

**SUBURBAN LAND AGENCY
FIRST GRANT CONTRACT – LAND READY
SCHEDULE**



ACT
Government

Suburban Land
Agency

DATE OF THIS CONTRACT				
LEASE DETAILS				
LAND		Block	Section	Division/District
		See Land Schedule		Whitlam
OCCUPANCY		Vacant Possession		
CO-OWNERSHIP	Mark one <i>See clause 13</i>	<input type="checkbox"/> Tenants in common (<i>Show shares</i>)		<input type="checkbox"/> Joint Tenants
SELLER DETAILS				
SELLER	Full name	Suburban Land Agency		
	ACN/ABN Address	27 105 505 367 480 Northbourne Avenue, Dickson ACT 2602		
SELLER'S SOLICITOR	Firm	MV Law		
	Ref	Christine Murray/Rebecca Rezuk		
	Phone	02 6279 4499		
	Fax	02 6279 4455		
	Address	GPO Box 764 Canberra City ACT 2601 DX 5647 Canberra		
	Email	sla@mvlaw.com.au		
BUYER DETAILS				
BUYER	Full Name			
	ACN/ABN Address			
BUYER'S SOLICITOR	Firm			
	Ref			
	Phone			
	Fax			
	DX/Address			
	Email			
PAYMENT DETAILS				
RESIDENTIAL WITHOLDING TAX	<i>See clause 39</i>	New Residential Premises?	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes
		Potential Residential Premises?	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes
		RW Amount required to be paid?	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes
PRICE	Price Less Deposit Balance	(The Price is GST inclusive) (5% of Price)		
EARLIEST DATE OF EXPIRY OF DEPOSIT BOND OR BANK GUARANTEE	<i>See clause 3.2</i>	60 days after the Date for Completion		
DATE FOR COMPLETION	<i>See clause 4</i>	On or before 42 days after the Date of this Contract		

ANNEXURES

STANDARD ANNEXURES	Documents annexed to this Contract	Annexure A – Whitlam Housing Development Guidelines Annexure B – Specimen Crown Lease Annexure C – Clearance Certificate Annexure D – Deposited Plan Annexure E – Site Classification Certificates
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SPECIAL CONDITIONS	Indicate whether any special conditions apply	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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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 Suburban Land Agency signature:		Buyer signature:	
Delegate name:		Buyer name:	
Witness signature:		Buyer signature:	
Witness name:		Buyer name:	
		Witness signature:	
		Witness name:	

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	Suburban Land Agency		
	ABN	27 105 505 367	Phone	(02) 6205 0600
	Business address	480 Northbourne Avenue, Dickson ACT 2602		
	Email	suburbanlandaccounts@act.gov.au		
Residential Withholding Tax	Supplier's portion of the RW Amount:	100%		
	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):			

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LAND SCHEDULE

LOT			
BLOCK	SECTION	DIVISION	BLOCK PRICE
		Whitlam	\$
		Whitlam	\$
		Whitlam	\$
		Whitlam	\$
		TOTAL	\$

1 GRANT OF THE LEASES

- 1.1 The Seller, as delegate of the Planning and Land Authority and on behalf of the Commonwealth of Australia will grant, or will procure the grant of, the Leases to the Buyer on Completion.
- 1.2 The Leases will be granted substantially upon the terms and conditions of the Specimen Crown Lease.
- 1.3 An individual Lease for each Block listed in the Land Schedule will be granted on Completion.

2 TERMS OF PAYMENT

- 2.1 On the Date of this Contract, the Buyer must pay the Deposit to the Seller by electronic funds transfer or deposit bond or bank guarantee.
- 2.2 Subject to clause 2.6 the Deposit is released to the Seller and must be applied to the Price on Completion.
- 2.3 If the Deposit is:
- (a) not paid on time; 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 24) and clause 25 applies.
- 2.4 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.
- 2.5 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.
- 2.6 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 must refund the Deposit, or part thereof, within 15 Working Days.

- 2.7 The Seller is not liable to pay interest on any refunded Deposit provided that the Deposit is refunded to the Buyer in accordance with clause 2.6.
- 2.8 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 or any other amount.
- 2.9 On Completion the Buyer must pay to the Seller in Canberra the Balance of the Price, together with any other money payable under this Contract, by unendorsed bank cheque.

3 DEPOSIT BOND AND BANK GUARANTEE

- 3.1 The Deposit to be paid pursuant to clause 2.1 may be accepted by way of a Deposit Bond or Bank Guarantee with a value equivalent to 5% of the Price provided that at least 5 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,
- and the Seller approves the proposed Deposit Bond or Bank Guarantee.
- 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 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 24, clause 25 applies.

4 DATE FOR COMPLETION

4.1 Completion must take place in Canberra on the Date for Completion or as otherwise determined by the Contract and if not specified or determined, within a reasonable time.

4.2 For the avoidance of any doubt, the Seller shall not be liable to the Buyer for any damage or loss caused to the Land after Completion, including building waste, save where caused by the negligent or deliberate action or omission of the Seller, its employees, agents or contractors.

5 SIGNING OF LEASES

5.1 The Buyer must, no later than 20 Working Days from the date the Seller serves the Leases on the Buyer:

- (a) sign each copy of the Leases; and
- (b) return to the Seller's Solicitor the signed original Leases in duplicate.

5.2 The Buyer undertakes to register the Leases following Completion.

6 WHITLAM HOUSING DEVELOPMENT GUIDELINES

6.1 The Whitlam Housing Development Guidelines are annexed to this Contract for information only. If there is any variation to the Whitlam Housing Development Guidelines prior to Completion, the Seller may, but is not required to, notify the Buyer and provide:

- (a) a copy of the final form of the amended document; or
- (b) the variations,

to the Buyer prior to Completion.

6.2 The Buyer cannot make a claim or objection or rescind or terminate or make a claim for compensation under clause 23 of this Contract in respect of any matter set out in the Whitlam Housing Development Guidelines.

- 6.3 The Buyer acknowledges that the Land is ready and available for inspection.
- 6.4 The Buyers enters into this Contract in reliance upon the Deposited Plan annexed to this Contract and on the Buyer's own enquiries.
- 6.5 In the event that there is an inconsistency between the Whitlam Housing Development Guidelines and the Deposited Plan, the Deposited Plan prevails.

7 VARIATIONS

7.1 The Buyer acknowledges that the Specimen Crown Lease, the Whitlam Housing Development Guidelines, the Block Details Plan, the Deposited Plan and any other plans in relation to the Land may be affected by one or more of the following:

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

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; or
- (g) minor variations of the easements relating to the provision of electricity, water, sewerage and stormwater services.

7.2 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.

7.3 The Buyer cannot make a claim or objection or rescind or terminate or make a claim for compensation under clause 23 of this Contract in respect of any matter set out in clause 7.1.

8 PLANNING CONDITIONS

8.1 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.

- 8.2 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.
- 8.3 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.
- 8.4 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.

9 PROPERTY ACT

- 9.1 The Property Act does not apply to this Contract as this Contract is not a sale of residential property and the grant of the Leases will be the first grant of a Crown Lease over the Land.

10 NON-CONFORMING TRANSFERS NOT TO BE USED

- 10.1 The Buyer will not be able to use the non-conforming transfer provisions of section 17(3) of the *Duties Act 1999 (ACT)* in relation to the Contract, as the grant of the Leases will be the first grant of a Crown Lease over the Land.

11 ENTIRE AGREEMENT

- 11.1 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.

12 NO RELIANCE

- 12.1 Each Party has entered into this Contract without reliance upon any representation, statement or warranty (including sales and marketing material and preliminary artwork) except as set out in this Contract.

13 CO-OWNERSHIP

- 13.1 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 in the Schedule or if one alternative is not marked, as joint tenants.

14 NON-MERGER

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

15 BUYER RELIES ON OWN ENQUIRIES

15.1 The Buyer acknowledges 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 forming part of this Contract; and
- (c) is satisfied as to the nature, quality and condition of the Land and the purposes for which the Land may be used.

15.2 The Seller makes no warranty as to the accuracy or completeness of any document made available by or on behalf of the Seller to the Buyer in connection with the Land other than documentation forming part of this Contract.

16 PRIVACY

16.1 The Buyer acknowledges that they have received, read, and understood the Suburban Land Agency Information Privacy Policy and Suburban Land Agency Information Privacy Statement, and accepts that any information collected by the Seller pursuant to this Contract, or previously in relation to this Contract, is held and used in accordance with the Suburban Land Agency Information Privacy Policy and Suburban Land Agency Information Privacy Statement.

16.2 The Buyer consents to the Seller's use of any personal information provided by the Buyer to reasonably fulfil the purpose of this Contract and any of its functions, including disclosure of personal information to the ACT Revenue Office and other ACT and Commonwealth government agencies.

17 BUYER RIGHTS AND LIMITATIONS

17.1 The Buyer is not entitled to make any requisitions on the title to the Land.

17.2 The Buyer cannot make a claim or objection or rescind or terminate or make a claim for compensation under clause 23 of this Contract in respect of:

- (a) a Utility Service for the Land being a joint service or passing through another property, or any Utility Service for another property passing through the Land;
- (b) a promise, representation or statement about this Contract, the Land or the Leases, not made in this Contract;
- (c) the size of any service ties for the supply of water on or to the Land;
- (d) any matter contained in the Block Fill Plans or the existence of regrading, fill, contamination of any Substance or other disability of or upon the Land, whether caused by the Commonwealth of Australia, the Seller, previous occupants of the Land or otherwise;
- (e) any soil classification in relation to the Land; and
- (f) anything disclosed in this Contract (except an Affecting Interest).

17.3 The Buyer acknowledges, understands and accepts that the existence of regrading, fill, contamination of any Substance or other disability 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 otherwise have been in the absence of such regrading, fill, contamination of any Substance or other disability.

17.4 The Buyer acknowledges 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.

18 SELLER WARRANTIES

18.1 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;
- (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; and
- (d) is not aware of any material change in the matters disclosed in the Whitlam Housing Development Guidelines.

18.2 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;

- (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; and
- (d) the Seller is not aware of any encroachments by or upon the Land except as disclosed. This warranty does not extend to the location of any dividing fence.

18.3 The Seller gives no warranties as to the present state of repair of any of the Improvements or condition of the Land, except as required by law.

19 ADJUSTMENTS

19.1 The Leases will be granted on Completion. As a result, there will be no adjustments of Income or Land Charges.

20 TERMS OF POSSESSION

20.1 The Seller must give the Buyer vacant possession of the Land on Completion unless otherwise marked in the Schedule.

21 INSPECTION OF LAND

21.1 The Buyer may on reasonable notice to the Seller inspect the Land during the period 10 Working Days prior to the Date for Completion.

22 ERRORS AND MISDESCRIPTIONS

22.1 The Buyer will be entitled to compensation on Completion (and the Price will be reduced accordingly) in full and final settlement if the Buyer suffers a loss as a result of an error of any kind or misdescription, and the Buyer makes a claim for compensation before Completion.

22.2 This clause 22 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.

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

23 COMPENSATION CLAIMS BY BUYER

23.1 This clause 23 applies to claims for compensation arising out of this Contract made by the Buyer against the Seller including claims under clause 22.

23.2 To make a claim for compensation (including a claim under clause 22) 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 23.2(a) the Parties must complete and:
 - (i) the claim must be finalised (subject to clause 23.2(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:
 - 1. manifest error by the arbitrator obvious on its face in the final determination by the arbitrator;
 - 2. error in the application of law by the arbitrator in making his or her determination; or
 - 3. 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.

24 NOTICE TO COMPLETE AND DEFAULT NOTICE

24.1 If Completion does not take place by the Date for Completion, either Party may, at any time after the Date for Completion, serve on the other Party a Notice to Complete.

24.2 A Notice to Complete must appoint a time during business hours and a date being not less than 14 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.

24.3 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.
- 24.4 Completion at the time, date and place specified in the Notice to Complete is an essential term.
- 24.5 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.
- 24.6 A Default Notice must:
- (a) specify the default; and
 - (b) require the Party served with the Default Notice to rectify the default within 14 days after service of the Default Notice (excluding the date of service).
- 24.7 At the time the Default Notice is served, the Party serving the Default Notice must not be in default.
- 24.8 The time specified in a Default Notice to rectify the specified default is an essential term.
- 24.9 Clauses 25 or 26 will apply as applicable where the Party served does not comply with the Notice to Complete or the Default Notice issued in accordance with this clause.
- 24.10 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) the consent to the variation must be in writing and be served on the other Party.
- 24.11 The Parties agree that the time referred to in clauses 24.2 and 24.6(b) is fair and reasonable.

25 TERMINATION – BUYER’S DEFAULT

25.1 If:

- (a) the Seller serves a notice on the Buyer in accordance with clause 2.3;
- (b) the Buyer is in default under clause 3.5;
- (c) the Buyer does not comply with a Notice to Complete or a Default Notice; or

(d) the Buyer is otherwise in breach of an essential term,

then the Seller may by notice served on the Buyer terminate this Contract and may then either:

(e) sue the Buyer for breach; or

(f) 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.

25.2 Subject to clause 25.5, if this Contract is terminated by the Seller pursuant to clause 25.1, the Seller is not required to refund the Deposit to the Buyer and the Deposit is forfeited to the Seller without further notice to the Buyer.

25.3 The Seller must refund the portion of the Deposit which exceeds 5% of the Price (if any).

25.4 In addition to any money kept or recovered under clause 25.2, 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.

25.5 For the avoidance of doubt, if the Deposit is paid by Deposit Bond or Bank Guarantee in accordance with clause 3, and the Seller is entitled to terminate in accordance with clause 25.1, the Buyer acknowledges that the Seller is entitled to, and will, call upon the Deposit Bond or Bank Guarantee immediately after serving the termination notice.

26 TERMINATION – SELLER'S DEFAULT

26.1 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.

26.2 If this Contract is terminated by the Buyer pursuant to clause 26.1, the Deposit must be refunded to the Buyer within 15 Working Days without any further authority being necessary.

27 RESCISSION

- 27.1 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 within 15 Working Days without any further authority being necessary; and
 - (b) neither Party is liable to pay the other any amount for damages, costs or expenses.

28 DAMAGES FOR DELAY IN COMPLETION

28.1 If Completion does not occur by the Date for Completion, due to the default of either Party, the Party who is at fault must pay the other Party 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 7 days after the Date for Completion to Completion (inclusive); and
- (b) the amount of \$660.00 (including GST) to be applied towards any legal costs and disbursements incurred by the Party not at fault if Completion occurs later than 7 days after the Date for Completion.

28.2 The Party at fault must pay the amount specified in clause 28.1 in addition to any other damages to which the Party not at fault is entitled both at law and under this Contract.

28.3 The Parties agree that:

- (a) the amount of any damages payable under clause 28.1(a) to the Party not in default 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.

29 FOREIGN BUYER

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

29.2 This clause is an essential term.

30 GST

30.1 The Buyer and the Seller agree that

- (a) the Margin Scheme applies to the Supply of the Land to the Buyer under this Contract; and
- (b) the Price is inclusive of any GST payable under the Margin Scheme.

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

31 INSOLVENCY

31.1 If the Buyer suffers an Insolvency Event, the Buyer must immediately notify the Seller in writing.

31.2 If the Seller receives notice that the Buyer has suffered an Insolvency Event (either pursuant to clause 31.1 or by some other means), the Seller may terminate this Contract and clause 25 will apply.

32 POWER OF ATTORNEY

32.1 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.

33 NOTICES CLAIMS AND AUTHORITIES

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

33.2 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) send it by email to an email address of that Party's solicitor specified on the Schedule, or otherwise as notified from time to time and, unless the receiving Party indicates by immediate automatic response that the email address is unattended, the notice is taken to have been received at the time it was sent and if not sent before 5:00pm on a Working Day, on the next Working Day.

- 33.3 A Party's solicitor may give a notice, claim or authority on behalf of that Party.
- 33.4 If a notice is served in accordance with clause 33.2(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.
- 33.5 If a notice is served in accordance with clause 33.2(b), the notice is taken to have been received on the day 2 Working Days after it was posted.

34 BUSHFIRE PROTECTION

- 34.1 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.

35 CAT CONTAINMENT

- 35.1 The Buyer acknowledges that the Land will become part of an area which is declared to be a cat curfew area under the *Domestic Animals Act 2000* (ACT) and cats located within areas declared to be cat curfew areas must be confined to their keeper's or carer's premises at all times.

36 GEOTECHNICAL INFORMATION

- 36.1 The Seller will make available to the Buyer, prior to Completion, a site classification certificate with respect to the Land.
- 36.2 The Seller warrants that any fill placed on the Land arising out of undertaking the Works will be compacted to "Level 1 Controlled Fill" in accordance with Australian Standard AS3798-2007.

37 BLOCK DETAILS PLAN

- 37.1 The Buyer acknowledges that the area of the Land specified in the Block Details Plan is subject to final survey and is subject to change and in the event of inconsistency with the area in the Deposited Plan, the Deposited Plan prevails.

38 SERVICE PROVIDERS

- 38.1 The Buyer acknowledges and understands that the Seller is not a Utility Service provider and Works in the Contract for Sale do not include actual connections to services, substations or transformers that may be required for such connections.
- 38.2 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 Developments caused as a consequence of being unable, for example, to access water or power.
- 38.3 The Seller does not routinely provide and will not warrant the location of any future substations.

39 RESIDENTIAL WITHHOLDING TAX

Warning: The following clauses 39.1 to 39.14 are subject to the Withholding Law, and do not encompass all obligations under the Withholding Law.

- 39.1 In this clause 39 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.

- 39.2 The Seller must provide the Buyer with the RW Amount Information no later than 28 days prior to the Date for Completion.
- 39.3 If the 'RW Amount required to be paid?' 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.
- 39.4 The following clauses 39.5 to 39.14 inclusive only apply if the 'RW Amount required to be paid ?' option on the Schedule is selected 'yes'.
- 39.5 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 39.2 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.

- 39.6 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.
- 39.7 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.
- 39.8 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.
- 39.9 The Seller must forward the unendorsed bank cheque provided under clause 39.8 to the ATO within 5 Working Days following Completion and provide the Buyer with evidence of payment of the RW Amount to the ATO.
- 39.10 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 for the purpose of completing any notification required to be given by the Buyer to the ATO.
- 39.11 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.
- 39.12 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 39.8 to the ATO.

Potential Residential Land

- 39.13 If the 'Potential Residential Premises?' option on the Schedule is selected 'yes' and the Buyer (or the relevant recipient for GST purposes) is:
- (g) registered for GST purposes; and

(h) acquiring the Land for a creditable purpose;

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

(i) 10 Working Days before the Date for Completion; or

(j) 20 Working Days after the Date of this Contract.

39.14 Where the Buyer has provided the statement referred to in clause 39.13 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).

40 FOREIGN RESIDENT WITHHOLDING TAX

40.1 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.

40.2 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.

40.3 If neither of clauses 40.1 or 40.2 apply, then:

(a) the Seller must provide to the Buyer any information required to enable the Buyer to comply with clause 40.3(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 40.3(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 40.3(c) in payment of the Withholding Amount following Completion.

40.4 If clause 40.3 applies and the parties do not comply with clause 40.3(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 40.4.
- 40.5 Where the Seller gives the Buyer a Variation Certificate prior to Completion, the Withholding Amount is the amount stated in the Variation Certificate.
- 40.6 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.
- 41 VERGE BOND**
- 41.1 On Completion the Buyer must pay to the Seller the Verge Bond as security for the Buyer's obligations under this clause 41.
- 41.2 The Buyer acknowledges that on Completion the Verge and the Verge Assets are in good condition and repair.
- 41.3 During construction on the Land, the Buyer must protect the Verge Assets and remediate and make good any damage to the Verge Assets to the satisfaction of the Seller. Making good includes (but is not limited to) repairing Verge Assets and re-grassing or re-planting the Verge to the satisfaction of the Seller.
- 41.4 The Verge Bond for each Block will be repaid by the Seller to the Buyer if:
- (a) the Buyer receives a Certificate of Occupancy for the relevant Block within 30 calendar months of Completion;
 - (b) the Buyer claims the Verge Bond within 180 days of receiving the Certificate of Occupancy for the relevant Block, using the form approved by the Seller; and
 - (c) following the issue of the Certificate of Occupancy for the Block, evidence is provided (to the satisfaction of the Seller) that the Verge and Verge Assets for the Block are in good repair and condition and the Verge of the Block is clean and free from building materials, refuse and rubbish. Satisfactory evidence includes, but is not limited to, photographs of the Block's Verge and the Verge Assets.
- 41.5 If the Buyer does not satisfy the conditions for repayment of the Verge Bond within the timeframes in clause 41.4, the Verge Bond is not repayable to the Buyer and the Verge Bond is forfeited to the Seller without further notice to the Buyer.
- 41.6 If the Buyer sells a Block or otherwise transfers a Crown Lease prior to satisfying the conditions of clause 41.4, the Buyer may request the Seller to agree to hold the

Verge Bond for the Block for the benefit of the transferee on the same terms as this clause 41, and the Buyer will no longer be entitled to be repaid the Verge Bond for that Block.

42 ENERGY REBATE

42.1 If the Buyer:

- (a) constructs a dwelling on a Block that satisfies all of the mandatory requirements contained in the Whitlam Housing Development Guidelines within 30 calendar months of Completion;
- (b) constructs a dwelling on the Block that satisfies all of the Eligibility Requirements within 30 calendar months of Completion; and
- (c) within 180 days of receiving the Certificate of Occupancy and Certificate of Compliance for the Block:
 - (i) lodges the completed Rebate Application; and
 - (ii) provides evidence, to the satisfaction of the Seller, that all of the Eligibility Requirements have been met for the Block,

the Seller, subject to clause 42.3, will pay the Energy Rebate for the Block to the Buyer.

42.2 If the Buyer does not satisfy the conditions of clause 42.1, the Energy Rebate will not be paid to the Buyer.

42.3 If the Buyer sells a Block or otherwise transfers a Crown Lease prior to satisfying the conditions of clause 42.1, the Buyer's transferee will not be eligible for the Energy Rebate unless:

- (a) the Block is the subject of a building contract between the Buyer and the Buyer's transferee; and
- (b) the Seller is provided with:
 - (i) a completed Right to Transfer Rebate Form; and
 - (ii) evidence that the Buyer's transferee is the Crown lessee of the Block and has entered into a building contract with the Buyer for the construction of a dwelling on the Block,

and the Buyer acknowledges that any subsequent transferee of the Block will not be eligible for the Energy Rebate.

42.4 In this clause 42, "Eligibility Requirements" means installation and commissioning of all of the following in the dwelling on the Block:

- (a) a roof with a solar absorptance value of less than 0.5 (absorptance values as per the National Construction Code 2019 (NCC));
- (b) a solar photovoltaic (PV) system with a grid-connected inverter that:
 - (i) is purchased from a Clean Energy Council (CEC) Approved Solar Retailer;

- (ii) is installed on the roof of the dwelling located on the Block;
- (iii) has a minimum total rated power output of 5 kilowatts (kW); and
- (iv) is installed, commissioned, tested and certified by an ACT licensed tradesperson who is Clean Energy Council (CEC) accredited installer;
- (c) an electric heat pump or electric boost solar hot water system;
- (d) an electric oven and an electric cooktop in the kitchen;
- (e) an electric heating and/or cooling system;
- (f) an energy monitoring and/or management system; and
- (g) an electric vehicle charge point in the garage or carport including:
 - (i) a dedicated 32 amp circuit with a 15 amp power point located on the wall of the car space or garage; and
 - (ii) with installation carried out by an ACT licensed electrician.

42.5 The Energy Rebate is not partially payable. Failure to meet all of the Eligibility Requirements for a Block means that no amount of the Energy Rebate will be paid for that Block.

43 DEFINITIONS

43.1 Definitions appear in the Schedule and as follows:

ACT Revenue Office means the ACT Revenue Office of the Chief Minister, Treasury and Economic Development Directorate;

ActewAGL means a joint venture company that owns, operates and maintains the electricity, gas, water and sewage services on behalf of Icon Water Limited (ACN 069 381 960) or its successors and permitted assigns;

Affecting Interest means any mortgage, encumbrance, lease, lien, charge, notice, order, caveat, writ or other interest;

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

Balance of the Price means the Price less the Deposit;

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

Block means each block comprising the Land and which is the subject of a Crown Lease;

Block Boundary means the boundary of the Block as shown on the Block Details Plan and does not include the Verge;

Block Details Plan means the plan described as such in the Whitlam Housing Development Guidelines;

Block Fill Plans means the plans described as such in the Whitlam Housing Development Guidelines;

Certificate of Compliance has the meaning in the *Planning and Development Act 2007* (ACT).

Certificate of Occupancy means a "Certificate of Occupancy" as that term is defined in the *Building Act 2004* (ACT) for the dwelling on the Block;

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;

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

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

Default Notice means a notice in accordance with clauses 24.5 and 24.6;

Deposit means the amount specified in the Schedule and which:

- (a) must be paid by the Buyer to the Seller in accordance with clause 2 or 3 as applicable; and
- (b) is to be held by the Seller as security for the performance of the Buyer's obligations under this Contract;

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

Deposited Plan means plan relating to the Land and registered under section 7 of the *Districts Act 2002* (ACT) attached at Annexure D of this Contract;

Development has the meaning in the Planning Act;

Energy Rebate means \$10,000 (GST inclusive) per Block;

EvoEnergy means the energy networks division of ActewAGL that looks after poles and wires and gas infrastructure;

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);

Improvements means the buildings, structures and fixtures erected on and forming part of the Land if any;

Income means the rents and profits derived from the Land;

Insolvency Event means the following:

- (a) where the Buyer is a natural person and:
 - (i) the Buyer authorises a registered trustee or solicitor to call a meeting of his or her creditors and enters into a deed of assignment or deed of arrangement or a composition with any of his or her creditors;
 - (ii) a third party who holds a security interest in the assets of the Buyer enters into possession, or takes control of those assets, or attempts by any means to do the same; or
 - (iii) the Buyer commits an act of bankruptcy; or
- (b) where the Buyer is a body corporate and:
 - (i) the Buyer becomes, or attempts are made for the Buyer to become an externally administered body corporate in accordance with the *Corporations Act 2001* (Cth); or

- (ii) a controller (as defined by the *Corporations Act 2001* (Cth)) is appointed, or attempts are made to have a controller appointed for any of the Buyer's assets;

Kerb Line means the kerb line of the Block as shown on the Block Details Plan;

Land means the land described in the Schedule and to be the subject of the Leases;

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

Land Schedule means the schedule of Blocks comprising the Land;

Lease means a Crown Lease granted in accordance with the Planning Act in a form similar to the Specimen Crown Lease as applicable to this Contract which may, where the Block is affected by an easement identified in the Whitlam Housing Development Guidelines, include an annexure or additional provisions detailing the terms of the easement;

Margin Scheme has the meaning in the GST Law;

Notice to Complete means a notice in accordance with clauses 24.1 and 24.2 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;

Operational Acceptance means that the Works are complete to the satisfaction of the Australian Capital Territory, EvoEnergy and the Seller;

Party means a party to this Contract and **Parties** has the corresponding meaning;

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 Act means the *Civil Law (Sale of Residential Property) Act 2003* (ACT);

Rebate Application Form means the application form available at <https://suburbanland.act.gov.au/Whitlam> version number 1 dated March 2020;

Right to Transfer Rebate Form means the form of that title available at <https://suburbanland.act.gov.au/Whitlam> version number 1 dated March 2020 pursuant to which a Buyer waives its right to receive the Energy Rebate and novates the rights and obligations of the Buyer under clauses 42.1 and 42.2 to the Buyer's transferee.

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;

Schedule means the schedule to this Contract;

Site Classification Certificate means the Site Classification Certificate annexed to this Contract at Annexure E;

Specimen Crown Lease means the specimen crown lease at Annexure B;

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:

- (a) asbestos;
- (b) polychlorinated biphenyls;
- (c) heavy metals;
- (d) chemicals;
- (e) contaminants; and
- (f) any other matter whether solid, liquid or gaseous form, or whether naturally occurring or man-made;

Suburban Land Agency means the agency established under section 37 of *the City Renewal Authority and Suburban Land Agency Act 2017* (ACT);

Suburban Land Agency Information Privacy Policy means the privacy policy provided by the Suburban Land Agency to the Buyer in accordance with the *Information Privacy Act 2014* (ACT) and which can be found at www.suburbanland.act.gov.au;

Suburban Land Agency Information Privacy Statement means the information privacy statement provided by the Suburban Land Agency to the Buyer in accordance with the *Information Privacy Act 2014* (ACT) and which can be found at www.suburbanland.act.gov.au;

Supply has the meaning in the GST Law;

TCCS means Transport Canberra and City Services or its successors;

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

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

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

Verge means the verge in front of the Block and includes the area between the Block Boundary and the Kerb Line, commonly known as the nature strip;

Verge Assets means all concrete footpaths, driveways, kerbs, gutters, light poles, mini pillars, street trees and grassing located on the Verge at Completion, or as varied by the Buyer with the written consent of TCCS;

Verge Bond means \$1,000 (GST inclusive) per Block;

Whitlam Housing Development Guidelines means the Whitlam Housing Development Guidelines at Annexure A or as amended from time to time;

Withholding Amount means, subject to clause 40.5, 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;

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

Works means the works that the Seller is required to undertake in order to comply with the development application in relation to and obtain Operational Acceptance for the Land.

44 INTERPRETATION

44.1 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.

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

44.3 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 2.1.

44.4 If there is more than one Buyer or more than one Seller the obligations which they undertake bind them jointly and individually.

ANNEXURE A –WHITLAM HOUSING DEVELOPMENT GUIDELINES

ANNEXURE B –SPECIMEN CROWN LEASE

ANNEXURE C – CLEARANCE CERTIFICATE

ANNEXURE D – DEPOSITED PLAN

ANNEXURE E – SITE CLASSIFICATION CERTIFICATES

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