

# House Sale Contract

NSW Reconstruction Authority

[Insert Purchaser]

***[N.B. This draft contract is provided for information purposes only. A completed execution version of this contract will be provided by the RA to the successful purchaser(s) as part of the Expression of Interest process]***

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# House Sale Contract

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# House Sale Contract

## KEY DETAILS

### DATE

This contract is dated:

### PARTIES

<b>Item 1</b>	<b>RA</b>	Name: NSW Reconstruction Authority, a NSW Government agency established under section 7 of the <i>NSW Reconstruction Authority Act 2022</i> (NSW) ABN: 56 672 828 283 Address: 120 Dalley Street, East Lismore NSW 2480 Email: kristie.clarke1@reconstruction.nsw.gov.au Attention: Kristie Clarke, Executive Director, Northern Rivers Adaptation Division
<b>Item 2</b>	<b>Purchaser</b>	Name: [insert purchaser] Address: [insert address] Email: [insert email] Attention: [insert contact name]
<b>Item 3</b>	<b>RA's Representative</b>	Name: [insert representative] Address: [insert address] Email: [insert email] Attention: [insert contact name]
<b>Item 4</b>	<b>Agent</b>	Name: PRD Northern Rivers Address: 72 Molesworth Street, Lismore NSW 2480 Email: roberthorder@prd.com.au Attention: Robert Horder

### HOUSE

<b>Item 5</b>	<b>Land</b>	[insert Land], being the Land on which the House is situated.
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<b>Item 6</b>	<b>House</b>	The house structure located at [insert address] including the Inclusions but excluding the Land and all Exclusions.
<b>Item 7</b>	<b>Inclusions</b>	[insert inclusions]
<b>Item 8</b>	<b>Exclusions</b>	[insert exclusions if any e.g. staircases, carports, shed etc]

## PAYMENT & COMPLETION

<b>Item 9</b>	<b>Purchase Price</b>	[insert purchase price]
<b>Item 10</b>	<b>Deposit</b>	\$1000
<b>Item 11</b>	<b>Completion Period</b>	A period of 10 Business Days commencing on the date that the Purchaser nominates and notifies RA of in accordance with clause 6.2, subject to extension under clause 6.6.
<b>Item 12</b>	<b>Sunset Date</b>	12 months after the Contract Date

## RELOCATION

<b>Item 13</b>	<b>Relocation</b>	Temporary <input type="checkbox"/> Final <input type="checkbox"/>
<b>Item 14</b>	<b>Relocation Site</b>	[insert address where the House will be relocated] OR [To be confirmed and clause 4.3 applies]

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# 1 Definitions and interpretation

## 1.1 Definitions

In this Contract, a term in column 2 of the Key Details has the meaning given to it in column 3 of the Key Details. In addition:

**Access Licence** means:

- (a) the document titled "Access Head Licence Agreement" to be entered into between RA and the Relocation Contractor, substantially in the form attached at Annexure A; or
- (b) an access licence in a form determined by RA for any other Contractor (other than the Relocation Contractor) carrying out works on the Land.

**Authority** or **Authorities** includes any State or Federal government, any semi or local government, any statutory public or any other authority, instrumentality or body having jurisdiction over the Land or the Vendor or anything in relation to them.

**Business Day** means any day (except a Saturday or Sunday) on which banks are open for business in Sydney.

**Completion** means the date that the Purchaser has satisfied all obligations under clause 6.3.

**Completion Period** means the period:

- (a) commencing on the date determined in accordance with clause 6.2(a) of this Contract; and
- (a) ending on the date on which RA notifies the Purchaser that RA is satisfied with the make good obligations in accordance with clause 10(c) of this Contract.

**Contract** means this contract for sale of the House.

**Contract Date** means the date this Contract is executed by both Parties.

**Contractor** means any contractor engaged to carry out works under the Access Licence and includes the Relocation Contractor.

**Development Application (Relocation Site)** means the development application to be lodged with the relevant council for the re-siting of the House at the Final Relocation Site.

**Development Application (Removal)** means the development application to be lodged with Council for the decommissioning and removal of the House from the Land (if required).

**Development Consent (Relocation Site)** means a development consent granted by relevant council in relation to the Development Application (Relocation Site).

**Development Consent (Removal)** means a development consent granted by Council in relation to the Development Application (Removal).

**Disclosure Material** means any material, information, reports, documents, plans, drawings, responses to requests for further information, requisitions and materials relating to the House

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and Land (whether verbal or written, originals or copies, and whether attached to this Contract or otherwise) or made available to the Purchaser before the Purchaser entered into this Contract.

**Final Relocation Site** means land where the House is intended to be relocated to on a permanent basis.

**Flood Maps** means the flood maps for the Northern Rivers, which are available to access at <https://www.nsw.gov.au/departments-and-agencies/nsw-reconstruction-authority/our-work/resilient-homes-program/eligibility-criteria>.

**Force Majeure Event** means any inclement weather, industrial action or other cause beyond the Purchaser's reasonable control, that prevents the Purchaser from completing the Relocation Works before the expiry date specified in the notice given under clause 6.2(a).

**GST** has the meaning given to it by the GST Act.

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

**Heavy Vehicle National Law** means the Heavy Vehicle (Adoption of National Law) Act 2013 (NSW) and the Heavy Vehicle (Adoption of National Law) Regulation 2013.

**Insolvency Event** means:

- (a) in relation to a body corporate, a liquidation or winding up, the appointment of a controller, administrator, receiver, manager or similar insolvency administrator to a Party or any substantial part of its assets or the entering into a scheme or arrangement with creditors or the occurrence of any event that has a substantially similar effect to any of these events; or
- (b) in relation to an individual, becoming bankrupt or entering into a scheme or arrangement with creditors or the occurrence of any event that has a substantially similar effect to any of these events.

**Key Details** means the table with that name included at the front of this Contract.

**Law** means the requirements of all statutes, rules regulations, proclamations, ordinances or by-laws present or future.

**Party** means a party to this Contract.

**Permitted Purpose** means:

- (a) to inspect the House or Land for the purpose of obtaining any reports or other enquiries required for the:
  - (i) preparation of the Development Application (Removal) if required;
  - (ii) the physical relocation of the House and the preparation of the Development Application (Relocation Site);
  - (iii) preparation of the application to RA for an Access Licence; or
- (b) another use approved by RA in writing.

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**Relocation Approvals** means all permits, consents and approvals required to be obtained by or on behalf of the Purchaser for the removal of the House from the Land, transporting the House to the Temporary Relocation Site or the Final Relocation Site and any other Relocation Works carried out, including the Development Application (Relocation Site), the Development Application (Removal) and any approvals required under Heavy Vehicle National Law.

**Relocation Site** means either or both of the Temporary Relocation Site or the Final Relocation Site, as the context requires.

**Relocation Contractor** means the Contractor who enters the "Access Head Licence Agreement" for the Land for the purpose of transporting the House.

**Relocation Works** means all works required to remove the House from the Land as approved by RA in the Access Licence, including:

- (a) site preparatory works on the Land;
- (b) removal of all asbestos identified in the House by a licensed contractor prior to relocation;
- (c) works required to prepare the House for transportation;
- (d) transportation of the House from the Land to the Relocation Site, including all vehicular movements;
- (e) any works required as a condition of the Work Plan;
- (f) any works required to make good the Land in accordance with clause 6.4 and
- (g) any other works permitted by the Access Licence.

**Temporary Relocation Site** means land where the House will be relocated to as an interim step before the House is further relocated to the Final Relocation Site.

**Work Plan** means a work plan in the form required by RA from time to time outlining the works to be undertaken by the Relocation Contractor and any other Contractor (as required) on the Land including the proposed timetable for that work.

## 1.2 Interpretation

In this Contract, headings are inserted for convenience only and do not affect the interpretation of this Contract, and unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (c) the meaning of general words is not limited by specific examples introduced by 'includes', 'including', 'for example', 'such as' or similar expressions;
- (d) a reference to a document or instrument, including this Contract, includes all of its clauses, paragraphs, recitals, parts, schedules and annexures and includes the



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document or instrument as amended, varied, novated, supplemented or replaced from time to time;

- (e) a reference to a statute, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (f) a reference to a party is to a Party to this Contract and includes the Party's successors and permitted transferees and assigns and if a Party is an individual, includes executors and personal legal representatives;
- (g) a reference to a person includes an individual, a partnership, a corporation or other corporate body, a joint venture, a firm, a trust, an association (whether incorporated or not) and an Authority;
- (h) no provision of this Contract will be construed to the disadvantage of a Party merely because that Party was responsible for the preparation of the Contract or the inclusion of the provision in the Contract;
- (i) all monetary amounts are in Australian dollars, unless otherwise stated and a reference to payment means payment in Australian dollars;
- (j) if the day on or by which something must be done is not a Business Day, that thing must be done on the next Business Day; and
- (k) a period of time dating from a given day or the day of a given act or event is to be calculated exclusive of that day.

## **2 Agreement to sell and purchase**

### **2.1 Sale and Purchase**

- (a) RA agrees to sell and the Purchaser agrees to purchase the House free of any encumbrances on the terms and conditions of this Contract.
- (b) The Purchaser acknowledges that this Contract does not include a transfer of the Land.

### **2.2 Passing of Risk**

The risk in the House and Inclusions:

- (a) remains with RA until the Contract Date; and
- (b) passes to the Purchaser on and from the Contract Date.

## **3 Purchase Price**

### **3.1 Deposit**

- (a) The Deposit must be paid by the Purchaser to RA (or the Agent if directed by RA) on the Contract Date.

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- (b) RA or the Agent will hold the Deposit on trust pending Completion.
  - (c) If:
    - (i) the Purchaser completes the purchase of the House, RA is entitled to retain the Deposit; or
    - (ii) if the Contract is terminated:
      - (A) due to the Purchaser's default (including where the house is not relocated by the Sunset Date); or
      - (B) by either party in accordance with clause 5.2,  
RA is entitled to retain the Deposit; or
    - (iii) if the Contract is otherwise terminated without default by the Purchaser (other than pursuant to clause 5.2), the Deposit is to be refunded to the Purchaser.
  - (d) For the avoidance of doubt, all other costs incurred by the Purchaser including any Contractors engaged and costs associated with obtaining any Relocation Approvals remain the Purchaser's responsibility.

### **3.2 Purchase Price**

The Purchase Price is the consideration for the House and must be paid by the Purchaser in accordance with clause 5.1(a)(i).

## **4 Pre completion Obligations on Purchaser**

### **4.1 Relocation Approvals**

The Purchaser:

- (a) is responsible at its cost for obtaining all Relocation Approvals including the preparation and lodgement of the Development Application (Removal) (if required) and the Development Application (Relocation Site) (if required);
- (b) must use its best endeavours to obtain all Relocation Approvals required to carry out the Relocation Works as soon as practicable after the Contract Date;
- (c) must keep RA informed of the progress of all Relocation Approvals including the Development Application (Removal) (if required) and the Development Application (Relocation Site) (if required); and
- (d) must give RA notice in writing within 5 Business Days after the Purchaser has obtained all Relocation Approvals required to carry out the Relocation Works including the Development Consent (Removal) (if required) and Development Consent (Relocation Site) (if required), and provide a copy to RA.

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## 4.2 Contractor details

As soon as practicable after the Contract Date, the Purchaser must give RA notice in writing with details of:

- (a) the proposed Relocation Contractor to be engaged by the Purchaser; and
- (b) any other Contractor that the Purchaser intends to engage to carry out a component of the Relocation Works.

## 4.3 Relocation Site

- (a) The Purchaser agrees that:
  - (i) the Temporary Relocation Site (if applicable) and the Final Relocation Site must not be located within areas identified as Priority Level 1, Priority Level 2 or Priority Level 3, as shown on the Resilient Homes Program Prioritisation Maps; and
  - (ii) RA must approve in writing (including by email) the Relocation Site.
- (b) If the Temporary Relocation Site (if applicable) and the Final Relocation Site is unknown as at the date of this Contract, then the Purchaser agrees that it must, as soon as practicable, give the RA notice in writing of the full address and location of the Temporary Relocation Site (if applicable) and the Final Relocation Site for approval by the RA.
- (c) The Purchaser must not vary the location of the Relocation Site without RA's prior written approval (including by email).

## 4.4 Access Licences

- (a) The Purchaser is responsible, at its cost, for procuring an executed Access Licence by all Contractors that are carrying out the Relocation Works prior to commencement of those works.
- (b) The Purchaser:
  - (i) must lodge an application to RA for any Access Licences required for the Relocation Works as soon as practicable after the Contract Date; and
  - (ii) must submit a Work Plan as part of the Access Licence application which details the proposed methodology for the Relocation Works and identifies any site risks which will be managed by the Contractor(s).
- (c) RA will review the application for the Access Licence and Work Plan as soon as practicable and respond to the Purchaser with its approval, rejection or request for further information as soon as practicable following receipt of the application from the Purchaser or its Contractor(s).

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## 5 Conditions Precedent

### 5.1 Conditions Precedent

- (a) Commencement of the Completion Period is conditional on the Purchaser:
- (i) paying the Purchase Price (less the Deposit) to RA;
  - (ii) procuring its Contractor(s) to enter into an Access Licence with RA and comply with all obligations required as a condition of the grant of access;
  - (iii) subject to clause 4.3(b), obtaining RA's approval in writing to the Relocation Site;
  - (iv) obtaining and providing to RA a copy of the Development Consent (Removal) or evidence (to the reasonable satisfaction of RA) that Development Consent (Removal) is not required;
  - (v) obtaining and providing to RA a copy of the Development Consent (Relocation Site) or evidence (to the reasonable satisfaction of RA) that Development Consent (Relocation Site) is not required;
  - (vi) providing evidence to RA that the Purchaser or its Contractors have obtained any other necessary Relocation Approvals, including providing copies of those approvals; and
  - (vii) if:
    - (A) the Purchaser does not own the Temporary Relocation Site (if applicable) and the Final Relocation Site; and
    - (B) Development Consent (Relocation Site) is not required, providing evidence that the consent of all landowners have been obtained for the placement of the House at the Temporary Relocation Site (if applicable) and the Final Relocation Site.

**(Conditions Precedent).**

### 5.2 5.1(a)(v) Sunset Date

If the Condition Precedents are not satisfied by the Sunset Date, then either Party can terminate this Contract by written notice to the other Party.

### 5.3 Termination

If the Contract is terminated under this clause 5, the Deposit is forfeited by the Purchaser and RA is entitled to retain the Deposit. The Purchaser may make no claim against RA for the Deposit or for any other costs incurred by the Purchaser in connection with this Contract.

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## **6 Completion**

### **6.1 Notice**

The Purchaser must give RA notice within 5 Business Days after the date that the Purchaser has satisfied the Conditions Precedent together with any evidence of satisfaction of the Conditions Precedent as reasonably required by RA.

### **6.2 Completion Period**

- (a) As soon as practicable after satisfaction of the Conditions Precedent (and in any event no more than 1 month after the Conditions Precedent have been satisfied), the Purchaser must give RA notice in writing nominating the commencement date and expiry date of the Completion Period.
- (b) The Parties agree that the Completion Period must commence no later than 3 months after the date that the Conditions Precedent have been satisfied.
- (c) Upon receipt of the notice in clause 6.2(a), RA must give notice to the Purchaser:
  - (i) confirming that it accepts the Conditions Precedent have been satisfied and that the Completion Period will commence on the date specified in the notice; or
  - (ii) advising that the Conditions Precedent have not been satisfied and providing details of matters required for those conditions to be satisfied.
- (d) The Purchaser must promptly address any failures to satisfy the Conditions Precedent identified by RA.
- (e) The Completion Period will not commence until RA is satisfied (acting reasonably) that the Conditions Precedents have been satisfied and RA has issued a notice under clause 6.2(c)(c)(i).

### **6.3 Obligations of the Purchaser during Completion Period**

During the Completion Period, the Purchaser must:

- (a) procure that the Contractor(s) comply with the requirements of the Access Licence and Work Plan (where relevant);
- (b) promptly provide to RA after receipt a copy of any notice from any Authority relating to the Relocation Works or the Purchaser's use of the Land; and
- (c) procure that the Contractor(s) complete the Relocation Works before the expiry date specified in the notice given under clause 6.2(a).

### **6.4 Make Good**

Before the Completion Period ends, the Purchaser must:

- (a) remove all materials, equipment or rubbish connected with the Relocation Works or the use of the Land from the Land;

- 
- (b) make good any damage to the Land caused by the Purchaser or any Contractor in connection with the carrying out of the Relocation Works or the Permitted Purpose; and
  - (c) vacate the Land and leave it in good order and condition to the reasonable satisfaction of the RA.

## **6.5 Obligations of RA during the Completion Period**

Upon the commencement of the Completion Period, RA must:

- (a) hand over any keys to the House; and
- (b) deliver to the Purchaser all documents and reports relating to the House held by RA, unless already provided to the Purchaser.

## **6.6 Extension of Completion Period**

- (a) If, during the Completion Period, there is a Force Majeure Event, RA may agree to extend the expiry date of the Completion Period from that specified in the notice given under clause 6.2(a) on written request from the Purchaser.
- (b) If RA agrees to the Purchaser's request under clause 6.6(a), then the Completion Period will be extended by the same number of days of the Force Majeure Event or such period as specified by RA.

## **6.7 Termination Right**

- (a) If Completion has not taken place by the date that is 12 months after the Contract Date, then RA can terminate this Contract by notice in writing to the Purchaser.
- (b) If the Contract is terminated under this clause 6.7, RA will retain the Deposit and any costs incurred by the Purchaser including any fees payable to Council or other Authority relating to Relocation Approvals or to any Contractors engaged, will remain the Purchaser's responsibility.

## **7 Access**

- (a) From the Contract Date until the commencement of the Completion Period, the Purchaser and its Contractors are entitled to access the Land and House subject to the following conditions:
  - (i) the Purchaser and its Contractors may only access the Land and House for the Permitted Purpose;
  - (ii) the Purchaser and its Contractors are only entitled to access the Land and House on the days and during the times agreed by RA and only after giving RA at least 2 Business Days' notice of its proposed access on each occasion;
  - (iii) if required by RA, the Purchaser and its Contractors must be accompanied by RA's Representative to accesses the Land and House in accordance with this clause; and

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- (iv) the Purchaser or its Contractor must provide to RA a public liability insurance policy for an amount of not less than \$20 million for any one occurrence, covering any period during which it accesses the Land, noting the interest of RA and must, if requested RA, produce a certificate of currency to RA before access will be permitted.

From the commencement of the Completion Period, the Purchaser and its Contractors may only access the Land and House in accordance with an Access Licence.

- (b) The Purchaser acknowledges and agrees that in exercising its rights under clause 7(a):
  - (i) access to the Land and House is solely at its own risk;
  - (ii) the Purchaser must not store any plant or equipment, furniture, chattels or other materials in the House or on the Land;
  - (iii) the Purchaser must not remove anything from the Land or House;
  - (iv) the Purchaser has no right to occupy or reside in the House at any time;
  - (v) access granted to the Land and House is by way of non-exclusive licence;
  - (vi) the Purchaser must make good any damage caused to the Land and House;
  - (vii) the Purchaser or its Contractor has obtained any approvals or consents required to carry out the Permitted Purpose;
  - (viii) no tree or vegetation removal is allowed; and
  - (ix) the Purchaser is not entitled to carry out any intrusive works or make any alterations to the Land or House.
- (c) If the Contract is terminated or the Purchaser or its Contractors do not comply with its obligations in this clause, RA may terminate or suspend the Purchaser's rights to access the Land and House, by notice to the Purchaser.
- (d) The Purchaser must ensure that its Contractors comply with all obligations in this Contract.

## **8 Interdependency**

- (a) The Parties acknowledge and agree that:
  - (i) RA and:
    - (A) the Relocation Contractor; and
    - (B) each other Contractor,

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must enter into an Access Licence no later than the commencing date of the Completion Period and prior to any access or commencement of Relocation Works; and

- (ii) this Contract is interdependent with the Access Licence.
- (b) Any default:
  - (i) by the Purchaser under this Contract is deemed to be a default under the Access Licence; and
  - (ii) by the Contractor(s) under the Access Licence is deemed to be a default by the Purchaser under this Contract and RA may (but is not obligated) to terminate this Contract by notice in writing to the Purchaser.

## **9 Condition of House**

### **9.1 Disclosure**

RA discloses that:

- (a) the Land including the House was acquired as part of the Resilient Homes Program;
- (b) RA does not have and is not required to obtain any insurance to cover any damage or replacement for the House or Inclusions;
- (c) the House may not comply with all Laws;
- (d) the House may contain asbestos or other contaminants; and
- (e) the House may have been flood damaged or may be at a future risk of flood damage while it remains on RA's Land.

### **9.2 As is, where is**

- (a) The Purchaser warrants to RA as at the Contract Date and the Completion Date, that the Purchaser:
  - (i) is satisfied as to the nature, quality, condition and state of repair of the House and Inclusions;
  - (ii) accepts the House and Inclusions in its current state of repair as is and subject to all defects (latent or patent), contamination, asbestos, damage and all dilapidation, infestation and mechanical breakdown; and
  - (iii) is satisfied about the purposes for which the House and Inclusions may be used and about all restrictions and prohibitions on its use and relocation.
- (b) RA is not required to carry out any repairs or maintenance in relation to the House or Inclusions at any time.



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### 9.3 Acknowledgements

The Purchaser acknowledges and agrees that:

- (a) in entering into this Contract, the Purchaser:
  - (i) has not relied on any warranty or representation made or any other conduct engaged in by RA or any person on behalf of RA;
  - (ii) has relied entirely on the Purchaser's own enquiries and inspection of the House and Inclusions;
  - (iii) has had a reasonable opportunity to inspect and review the Contract and any Disclosure Material; and
  - (iv) is satisfied in all respects as to the ability to satisfy the Conditions Precedent,
- (b) no warranty or representation is given (whether express or implied) by RA or anyone on behalf of RA as to:
  - (i) whether or not the House complies with all Laws;
  - (ii) whether the House is able to be relocated;
  - (iii) any financial return or income that can be derived from the House;
  - (iv) any use permitted by Law or any development to which the House may be put;
  - (v) any Inclusions being sold with the House not being in working order or condition or fit for any purpose or not being of merchantable quality or fitting its description or otherwise not complying with any Law including any health or safety Law.

### 9.4 No rights to rescind, terminate or delay

The Purchaser is not entitled to rescind, terminate or delay Completion of this Contract, or to object, requisition or make any claim in connection with any matter, fact or thing relating to the nature, ownership, condition or existence of the House, Inclusions or Exclusions.

### 9.5 No merger

This clause 9 does not merge on completion.

## 10 Termination

- (a) If the Purchaser:
  - (i) is in default under this Contract, including but not limited to in the case of the Purchaser breaching the terms of its Contract, and does not comply with its obligations within 5 Business Days after receiving written notice of the default from RA; or

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(ii) is subject to an Insolvency Event,

RA may terminate this Contract immediately.

- (b) If this Contract is terminated, then, in addition to any other rights or remedies provided by law, each Party retains any rights, entitlements or remedies it has accrued before termination.
- (c) If this Contract is terminated for any reason, whether under this clause 10 or otherwise, the Purchaser must promptly, and no later than 20 Business Days after the termination date:
- (i) remove all materials, equipment or rubbish connected with the Relocation Works or the use of the Land from the Land;
  - (ii) make good any damage to the Land caused by the Purchaser or any Contractor in connection with the carrying out of the Relocation Works or the Permitted Purpose; and
  - (iii) vacate the Land and leave it in good order and condition to the reasonable satisfaction of the RA.

## **11 Release and Indemnity**

- (a) The Purchaser agrees that RA is not responsible for any loss, damage or injury to the Purchaser or to any other person caused by any defect in the Land or House and that no claim will be made against RA in respect of any loss, damage or injury.
- (b) The Purchaser releases, to the full extent permitted by Law, RA and its servants, agents, contractors and invitees, from all claims and demands of any kind resulting from any accident, damage or injury occurring on the Land or any adjoining Land owned by RA.
- (c) The Purchaser acknowledges that RA has no responsibility or liability for any loss or damage to the House including any fixtures, fittings, chattels or personal property of the Purchaser on the Land, except to which any such loss or damage is directly caused or contributed to by RA.
- (d) The Purchaser indemnifies RA and its servants, agents, contractors and invitees from and against all actions, claims, demands, notices, loss or damage for which RA may be or become liable, or for any loss or damage suffered by RA including in relation to any adjoining land as a consequence of any act, default or omission by the Purchaser arising as a result of:
- (i) any breach of the terms of conditions of this Contract;
  - (ii) any act, neglect, default or omission by the Purchaser or its Contractor; and
  - (iii) the Purchaser or the Contractor's access to the Land under this Contract.

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## **12 Warranties**

### **12.1 RA warranties**

RA warrants and represents to the Purchaser that:

- (a) it has taken all necessary action to authorise the entry into and performance of this Contract and to carry out the transactions contemplated by this Contract;
- (b) it is not subject to an Insolvency Event;
- (c) the House is legally held by RA and RA has good and marketable ownership to the House free from encumbrances; and
- (d) it is entitled to sell and transfer the House free from all encumbrances.

### **12.2 Purchaser warranties**

The Purchaser warrants and represents to RA that on the Contract Date and at Completion:

- (a) it has the power to authorise the execution, delivery and performance of this Contract in accordance with its terms, to perform its obligations under this Contract and to carry out the transactions that this Contract contemplates;
- (b) it has taken all necessary action to authorise the execution, delivery and performance of this Contract in accordance with its terms; and
- (c) it is not subject to a current, threatened or anticipated Insolvency Event and there are no facts, matters or circumstances that are reasonably likely to give rise to the occurrence of any Insolvency Event in relation to it.

## **13 GST**

### **13.1 Amounts exclude GST**

Any amounts referred to in this Contract exclude GST unless otherwise expressly stated to the contrary and all amounts payable or consideration to be provided under this Contract are exclusive of GST.

### **13.2 Responsibility for GST**

Despite any other provision in this Contract, if GST is imposed on any supply made by RA under this Contract the Purchaser must pay to RA an amount equal to the GST payable on the supply subject to receiving a tax invoice.

## **14 Confidentiality**

### **14.1 Requirement to keep confidential**

RA and Purchaser will keep, and will cause all persons employed by and associated with them to keep, confidential:

- 
- (a) all information exchanged between them during the negotiations preceding this Contract;
  - (b) all information exchanged between them under this Contract; and
  - (c) the commercial terms of this Contract.

## **14.2 Exceptions to confidentiality**

- (a) Despite clause 14.1, RA and the Purchaser may make disclosures in relation to the information referred to in clause 14.1 and this Contract:
  - (i) to employees, legal advisers, financial institutions, financial advisers, auditors and other consultants of the relevant Party requiring the information for the purposes of this Contract;
  - (ii) with the consent of the relevant Party who supplied the information;
  - (iii) if the information is, at the Contract date, lawfully in the possession of the recipient of the information through sources other than the Party who supplied the information;
  - (iv) if required by Law or a stock exchange;
  - (v) if necessarily required in connection with legal proceedings relating to this Contract; or
  - (vi) if the information is generally and publicly available other than as a result of breach of confidence by the person receiving the information.
- (b) A Party disclosing information under clauses 14.1 or 14.2 must use all reasonable endeavours to ensure that persons receiving confidential information from it do not disclose the information except in the circumstances permitted in clause 14.2.

## **14.3 RA disclosure**

- (a) Despite any other provision of this Contract, the Parties acknowledge and agree that disclosures in connection with this Contract (including disclosure of the terms of this Contract) by the Purchaser or the RA may be required:
  - (i) under Law (including under the Government Information (Public Access) Act 2009 (NSW)); or
  - (ii) to satisfy the disclosure requirements of the Auditor General and to satisfy the requirements of Parliamentary accountability,  
  
**(Public Disclosure Obligations).**
- (b) The Purchaser must use all reasonable endeavours to assist RA, the State of NSW or an Authority in meeting its Public Disclosure Obligations.

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## 15 Notices

- (a) Any notice, approval, certificate, consent or other communication in connection with this Contract be served or given by either Party pursuant to this Contract shall be valid and effectual if executed under the seal of either Party or if it is signed by any director, secretary, executive officer, or attorney of either Party or the solicitors for the time being of either Party or any other person nominated from time to time by either Party as a person authorised to sign a notice on its behalf.
- (b) Any notice to be served must be in writing and must be left at the address of the addressee set out in this Contract or sent by prepaid ordinary post (airmail if posted to or from a place outside Australia) to the address of the addressee set out in this Contract (or if the addressee notifies the sender of another address, to that address).
- (c) A notice is deemed to have been duly served if given:
  - (i) by mail, 2 Business Days after it is posted to the address of the addressee set out in this Contract or such other address which the Parties may from time to time nominate; or
  - (ii) by hand, at the time it is left at the address of the addressee set out in this Contract or such other address which the Parties may from time to time nominate; or
  - (iii) by email, at the time the email is sent to the Parties' email address unless the time of dispatch is later than 5.00 pm in the place to which the email is sent in which case it shall be deemed to have been received at the commencement of business on the next Business Day in that place.

## 16 General

### 16.1 Legal and other costs

- (a) Each Party must pay its own costs of and incidental to the entering into of this Contract.
- (b) The Purchaser must pay all stamp duty, duties or other taxes of a similar kind (including penalties, interest and fines) that are payable on, or relating to, the execution of this Contract or any instrument or transaction contemplated by this Contract.

### 16.2 Purchaser to pay default costs

The Purchaser must pay any costs incurred as a result of any breach or default by the Purchaser in performing any of their obligations under this Contract.

### 16.3 Governing law

This Contract shall be governed by the law of News South Wales and the Parties submit to the non-exclusive jurisdiction of the Courts of that State.

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## **16.4 Counterparts and Electronic Execution**

- (a) This Contract may be signed in any number of counterparts. All signed counterparts taken together constitute one document.
- (b) The Parties consent to this Contract being signed by or on behalf of a Party by electronic signature. In this clause electronic signature means a digital signature or other visual representation of a person's handwritten signature or mark placed or typed on a copy of this Contract by electronic or mechanical means (or any other means of electronic signing this Contract used by agreement between the Parties) and electronically signed has a corresponding meaning.
- (c) Where this Contract is electronically signed by or on behalf of a Party, the Party warrants and agrees that the electronic signature has been used to identify the person signing and to indicate that the Party intends to be bound by this Contract.
- (d) Each Party consents to the exchange of counterparts of this Contract by delivery by email to the Party or its legal representative or other electronic means of exchange as the Parties may agree.
- (e) The Parties agree that a printed copy of a counterpart of this Contract that a Party signed by electronic signature will be taken to be duly executed by that Party.

## **16.5 Further Assurances**

The Parties must sign any document and do anything else reasonably necessary to give effect to the terms of this Contract.

## **16.6 Whole Agreement**

The Parties agree that:

- (a) the terms contained in this Contract constitute the whole of the agreement between them and all previous negotiations and agreements are negated;
- (b) no further terms shall be implied or arise between the Parties by way of collateral or other agreement made by or on behalf of the Parties on or before or after the execution of this Contract, and any implication or collateral or other agreement is excluded and negated;
- (c) no information, representation or warranty by the Parties or their respective employees or agents was supplied or made with the intention or knowledge that it would be relied upon in entering into this Contract; and
- (d) no information, representation or warranty has been relied upon by a Party in entering into this Contract.

## **16.7 Waiver**

No waiver by one Party of a breach by the other Party of any obligation, provision or condition of this Contract expressed or implied shall operate as a waiver to or of any other breach of the same or any other obligation, provision or condition of this Contract expressed or implied.

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## **16.8 Severance**

All provisions of this Contract will so far as possible be construed so as not to be invalid, illegal or unenforceable in any respect. If any provision is illegal, invalid or unenforceable, that provision shall so far as possible be read down to the extent necessary to ensure that it is not illegal, invalid or unenforceable and as may be reasonable in all the circumstances so as to give it a valid operation of a partial character. If any provision or part of it cannot be so read down, such provision or part shall be deemed to be void and severable and the remaining provisions of this Contract will not in any way be affected or impaired.

## **16.9 Amendment**

This Contract may only be amended or varied by a document in writing signed by each Party.

## **16.10 Assignment**

- (a) RA may at any time, and without the Purchaser's approval, assign any right or interest of RA under this Contract.
- (b) The Purchaser must not assign, novate or otherwise transfer any of its rights or obligations under this Contract without the prior consent of RA.

## **16.11 No merger**

On completion or termination of the transactions contemplated by this Contract, the rights and obligations of the Parties set out in this Contract will not merge and any provision that has not been fulfilled remains in force.

# **17 Dispute determination**

## **17.1 Notice of dispute**

If a dispute between the Purchaser and RA arises in connection with this Contract:

- (a) either party may give to the other a notice specifying the nature and details of the dispute; and
- (b) the dispute will be resolved in accordance with the procedure set out in this clause 17.

Nothing in this clause prevents a party from applying to a court of competent jurisdiction for interlocutory or injunctive relief.

## **17.2 Expert determination**

If the Parties agree within 20 Business Days of a notice being served under clause 17.1 that the dispute is suitable for resolution by an expert, the Parties will refer the dispute to a suitably qualified person agreed by the Parties, for expert determination in accordance with clause 17.3.

## **17.3 Expert determination process**

If a dispute is referred to expert determination in accordance with this clause:

- 
- (a) the expert will:
    - (i) act as an expert and not as an arbitrator;
    - (ii) allow the parties to make written submissions relating to the dispute;
    - (iii) proceed in any manner he or she thinks fit but must observe the rules of natural justice;
    - (iv) conduct any investigation which he or she considers necessary to resolve the dispute or difference;
    - (v) examine such documents, and interview such persons, as he or she may require; and
    - (vi) make such directions for the conduct of the determination as he or she considers necessary;
  - (b) each party will:
    - (i) bear its own costs in respect of any expert determination; and
    - (ii) unless determined otherwise by the expert, pay one-half of the expert's costs; and
  - (c) the determination of the expert will be final and binding.

#### **17.4 Continuation of obligations**

Despite the existence of a dispute, the parties must continue to comply with their obligations under this Contract.

#### **17.5 Other disputes**

If a dispute arises:

- (a) which the Parties agree is not suitable for expert determination; or
- (b) for which the Parties cannot agree as to whether it is suitable for expert determination within 20 Business Days of a notice being given under clause 17.1,

this clause has no further application and each Party is free to exercise any rights it may have in relation to the dispute.

**EXECUTED** as a deed.



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## Schedule 1- House Details

DRAFT

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## Schedule 2 - Inclusions

DRAFT

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## Annexure A - Access Agreement

DRAFT

# House Sale Contract

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## Signing page

**Signed, sealed and delivered** for and on behalf of the **NSW Reconstruction Authority** by its authorised delegate in the presence of:

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

\_\_\_\_\_  
Name of witness

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

\_\_\_\_\_  
Name of authorised delegate

[N.B. Select or insert appropriate purchaser execution block(s)]

**Executed** by **[Company Name]** ACN **[insert]** in accordance with section 127 of the *Corporations Act 2001* (Cth) by being signed by the following officers:

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Name of director  
*(please print)*

\_\_\_\_\_  
Signature of director/company secretary

\_\_\_\_\_  
Name of director/company secretary  
*(please print)*

**Signed** by **[insert name]** in the presence of:

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

\_\_\_\_\_  
Name of witness *(please print)*

\_\_\_\_\_  
Signature of **[insert name]**