. I/we confirm that the fencing contractor is:.....
 - b. I/we have contracted with the fencing contractor for the Temporary Fencing to remain on the Land following the expiration or termination of the Australian Capital Territory’s Contract with the fencing contract on[insert date];
 - c. I/we understand the terms of the Contract in relation to the Temporary Fencing including that the Temporary Fencing remains on or adjacent to the Land following Completion at my/our own risk notwithstanding paragraph 4(b) above;
 - d. I/we understand that if the contents of this notice are not able to be verified by the fencing contractor, the Seller will remove the Temporary Fencing in accordance with the Contract.

| | |
|-----------------------|-----------------------|
| Date: | |
| Buyer signature: | Buyer signature: |
| Buyer name: | Buyer name: |
| Signature of Witness: | Full name of Witness: |