



## GENERAL CONDITIONAL AGREEMENT – TERMINATED ON RELEVANT GROUNDS

### SECTION 88A OF THE *DUTIES ACT 2008*

#### APPLICATION FOR ASSESSMENT OR REASSESSMENT

A general conditional agreement is **terminated on relevant grounds** if, within 12 months after the date of execution of the agreement, it is not carried into effect because a condition to which it was subject, as referred to in section 87(2) of the *Duties Act 2008* ('Duties Act'), cannot be fulfilled for reasons that are not within the control of a party to the agreement, or a person that is related to a party to the agreement.

A general conditional agreement is **not terminated on relevant grounds** if the agreement:

- is cancelled so that a replacement transaction or a subsale transaction can be entered into; or
- is not carried into effect after duty on the agreement has been paid, or is due to be paid; or
- is a terms contract under which the person liable to pay the duty has obtained exclusive use or control of the property; or
- is a farming land conditional agreement (as referred to in section 88 of the Duties Act); or
- is a mining tenement conditional agreement (as referred to in section 89 of the Duties Act); or
- is an issue of title conditional agreement (as referred to in section 90 of the Duties Act).

For further details on eligibility, please refer to [Duties Fact Sheet 'Cancelled Transactions'](#) available from the Office of State Revenue (OSR) website at [www.osr.wa.gov.au](http://www.osr.wa.gov.au).

**All relevant questions must be answered in full and all transaction records (documents) for the transaction must accompany this application form.**

- Bundle ID

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#### Lodging party details

Client ID (if known) \_\_\_\_\_

First Name \_\_\_\_\_

Surname \_\_\_\_\_

Postal Address \_\_\_\_\_

Suburb \_\_\_\_\_ Postcode \_\_\_\_\_

#### Names in full of taxpayer(s) (e.g. purchaser)

(1) \_\_\_\_\_

(2) \_\_\_\_\_

Taxpayer(s) postal address \_\_\_\_\_

Suburb \_\_\_\_\_ Postcode \_\_\_\_\_

1. **Has the dutiable transaction been carried into effect?** Yes  No

2. **Which condition of the agreement has not been fulfilled?**

- |  |  |
|--|--|
| A satisfactory private ruling from the Commissioner of Taxation of the Commonwealth <input type="checkbox"/> | The vendor obtaining approval for renewing an existing lease over commercial property <input type="checkbox"/>       |
| The purchaser obtaining funds to finance the purchase <input type="checkbox"/>                               | The vendor obtaining a new lease, or assignment of the current lease over business premises <input type="checkbox"/> |
| The purchaser obtaining a satisfactory building inspection, geotechnical or <input type="checkbox"/>         | The sale of another property by a purchaser <input type="checkbox"/>   |
| The vendor obtaining consent to transfer a lease of leasehold land to the purchaser <input type="checkbox"/> | The purchaser obtaining approval from a regulatory body <input type="checkbox"/>                                     |
| The authorisation of a First Home Owners Grant to the purchaser <input type="checkbox"/>                     | The results of due diligence inquiries against objective criteria <input type="checkbox"/>                           |
| The purchaser obtaining a licence to trade or the grant of a franchise <input type="checkbox"/>              | Other <input type="checkbox"/>   |

If the answer to Q2 is **OTHER**, the general conditional agreement cannot be terminated on relevant grounds. Please submit form FDA1 **'Exemption for Cancelled Transactions'** instead.

3. **Has the transaction been cancelled so that a 'subsale transaction' can be entered into?** Yes  No

If the subsale transaction has been entered into, attach the transaction record (document) for the subsale transaction to this application or, if it is already lodged with OSR or via ROL, please provide:

Bundle ID: 

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NOTE: The general conditional agreement cannot be terminated on relevant grounds if a subsale transaction has been entered into.

4. **Has the transaction been cancelled so that a 'replacement transaction' can be entered into?** Yes  No

If the replacement transaction has been entered into, attach the transaction record (document) for the replacement transaction to this application or, if it is already lodged with OSR or via ROL, please provide:

Bundle ID: 

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NOTE: The general conditional agreement cannot be terminated on relevant grounds if a replacement transaction has been entered into.

5. **Did the taxpayer obtain exclusive use or control of the property under a terms contract (within the meaning given in the *Sale of Land Act 1970*), whether or not the dutiable transaction was for any reason not fully carried into effect?** Yes  No

NOTE: The general conditional agreement cannot be terminated on relevant grounds if the taxpayer obtained exclusive use or control of the property under a terms contract.

**IMPORTANT**

A person who provides information to the Commissioner knowing it to be false or misleading in a material particular commits an offence under the *Taxation Administration Act 2003*. The penalty for the offence is:

- a) \$20,000 and
- b) three times the amount of duty that was avoided or might have been avoided if the false or misleading information had been accepted as true.

**DECLARATION**

I/We do solemnly and sincerely declare that the answers and information that I/we have given in this application are true, complete and correct.

**SIGNATURE OF THE TAXPAYER(S) OR THEIR AGENT**

<b>Signature</b> _____	<b>Date</b> _____ / ____ / ____
<b>Signature</b> _____	<b>Date</b> _____ / ____ / ____

Contact Telephone Number (     ) \_\_\_\_\_

**CONTACT THE OFFICE OF STATE REVENUE**

This form can be lodged electronically, as an attachment to a web enquiry, or in person.

**Online:** [www.finance.wa.gov.au/cms/State\\_Revenue/Online\\_Services/Online\\_Services.aspx](http://www.finance.wa.gov.au/cms/State_Revenue/Online_Services/Online_Services.aspx)

**Delivery to:**

**Office**                      Office of State Revenue  
200 St Georges Terrace  
PERTH WA 6000

**Postal address**        Office of State Revenue  
GPO Box T1600  
PERTH WA 6845

**Enquiries:**

**Telephone**              (08) 9262 1100  
1300 368 364  
(WA country STD callers only – local call charge)

**Web Enquiry**        [www.osr.wa.gov.au/DutiesEnquiry](http://www.osr.wa.gov.au/DutiesEnquiry)

**Website**                [www.osr.wa.gov.au](http://www.osr.wa.gov.au)

**TERMS USED**

**‘taxpayer’** means a person who is or may be liable to pay duty. Where there are two or more persons the taxpayer is considered to be all parties.

**‘subsale transaction’**, in relation to a cancelled transaction means another dutiable transaction, which results in a beneficial interest in the dutiable property being held by:

- (a) a person who is not a party to the cancelled transaction, a result which is contemplated or provided for under the cancelled transaction; or
- (b) a person who is not a party to the cancelled transaction, a result which is substantially similar in effect to the effect of the cancelled transaction; or
- (c) another person, as a result of an agreement, arrangement or understanding between a person liable to pay duty and any other party to the transaction.

**‘replacement transaction’**, in relation to a cancelled transaction, means another dutiable transaction that:

- (a) is between all of the same parties as the parties to the cancelled transaction; and
- (b) is substantially similar in effect to the cancelled transaction; and
- (c) in the opinion of the Commissioner, is a scheme or arrangement, or part of a scheme or arrangement, for which the sole or dominant purpose of any party is to avoid, reduce or defer the payment of duty.