

**ANNEXURE A**  
**SPECIAL CONDITIONS**

**BUYER:** [ ]  
**SELLER:** MARANOA REGIONAL COUNCIL  
**PROPERTY:** [ ] ON SP297126, 'RACECOURSE NORTH ESTATE', INJUNE

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1. INTERPRETATION
2. DEFINITIONS & INTERPRETATION
- 2.1 Definitions

The following definitions apply to this Contract and are in addition to the definitions set out in clause 1 of the Terms of Contract:

**Contract** means together the Special Conditions (including any schedules and annexures to the Special Conditions), Reference Schedule and Terms of Contract

**Contract Date** or **Date of Contract** means the date that the last party signs this Contract.

**EPA** means *Environmental Protection Act 1994* (Qld).

**Government Agency** means the government of the Commonwealth of Australian or an Australian State, Territory or local government and includes their authorities, agencies, departments, government owned corporations and authorised officers, courts and tribunals.

**Property** means the Land only.

**Reference Schedule** means the reference schedule to the REIQ Contract for Houses & Residential Land Sixteenth Edition.

**Services** means the supply of telephone, internet, drainage, sewerage, water, electricity and gas services, and includes the pipes, wires or other conduits through which those services are supplied.

**Special Conditions** means, collectively, the conditions contained in this Annexure A.

**Terms of Contract** means the REIQ "Terms of Contract for Houses and Residential Land "(sixteenth edition).

Initial	
Seller	Buyer

## 2.2 Interpretation

- (a) A reference to a numbered “clause” is a reference to a clause contained in the Terms of Contract.
- (b) A reference to a numbered “special condition” is a reference provision contained in these Special Conditions.
- (c) To the extent of any conflict between these Special Conditions and the Terms of Contract, these Special Conditions will prevail.

## 3. BUYER TO BUILD ON VACANT LAND

### 3.1 Buyer to build residential premises

- (a) The Buyer acknowledges and agrees that it is purchasing vacant land with no buildings, Improvements, Chattels or connected Services.
- (b) Within two (2) years of the completion of this Contract, Buyer must do all things required to complete construction of a residential dwelling on the Land that may be lawfully occupied including without limitation:
  - (i) connecting required Services;
  - (ii) obtaining and complying with all approvals, requirements and conditions of all relevant Government Agencies; and
  - (iii) complying with all relevant laws.

### 3.2 Council’s right of re-sale / re-purchase

- (a) Where the Buyer has not complied with special condition 3.1(b), the Seller has the right to give the Buyer notice that Seller elects to either:
  - (i) sell the Property to a new buyer; or
  - (ii) buy back the Property from the Buyer.
- (b) Any sale effected pursuant to special condition 3.2(a) will be on the following conditions:
  - (i) at the same purchase price as paid by the Buyer under this Contract provided always that the Seller’s is entitled to withhold or deduct any amount required to secure a release of any Encumbered or to deduct its costs of exercising its rights under this special condition (including without limitation all legal costs, duty, valuation costs, marketing costs, agent’s commissions and land titling fees); and
  - (ii) on terms and in a form generally similar to this Contract provided always that the Seller may amend any terms, and include such special conditions, as it deems necessary or desirable to protect the Seller’s interests.

### 3.3 Seller’s deed of covenant

- (a) Until it has fully discharged its obligations under special condition 3.1(b), the Buyer agrees not to dispose of its interest in the Property (or any part of that interest) without first obtaining from the subsequent buyer, transferee or assignee (as the case may be) a deed of covenant on terms satisfactory to the Seller, pursuant to

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<b>Seller</b>	<b>Buyer</b>

which the subsequent buyer, transferee or assignee (as the case may be) agrees to be bound by the provisions of this special condition 3.

- (b) The deed of covenant required under special condition 3.3(a) must include a covenant that, if the subsequent buyer, transferee or assignee (as the case may be) sells or otherwise disposes of the Property or any part of it, the subsequent buyer or donee obtains a deed on similar terms in favour of the Seller.

### 3.4 Consent to registration of a caveat

The Buyer consents, and will raise no objection, to the Seller registering a caveat (including a non-lapsing caveat) over the title of the Property in order to secure the Seller's rights in connection with this special condition 3 or this Contract generally.

### 3.5 Release and indemnity

- (a) To the extent permitted by law, the Buyer releases the Seller and the attorneys appointed under special condition 3.6 (**Attorneys**) from any and all liability, and the Buyer may not make any claim against the Seller or the Attorneys, in respect of the Seller or Attorneys exercising (attempting to exercise) their rights, or discharging (or attempting to discharge) their obligations, arising in connection with this special condition 3 or this Contract generally.
- (b) The Buyer indemnifies and keeps the Seller and the Attorneys indemnified against any costs, expenses or claims whatsoever suffered or incurred by the Seller or the Attorneys as a consequence of the:
  - (i) Buyer's breach of the provisions of this special condition 3; and/or
  - (ii) Seller or Attorneys exercising or discharging (or attempting to exercise or discharge) their rights or obligations arising in connection with this special condition 3 or of this Contract generally.
- (c) This special condition 3 will remain in full force and effect and enforceable against the Buyer and its successors, administrators and assigns, and will not merge, despite the completion of this Contract or any transaction contemplated by this Contract.

### 3.6 Attorney

- (a) The Buyer irrevocably appoints the Seller, each of its officers, and each of its legal representatives, and their respective nominees or substitutes, jointly and each of them severally, to do all things required or convenient so that the Seller may exercise its rights, or discharge its obligations, arising in connection with this special condition 3 and to do all things necessary or desirable to:
  - (i) obtain a deed of covenant as provided for under special condition 3.3; and/or
  - (ii) register a non-lapsing caveat over the Property including without limitation preparing and signing, as the Buyer's attorney, a Form 18 General Consent in respect of the caveat (or such other form[s] or declaration[s] as may be required by a relevant Government Agency in order to register a non-lapsing caveat); and
  - (iii) effect a sale of the Property to either the Seller or a third party in accordance with this special condition 3 including without limitation to:

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- (A) market the Property for sale;
- (B) negotiate and enter into a contract for the sale of the Property;
- (C) do all things required to complete a sale of the Property including signing any declarations, required forms and/or a transfer of the Property; and/or
- (D) enter into the Property to remove, store, sell or dispose of the personal property of the Buyer,

provided always that the powers granted under this special condition 3.6(a)(iii) are not exercisable until the Seller has given not less than thirty (30) days written notice so that the Buyer may seek to either rectify any breach of, or non-compliance with, this special condition 3.

- (b) The Buyer irrevocably authorises each attorney to exercise the powers granted under this special condition 3.6 even if a conflict arises between the interests of the attorney or the Seller and the Buyer. This is an authority to enter into conflict transactions generally under section 73 of the *Powers of Attorney Act 1998* (Qld).
- (c) The Buyer acknowledges and agrees that the powers and rights conferred under this special condition 3.6:
  - (i) are given for valuable consideration and as security for the performance of the obligations of the Buyer under special condition 3 in relation to section 10 of the *Powers of Attorney Act 1998* (Qld); and
  - (ii) may not be revoked without the prior written consent of the Seller (which may be withheld or on any conditions in the discretion of the Seller).
- (d) The Buyer acknowledges and agrees that a statutory declaration from any one or more of the attorneys appointed under this special condition 3.6 will be conclusive proof of the right of the attorneys to exercise the powers and rights conferred by this special condition 3.6 and special condition 3 generally.

**4. AMENDMENT TO STANDARD COMMERCIAL TERMS**

The following clauses of the Terms of Contract are deleted:

Clauses	Topic
2.1(1)	GST
2.4(3)	Entitlement to Deposit
2.6(7), (8), (9), (10) & (11)	Adjustments to Balance Purchase Price
4	Building and Pest Inspection Reports and Pool Safety
5.3(1)(d), (e) and (f), 5.3(3), 5.4, 5.6 and 5.7	Settlement
7.4(1)(b), 7.4(2) and 7.4(3)	Seller's Warranties
7.5(2), (3) and (4)	Survey and Mistake
7.6	Requirements of Authorities
7.7(1) and (2)	Property Adversely Affected
8.4	Information Regarding the Property
9.3(1) and (3), 9.5(2) and 9.8	Parties Default

<b>Initial</b>	
_____ <b>Seller</b>	_____ <b>Buyer</b>

**5. GST**

The Purchase Price excludes any GST payable on the supply of the Property to the Buyer. The Buyer must pay the amount of GST applicable for the supply in addition to the Purchase Price.

**6. NO FURTHER CLAIMS BY BUYER**

If this Contract is terminated by the Buyer under a clause or special condition of this Contract that grants the Buyer an express right to terminate, the Buyer has no further claim against the Seller once it receives a refund of the Deposit (together with any interest if the Deposit was invested).

**7. BUYER ACCEPTS CONDITION OF PROPERTY**

**7.1 Buyer not induced to enter into this Contract**

The Buyer acknowledges that:

- (a) it has not been induced to enter into this Contract by any express or implied statement or representation by or on behalf of the Seller as to:
  - (i) the condition or state of repair of the Property;
  - (ii) the suitability of the Property for any purpose;
  - (iii) whether any law, licence, approval, notice, claim or order affects the Property;
  - (iv) the status of compliance with any law, licence, approval, notice or order affecting the Property;
  - (v) rights or privileges attaching to the Land;
  - (vi) the value of the Property;
  - (vii) the financial return or income derived, or able to be derived, from the Property;
  - (viii) whether the Property is contaminated or contains asbestos; or
  - (ix) whether the Land is subject to flooding; and
- (b) it relies on its own enquiries regarding, and inspection of, the Property.

**7.2 No warranty**

The Seller gives no warranty in relation to the matters listed in special condition 7.1(a).

**7.3 "As is where is"**

- (a) The Property is sold and the Buyer accepts the Property in an "as is where is" condition and in its existing state of repair.
- (b) The Buyer accepts all defects in the Property.

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**7.4 Buyer cannot object**

The Buyer cannot raise an objection or requisition, claim compensation, terminate this Contract, or delay settlement because of any matter listed in special condition 7.1(a).

**7.5 Release**

To the extent permitted by law, the Buyer releases the Seller from any duty, obligation or liability to the Buyer in respect of the condition of the Property.

**7.6 Waiver of statutory rights**

To the extent permitted by law, the Buyer agrees not to make, and releases any right it may have to make, any claim against the Seller (or any officer, employee, agent or contractor of the Seller) based on sections 18, 29 or 30 of the Australian Consumer Law, or on any corresponding provision of any State or Territory law, for any act, omission, statement or representation concerning the Property.

**8. ENVIRONMENTAL MATTERS**

**8.1 Seller gives no warranty**

- (a) The Seller does not warrant that the EPA or other environmental laws have been complied with in respect of the Land.
- (b) The Seller gives no warranty as to whether the Land is contaminated land within the meaning of the *Environmental Protection Act 1994* (Qld).

**8.2 Buyer's liability after completion**

Following settlement the Buyer is responsible for, and indemnifies the Seller against all costs, claims and liabilities relating to:

- (a) any requirement to remediate the Land under the EPA or other environmental law;
- (b) compliance with any site management plan affecting the Land;
- (c) compliance with any notice or order affecting the Land issued under the EPA or other environmental law;
- (d) giving any required notice to the relevant Government Agency under the EPA;
- (e) the presence of any contaminant on the Land;
- (f) compliance with any environmental authority affecting the Land; and
- (g) compliance with the EPA or other environmental law.

**8.3 Seller not liable for failure**

- (a) To the extent permitted by law, the Seller is not liable to the Buyer for any failure to:
  - (i) remediate the Land;
  - (ii) comply with any site management plan affecting the Land;
  - (iii) comply with any notice or order issued under the EPA or other environmental law;

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- (iv) notify the relevant Government Agency of any thing required to be notified under the EPA;
  - (v) comply with any environmental authority affecting the Land;
  - (vi) do any thing concerning the Land required under the EPA or other environmental law; or
  - (vii) give any notice to the Buyer required by the EPA.
- (b) The Buyer cannot raise an objection or requisition, claim compensation, terminate this Contract, or delay settlement because of the seller's failure to do any thing referred to in special condition 8.3(a).

## 9. ERRORS, ENCROACHMENTS AND MISTAKES

### 9.1 Buyer accepts title

The Buyer accepts title to the Land subject to any:

- (a) error in the boundaries or area of the Land;
- (b) encroachment by structures onto or from the Land; or
- (c) mistake or omission in describing the Property or the Seller's title to it,

whether material or immaterial, and cannot claim compensation, terminate the contract, or delay settlement because of any of those matters.

## 10. REQUIREMENTS OF AUTHORITIES

### 10.1 Buyer to comply with notices or orders

- (a) The Buyer must, at its expense, comply with any valid notice or order issued before, on or after the Contract Date pursuant to any statute or by any Government Agency necessitating the doing or work or the expenditure of money on or in relation to the Property or any path or road adjoining the Land.
- (b) The Buyer indemnifies the Seller in respect of all costs of complying with the notice or order.
- (c) Any work or expenditure that is the Buyer's responsibility under special condition 10.1(a), which is required by the notice or order to be done before the Settlement Date, may be done by the Seller unless the Buyer directs the Seller not to and indemnifies the Seller against any liability for not carrying out the work. If the Seller does the work, or spends the money, the reasonable cost of that work or the amount spent must be paid by the Buyer to the Seller at settlement.
- (d) This special condition 10.1 does not apply to an order, a copy of which has been given by the Seller to the Buyer under s 83 of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* (Qld). That Act specifies the consequences if a copy of such an order is given.

## 11. PROPERTY ADVERSELY AFFECTED

### 11.1 Buyer accepts Property subject to existing Services

Despite anything in this Contract, the Buyer is purchasing the Property and must take title to the Property subject to existing or proposed Services (if any) and the Buyer cannot

Initial	
Seller	Buyer

raise an objection or requisition, claim compensation, terminate this Contract or delay settlement because of:

- (a) the nature, location, availability or non-availability of any Service;
- (b) a Service for the Property being a joint service or passing through another Property;
- (c) a Service for another property passing through the Property;
- (d) the Property being subject to, or not having the benefit of, any rights or easements in respect of a Service;
- (e) any defects in a Service; or
- (f) an access point for a Service, such as a manhole or vent, being on the Property.

## **12. ZONING AND USE**

### **12.1 Buyer acknowledgment**

The Buyer acknowledges that it has satisfied itself as to:

- (a) the purposes for which the Property may be lawfully used;
- (b) the suitability of the Property for the Buyer's intended use;
- (c) the conditions attaching to any development approval applying to the Property;
- (d) the nature of development which may lawfully take place on the Property; and
- (e) town planning laws affecting the Property.

### **12.2 Buyer cannot object**

The Buyer cannot raise an objection or requisition, claim compensation, terminate this Contract, or delay settlement because of any matter referred to in special condition 12.1.

## **13. GENERAL**

### **13.1 No fettering of Council's discretions and obligations**

Buyer acknowledges and agrees that nothing in this Contract will fetter the Seller in the exercise of its discretions and obligations conferred or imposed upon the Seller by any law or when the Seller is acting in its role as a Government Agency. Buyer agrees that it will have no claim against the Seller for any loss (whether direct or indirect) howsoever arising out of or in connection with the Seller exercising its rights or obligations as a Government Agency or in compliance with any law.

### **13.2 Entire Agreement**

This Contract and the Contract embody the entire agreement between the parties and supersede all previous agreements, understandings, negotiations, warranties and representations on the subject matter of this Contract.

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### 13.3 Costs and Expenses

Each party will bear its own costs and expenses in relation to the negotiation, preparation, execution, delivery, registration and completion of this Contract and any related documentation.

### 13.4 Duty

On or before the Settlement Date, the Buyer will:

- (a) pay, and indemnifies the Seller against payment of, all duty (including any fines or penalties) payable:
  - (i) in connection with this Contract; and/or
  - (ii) as a consequence of a requirement to assess the duty payable under or in connection with this Contract and any other contract between the parties on an aggregation basis,  
  
pursuant to the *Duties Act 2001* (Qld); and
- (b) provide evidence to the Seller that this Contract and transfers for the Property have been properly assessed and stamped for duty.

### 13.5 Governing Law

This Contract is governed by the law in force in Queensland, Australia. Each party irrevocably submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Queensland, and any court that may hear appeals from any of those courts for any proceeding in connection with this document, and waives any right it may have to claim that those courts are an inconvenient forum.

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<b>Seller</b>	<b>Buyer</b>

# Execution:

**THIS CONTRACT** is executed as an **AGREEMENT** by the parties:

## SELLER

**SIGNED** for **MARANOA REGIONAL COUNCIL** pursuant to section 236 of the *Local Government Act 2009* (Qld) by its delegate in the presence of:

\_\_\_\_\_  
Signature of delegate

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name of delegate (BLOCK LETTERS)

\_\_\_\_\_  
Name of witness (BLOCK LETTERS)

\_\_\_\_\_  
Office held (BLOCK LETTERS)

\_\_\_\_\_  
Date signed

## BUYER

**SIGNED** by **BUYER**, in the presence of:

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name of witness (BLOCK LETTERS)

\_\_\_\_\_  
Date signed

**SIGNED** by **BUYER**, in the presence of:

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name of witness (BLOCK LETTERS)

\_\_\_\_\_  
Date signed