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# Contract for the sale of land – 2005 edition

TERM	MEANING OF TERM
Vendor's agent	No agent
Co-agent	
Vendor	Services UNE Limited ABN 29 065 648 419 University of New England Armidale 2351
Vendor's Solicitor	Watson McNamara & Watt, 156 Beardy Street Armidale NSW 2350 DX 6002 Armidale Ph (02) 6772 5244 Fax (02) 6772 6676
Completion date	42nd day after the contract date (clause 15)
Land	174 Beardy Street Armidale
(Address, plan details and title reference)	Lot 7 DP564754 Identifier 7/564754
Improvements	<input checked="" type="checkbox"/> VACANT POSSESSION <input type="checkbox"/> subject to existing tenancies <input type="checkbox"/> HOUSE <input type="checkbox"/> garage <input type="checkbox"/> carport <input type="checkbox"/> home unit <input type="checkbox"/> carspace <input type="checkbox"/> none <input checked="" type="checkbox"/> other: Hotel
Attached copies	<input type="checkbox"/> Documents in the List of Documents as marked or as numbered: <input type="checkbox"/> Other documents:

Mr B D Atkinson

**A real estate agent is permitted by legislation to fill up the items in this box in a sale of residential property.**

**Inclusions**

<input type="checkbox"/> blinds	<input type="checkbox"/> curtains	<input type="checkbox"/> insect screens	<input type="checkbox"/> stove
<input type="checkbox"/> built-in wardrobes	<input type="checkbox"/> dishwasher	<input type="checkbox"/> light fittings	<input type="checkbox"/> pool equipment
<input type="checkbox"/> clothes line	<input type="checkbox"/> fixed floor coverings	<input type="checkbox"/> range hood	<input type="checkbox"/> TV antenna
<input checked="" type="checkbox"/> other: Plant, Business and Licence			

**Exclusions**

**Purchaser** DARRELL FREDERICK HENDRY

**Purchaser's solicitor** BLAKEHURST NSW 2221

JORIAN BLANCH & CO, PO Box 12, TURRAMURRA 2074  
Tel: 9144-1102 Fax: 9449 1759

**Price** \$2,650,000  
**Deposit** \$265,000 (10% of the price, unless otherwise stated)  
**Balance** \$2,385,000

**Contract date** 6 December 2005 (If not stated, the date this contract was made)

**Vendor** \_\_\_\_\_ **Witness** \_\_\_\_\_

*[Signature]* GST AMOUNT (optional)  
The price includes  
GST of: \$ *[Signature]*

**Purchaser** \_\_\_\_\_ **Witness** \_\_\_\_\_

JOINT TENANTS     tenants in common     in unequal shares

Tax information (the parties promise this is correct as far as each party is aware)

Vendor duty is payable  NO     yes in full     yes to an extent

Deposit can be used to pay vendor duty  NO     yes

Land tax is adjustable  NO     yes

GST: Taxable supply  NO     yes in full     yes to an extent

Margin scheme will be used in making the taxable supply  NO     yes

This sale is not a taxable supply because (one or more of the following may apply) the sale is:

not made in the course or furtherance of an enterprise that the vendor carries on (section 9-5(b))

by a vendor who is neither registered nor required to be registered for GST (section 9-5(d))

GST-free because the sale is the supply of a going concern under section 38-325

GST-free because the sale is subdivided farm land or farm land supplied for farming under Subdivision 38-O

input taxed because the sale is of eligible residential premises (sections 40-65, 40-75(2) and 195-1)

**HOLDER OF STRATA OR COMMUNITY TITLE RECORDS – Name, address and telephone number**

\_\_\_\_\_

General	Strata or community title (clause 23 of the contract)
<input checked="" type="checkbox"/> property certificate for the land <input checked="" type="checkbox"/> plan of the land <input type="checkbox"/> unregistered plan of the land <input type="checkbox"/> plan of land to be subdivided <input type="checkbox"/> document that is to be lodged with a relevant plan <input checked="" type="checkbox"/> section 149(2) certificate (Environmental Planning and Assessment Act 1979) <input type="checkbox"/> section 149(5) information included in that certificate <input type="checkbox"/> sewerage connections diagram <input type="checkbox"/> sewer mains diagram <input type="checkbox"/> document that created or may have created an easement, profit à prendre, restriction on use or positive covenant disclosed in this contract <input type="checkbox"/> section 88G certificate (positive covenant) <input type="checkbox"/> survey report <input type="checkbox"/> section 317A certificate (certificate of compliance) <input type="checkbox"/> building certificate given under <i>legislation</i> <input type="checkbox"/> insurance certificate (Home Building Act 1989) <input type="checkbox"/> brochure or note (Home Building Act 1989) <input type="checkbox"/> section 24 certificate (Swimming Pools Act 1982) <input type="checkbox"/> lease (with every relevant memorandum or variation) <input type="checkbox"/> other document relevant to tenancies <input type="checkbox"/> old system document <input type="checkbox"/> Crown tenure card <input type="checkbox"/> Crown purchase statement of account <input type="checkbox"/> Statutory declaration regarding <i>vendor duty</i>	<input type="checkbox"/> property certificate for strata common property <input type="checkbox"/> plan creating strata common property <input type="checkbox"/> strata by-laws not set out in <i>legislation</i> <input type="checkbox"/> strata development contract or statement <input type="checkbox"/> strata management statement <input type="checkbox"/> leasehold strata - lease of lot and common property <input type="checkbox"/> property certificate for neighbourhood property <input type="checkbox"/> plan creating neighbourhood property <input type="checkbox"/> neighbourhood development contract <input type="checkbox"/> neighbourhood management statement <input type="checkbox"/> property certificate for precinct property <input type="checkbox"/> plan creating precinct property <input type="checkbox"/> precinct development contract <input type="checkbox"/> precinct management statement <input type="checkbox"/> property certificate for community property <input type="checkbox"/> plan creating community property <input type="checkbox"/> community development contract <input type="checkbox"/> community management statement <input type="checkbox"/> document disclosing a change of by-laws <input type="checkbox"/> document disclosing a change in a development or management contract or statement <input type="checkbox"/> document disclosing a change in boundaries <input type="checkbox"/> certificate under Management Act – section 109 (Strata Schemes) or section 26 (Community Land)

**WARNINGS**

- Various Acts of Parliament and other matters can affect the rights of the parties to this contract. Some important matters are actions, claims, decisions, licences, notices, orders, proposals or rights of way involving

AGL Gas Networks Limited	Government Business & Government Procurement	Public Works Dept
Council	Heritage Office	Roads & Traffic Authority
County Council	Infrastructure Planning and Natural Resources	Rural Lands Protection Board
East Australian Pipeline Limited	Land & Housing Corporation	Sustainable Energy Development
Education & Training Dept	Mine Subsidence Board	Telecommunications authority
Electricity authority	Owner of adjoining land	Water, sewerage or drainage authority
Environment & Conservation Dept	Primary Industries Department	
Fair Trading	RailCorp	

If you think that any of these matters affects the property, tell your solicitor.
- A lease may be affected by the Agricultural Tenancies Act 1990, the Residential Tenancies Act 1987 or the Retail Leases Act 1994.
- If any purchase money is owing to the Crown, it may become payable when the transfer is registered.
- If a consent to transfer is required under legislation, see clause 27 as to the obligations of the parties.
- The vendor should continue the vendor's insurance until completion. If the vendor wants to give the purchaser possession before completion, the vendor should first ask the insurer to confirm this will not affect the insurance.
- The purchaser will usually have to pay stamp duty on this contract. The sale will also usually be a vendor duty transaction. If duty is not paid on time, a party may incur penalties.
- If the purchaser agrees to the release of deposit any rights in relation to the land (for example, the rights mentioned in clause 2.8) may be subject to the rights of other persons such as the vendor's mortgagee.
- The purchaser should arrange insurance as appropriate.

**DISPUTES**

If you get into a dispute with the other party, the Law Society and Real Estate Institute encourage you to use informal procedures such as negotiation, independent expert appraisal or mediation (for example mediation under the Law Society Mediation Guidelines).

**AUCTIONS**

Regulations made under the Property Stock and Business Agents Act 2002 prescribe a number of conditions applying to sales by auction.

SPECIAL CONDITIONS

1. The Purchaser acknowledges that it does not rely in this Agreement upon any warranty or representation made by the Vendor or any person on behalf of the Vendor except such as are expressly provided herein but the Purchaser has relied entirely upon its own enquiries following an inspection of the property and all improvements thereon and the Purchaser further acknowledges that it accepts that property, the improvements thereon and any chattels included in this Agreement in their present condition subject to fair wear and tear and including any defects whether latent or patent.
2. The parties acknowledge and agree that fourteen (14) days shall be reasonable and sufficient notice for the purpose of service of any Notice to Complete which either party may be entitled to serve on the other.
3. In the event of the Purchaser not completing this Contract by the completion date the Purchaser shall pay in addition to all other monies payable pursuant to this Contract an amount calculated at 10% per annum on the balance of purchase money such interest to be calculated on a daily basis.
4. The Purchaser warrants that it was not introduced to the Vendor or the property by any agent. The Purchaser indemnifies and must keep indemnified the Vendor against any claim or demand for commission arising out of a breach of the Purchaser's warranty.
5. The price is apportioned as follows:-
 

Land improvements Business and Licence	
Plant	
Total	

TO BE ADVISED SUBJECT  
 \$ TO AGREEMENT BETWEEN  
 \$ THE PARTIES PRIOR TO  
 \$ SETTLEMENT
6. The Vendor sells and the Purchaser purchases the stock being all the good and saleable stock in trade of the business on the following terms:-
  - (a) The amount to be paid by the Purchaser to the Vendor for stock is to be determined by a valuation to be made by a Valuer agreed between the parties and in default of agreement to be nominated by the Vendor's Solicitor. The cost of the valuation must be met by the parties in equal shares.
  - (b) The valuation is to be made immediately prior to completion. Any item of stock rejected by the purchaser as being not good and saleable must be rejected at the time of stock take prior to completion and in respect of any item the onus is on the Purchaser to prove that it is not good and saleable.
  - (c) The Purchaser must pay to the Vendor at the property the amount due for the stock within 30 days after the completion date by 1.00pm on that date. In default of payment by the due date the Purchaser must pay to the Vendor in addition to and at the same time as the amount due for stock, interest at the rate of 10% per annum on the amount due for stock calculated from completion until the date of payment (both days inclusive).

- (d) The payment for the amount due for stock and interest (if any) must be secured to the Vendor by a Banker's Guarantee or undertaking for an amount not less than \$50,000.00 and express to expire not less than 7 business days after the due date for payment of the amount due for stock. A copy of the Banker's Guarantee or undertaking must be furnished to the Vendor's Solicitor not less than 7 days prior to completion. The Banker's Guarantee or undertaking must be delivered to the Vendor's Solicitor on or before completion. In default of payment by the specified time on the due date the Vendor is at liberty to enforce the Banker's Guarantee or undertaking without notice to the Purchaser.
7. The Vendor agrees to remain in possession of the business and to operate the business as a going concern until completion. The Vendor agrees to give up possession of the business and the Purchaser agrees to take possession of the business on completion.
8. Liquor Act Provisions
- (a) The parties (at no cost to the Purchaser) appoint the Vendor's Solicitor their agent in respect of the application to the Licensing Court for a provisional transfer of the Licence to the Transferee. In this contract the term Licence means the Hoteliers Licence granted pursuant to the Liquor Act 1982 in respect of the property.
- (b) The Purchaser must within 14 days after the date of this contract furnish in writing to the Vendor's Solicitor the full name and address of the Transferee who shall be the Purchaser's nominee for the Application.
- (c) The Purchaser must within 21 days after the date of this contract deliver to the Vendor's Solicitor an original and sufficient copies of the Application and Affidavit by the Transferee, Part B Affidavit of Particulars by the Transferee and the Managerial Agreement, all completed executed and stamped and otherwise in accordance with the Liquor Act for lodgement at the Licensing Court and a cheque in favour of the Licensing Court for the prescribed application fee. The Application and Affidavit of the Transferee shall contain a request of the Court pursuant to Section 61(3) of the Liquor Act that the Application be the subject of a provisional grant.
- (d) The Vendor's Solicitor must as soon as practicable thereafter cause the Application to be lodged at the Licensing Court.
- (e) The Purchaser authorises the Vendor's Solicitor to make all necessary enquiries as to the progress of the Application with all appropriate authorities and to list the Application for hearing. The Purchaser must forthwith upon request by any appropriate authority or by the Vendor's Solicitor furnish or cause to be furnished to such authority or to the Vendor's Solicitor all necessary or further information to allow the application to proceed to hearing, and to cause the Transferee to attend at the Licensing Court and do all things reasonably within the power of the Purchaser to cause the Application to be granted. If any objection is made to the granting of the Application on account of the Purchaser or the Transferee, the Purchaser must employ a Solicitor at the Purchaser's own expense to contest the



objection.

- (f) The Application is to be heard by the Licensing Court on or about the completion date.
- (g) If the Application is not granted by the Licensing Court due to objection by the Transferee, the Purchaser shall immediately nominate a new Transferee acceptable to the Licensing Court and the provisions of this cause apply in relation to the new Transferee.
- (h) If the Application is not granted by the Licensing Court due to objection to the Purchaser either party can rescind this contract and provided that the Purchaser has complied with all its obligations under this contract the price including the deposit must be refunded to the Purchaser by the Vendor less any reasonable costs charges or expenses incurred by the Vendor in relation to this sale and less the reasonable amount of the Vendor's Solicitor's costs and disbursements.

9. Profits and Expenses

- (a) The Vendor is entitled to all of the takings profits and debtors of the Business up to but excluding completion and must pay bear and be liable for all outgoing expenses and creditors of the Business up to but excluding completion.
- (b) The Purchaser is entitled to the takings profits and debtors of the Business on and after completion and must pay bear and be liable for all outgoings expenses and creditors of the Business on and after completion.
- (c) After completion the Purchaser will assist the Vendor in all reasonable ways to collect the debtors of the Business due and owing to the Vendor but not paid at completion and will forthwith account to the Vendor for all payments received by it relating to those debtors.
- (d) Any necessary apportionment of expenses of the Business of a continuing periodic or recurring nature must be apportioned between the Vendor and Purchaser and adjusted up to but excluding completion and any adjustment must be made on completion.
- (e) The periodic licence fee in relation to the Licence for the period current at completion, any prescribed fee in relation to a condition on the Licence and any duty in relation to an approved amusement device operated at the property for the quarter current at completion, paid or payable by the Vendor must be adjusted up to but excluding completion and any adjustment must be made on completion. For the purpose of this clause duty on any approved amusement device for the quarter current at completion is to be calculated in accordance with the Liquor Act 1982 on the turnover of the device operated on the property from the commencement of the current quarter up to but excluding completion.
- (f) The parties will use their best endeavours to arrange for the transfer of the telephone, electricity, gas and other services connected to the property to the

## 10. Employees

- (a) With effect from the date prior to completion the Vendor will terminate the service of all employees of the Business and will pay to those employees all salary wages holiday pay and long service leave and other remuneration to which they may legally be entitled.
- (b) On completion the Vendor will allow to the Purchaser an amount equal to the monetary value of the long service leave entitlements which the Vendor would be liable to pay the employees of the Business who are to be reemployed in the Business by the Purchaser on completion as if those employees were not to be reemployed by the Purchaser in the Business. The Purchaser indemnifies the Vendor against any claim by an employee against the Vendor in respect of long service leave or its monetary value provided that this indemnity is limited to the amount which has been paid or allowed by the Vendor to the Purchaser pursuant to this clause in respect of that employee.

## 11. Warranty by Vendor

The Vendor warrants that on completion the Business Licence Plant and Stock will be free and clear from encumbrances, will not be subject to any hire purchase agreement, bill of sale, mortgage, charge pledge or hiring agreement, will be the property of the Vendor and that no moneys will be owing in respect of that property provided that any moneys owing by the Vendor in respect of stock will be paid in accordance with the Vendor's normal terms of trade.

## 12. Acknowledgements by the Purchaser

- (a) The Purchaser acknowledges that he has made his own enquiries into the Business and that neither the Vendor nor any person on behalf of the Vendor makes any warranty as to the takings or outgoings of the Business. The Vendor is not to be responsible or liable for any representations specifications and promises of any kind or description other than those expressly made in this contract.
- (b) The Purchaser acknowledges having been made aware of the conditions of the Licence as set out the copy Licence annexed hereto. The Purchaser must not make any objection requisition or claim for compensation in relation to arising out of the annexed copy Licence and the Purchaser must not delay completion or rescind or terminate this contract as a result of the annexed copy Licence.

13. This contract is subject to and conditional upon the Purchaser obtaining approval to finance in the sum of \$  upon terms satisfactory to the Purchaser on or before Monday 7 November 2005. The Purchaser shall be entitled to rescind the contract at any time up to 5.00pm on Monday 7 November 2005 if the Purchaser has not obtained approval to the finance upon terms satisfactory to the Purchaser. This is an essential condition.

14. THE Vendor will consent to the purchaser establishing a special purpose Trust or Company for the purposes of purchasing the assets as detailed in this Contract of Sale. Details of the name and registration of the Trust or Company to be provided to the vendors solicitor within 21 days of the date of this Contract