

## **FURTHER TERMS OF SALE (STAGE 2I – HUDSON NEIGHBOURHOOD)**

### **17 SUBDIVISION**

- 17.1 The vendor undertakes with all due diligence and at the vendor's expense to prepare and lodge for deposit with Land Information New Zealand a plan of subdivision in a form as near as possible to the plan attached.
- 17.2 The property is sold subject to all existing encumbrances, restrictions, easements and drainage rights and to any further encumbrances, restrictions, consent notices, easements or drainage rights which may be required in order to satisfy the conditions of approval of the land use and subdivision consent by the vendor, the Selwyn District Council or any other authority in respect of the subdivision plan. The purchaser agrees to purchase the property and take title subject to all such encumbrances, consent notices, restrictions, (including the restrictive covenants contained in Clause 22 hereof) easements and drainage rights.
- 17.3 The following are subject to any variation or alteration as required by the vendor, the Selwyn District Council or Land Information New Zealand as the case may be:
- a) All measurements and areas shown on the attached plan;
  - b) The layout and appearance of the overall subdivision of the vendor's land or any particular details of the vendor's development;

The purchaser shall not be entitled to make any objection or requisition or claim for compensation in respect of any such variations or alterations to the Lot being sold unless the effect of such variation or alterations is to reduce the area of the property by more than 3% of the area shown on the attached plan.

- 17.4 The purchaser acknowledges that the purchaser purchases the property solely in reliance upon the purchaser's own judgement and not upon any representation or warranty made by the vendor or any agent of the vendor. The purchaser acknowledges that the vendor intends to develop its land in stages, and that the vendor has given no warranty that the title to the Lot being purchased will be available by any particular date.

### **18 FINANCIAL ARRANGEMENT RULES**

The parties hereby agree that where in relation to this agreement it is or becomes necessary to determine "the consideration" for the purposes of Part EW of the Income Tax Act 2007 the purchase price payable hereunder is the lowest price the parties would have agreed on for the property that is the subject of this agreement for sale and purchase of property at the time at which this sale and purchase agreement for the sale and purchase of the property was entered into on the basis of payment in full at the time at which the first right in the specified property is to be transferred.

### **19 CREDIT CONTRACTS AND CONSUMER FINANCE ACT 2003**

It is recorded that:

- a) the settlement date is the earliest date on which the parties would in any circumstances have agreed that the balance of the purchase price was to be payable; and
- b) neither the period between the date of this agreement and the settlement date nor any other provision in this agreement evidences any deferment of the

purchaser's obligation to pay the purchase price for the purposes of section 6 of the Credit Contracts and Consumer Finance Act 2003; and

- c) accordingly this agreement is not a "credit contract" for the purposes of or within the meaning of that Act.

## **20 NO CAVEAT**

The purchaser agrees that neither the purchaser nor any person claiming through the purchaser will lodge a caveat against the title to the land or any part of it prior to the survey plan being deposited at Land Information New Zealand. In the event of the purchaser or any person claiming through the purchaser lodging a caveat the vendor may forthwith take all necessary steps at the purchaser's cost to secure the immediate removal of such caveat and the purchaser agrees that the production of this agreement to the District Land Registrar at Christchurch shall entitle the District Land Registrar to remove the caveat from the title. If the purchaser registers any caveat or procures the registration of any caveat in contravention of this clause, the purchaser shall pay to the vendor liquidated damages of \$1,000.00 per day for so long as such caveat prevents the deposit of vendor's plan of subdivision.

## **21 DAMAGE REMEDIATION BOND**

- 21.1 On settlement the purchaser shall pay to the vendor a Bond of \$2,500.00 ("the Bond") which the vendor is entitled to apply towards repair or reinstatement of any damage caused to the infrastructure of the subdivision or to any neighbouring lots during the course of construction of the dwelling. The procedure for the refund or retention of the Bond shall be as follows.
- 21.2 At any time up to six months after the issue of a Code Compliance Certificate for the first dwelling built on the lot, the purchaser shall be entitled to apply to the vendor for the refund of the Bond. The application shall be in writing, and must be accompanied by a copy of the Code Compliance Certificate for the dwelling.
- 21.3 As soon as practicable after receipt of the purchaser's application, a representative of the vendor will inspect the lot to determine if there has been any damage caused to the infrastructure of the subdivision (roads, footpaths, berms, kerbs, trees and street furniture) or to any fences or neighbouring lots during the course of construction of the dwelling.
- 21.4 If in the opinion of the vendor there has been damage caused, the vendor shall notify the purchaser in writing of the particulars of the damage and will specify a reasonable time within which repairs or reinstatement of the damaged parts must be completed by the purchaser.
- 21.5 If at the expiry of the period referred to in 21.4 (or such later date as the vendor may agree in writing), the purchaser has not repaired or reinstated the damage, the vendor will be entitled to apply the Bond in meeting the cost of repair or reinstatement. Any balance of the Bond remaining after the repair or reinstatement shall be refunded to the purchaser.
- 21.6 If in the opinion of the vendor after carrying out the inspection in paragraph 21.3 there is no outstanding damage caused, the vendor shall refund the Bond to the purchaser.
- 21.7 The vendor is not obliged to hold the Bond in a separate account nor to account to the purchaser for any interest earned on the Bond.

- 21.8 If the purchaser does not apply in writing for the refund of the Bond within six months of the issue of a Code Compliance Certificate for the dwelling, the vendor shall be entitled to permanently retain the Bond.
- 21.9 In the event that the purchaser sells the lot without building on it, the vendor shall continue to hold the Bond on the terms set out above, and will make any refund of the Bond to the owner of the lot at the time the dwelling is built. It is recommended that the purchaser make provision in any agreement to sell the lot for the party purchasing to refund the Bond to the purchaser direct.

## **22 RESTRICTIVE COVENANTS**

It is acknowledged by the purchaser that the covenants set out in Appendix A are to be registered for the benefit of all of the residential lots on the plan of subdivision to the intent that each of the residential lots will be subject to a general scheme, and the purchaser agrees to be bound by the restrictive covenants as set out in Appendix A. The Vendor will register the restrictive covenants prior to settlement.

## **23 FENCING BY VENDOR**

- 23.1 The vendor shall, prior to settlement, fence the boundaries between any lot and an adjoining reserve with a 1.2 metre high Warner style fence of a design and colour of the vendor's choice.
- 23.2 The vendor shall, prior to settlement, fence the boundaries between the residential lots on the subdivision with a 1.8 metre high paling fence constructed of new materials and in compliance with the fencing provisions contained in the restrictive covenants.
- 23.3 The vendor will take all reasonable steps to complete the fencing in clauses 23.1 and 23.2 before settlement date but the parties acknowledge that from time to time it may not be possible to complete the fencing before settlement. In that event the vendor will ensure that the fencing is completed as soon as practicable after settlement but the purchaser will not be entitled to retain any part of the purchase price on settlement.
- 23.4 Where the purchaser is permitted to commence construction on the lot (having obtained all necessary local authority and Developer approvals) prior to the vendor having completed the fencing required under this agreement on the lot, the purchaser shall be required to erect and maintain construction / security fencing around the lot at all times, until the vendor has completed the requisite fencing under this agreement of the lot.

## **24 RATES**

Until the property is separately rated, the purchaser will, on settlement, refund to the vendor, a pro-rata share of the rates on the basis of an estimate of \$450.00 per annum.

## **25 VEHICLE CROSSING**

The purchaser acknowledges that if no vehicle crossing has been installed, the purchaser will be obliged to construct a kerb crossing and sealed driveway at the purchaser's expense as part of and prior to commencement of the dwelling construction. The purchaser shall not be entitled to any part of the bond paid by the vendor to Selwyn District Council.

## **26 SETTLEMENT AND PAYMENT OF PURCHASE PRICE**

- 26.1 The deposit shall be paid by one payment of **\$10,000.00 on the date that this agreement is signed**, to the vendors solicitors trust account, to hold as a stakeholder until all conditions of the contract have been satisfied.
- 26.2 The balance of the purchase price, together with the other moneys payable by the purchaser under this agreement shall be paid five (5) working days after the date that the vendor's solicitor notifies the purchaser's solicitor that a search copy, as defined in Section 172A of the Land Transfer Act, is obtainable.

## **27 PURCHASER'S CONDITIONS OF SALE**

- 27.1 This contract is subject to the purchaser obtaining finance on terms and conditions acceptable to itself/themselves within **10 working days** of the date of this contract.
- 27.2 This contract is subject to the purchaser being satisfied, after taking such advice as the purchaser may wish, that the property is in all respects suitable to the purchaser. The purchaser (or their solicitor) shall notify the vendor's solicitor within **10 working days** from the date of this contract as to the fulfilment or otherwise of this condition. This condition is inserted for the sole benefit of the purchaser.

## **28 GEOTECH REPORT**

- 28.1 The Vendor is obtaining a Geotech Report from Aurecon which, when it has been prepared, the Vendor will provide to the Purchaser. This Agreement is conditional on the Purchaser approving the Geotech Report within five (5) working days of receiving a copy from the Vendor.

## ANNEXURE A

### DRAFT LAND COVENANTS (STAGE 2 I)

#### 1. The Grantor and their successors in title SHALL NOT:

##### 1.1 Subdivision

Further subdivide any of Lots **306 to 316, 318 to 321, 334 to 339, 341 to 344 and 398 to 403** whether by way of cross-lease, unit title, subdivision into separate lots or in any other way PROVIDED HOWEVER that this restriction will not apply to a subdivision that has the effect only of adjusting the boundaries between two adjoining lots.

##### 1.2 Temporary Accommodation

Permit or suffer the property to be occupied or used as a residence either by the erection of temporary structures or the placing thereon of caravans or other vehicles used for human habitation.

##### 1.3 Use Prior to Completion

Use the property as a residence before both of the following have been provided to the Grantee

- a) a Code Compliance Certificate issued by the Selwyn District Council unless section 364(2) of the Building Act 2004 applies; and
- b) a Producer Statement from a registered drain layer certifying that all stormwater runoff from the dwelling drains into the Council stormwater network. This provision shall be deemed to have been satisfied six months after the issuing of a Code Compliance Certificate for the first dwelling built on the lot.

##### 1.4 Storage of Vehicles

Store any vehicles (including boats, trailers, caravans and motor-homes) in any structure such as a gazebo, lean-to or carport that is not fully enclosed.

##### 1.5 Noxious Weeds and Rubbish

Allow the accumulation or housing of any rubbish, noxious substances, noxious birds or animals which may be likely to cause nuisance or annoyance to the neighbouring occupiers, or permit grass or weeds to grow to such a height as to become unsightly.

##### 1.6 Animals

Permit any dog or other pet to be kept in or about the property which dog or other pet is likely to cause a nuisance or annoyance to other neighbouring occupiers or detract from the subdivision, and in particular, without otherwise limiting this restriction, not to keep on or about the property any dog which in whole or part appears to be a Pit Bull Terrier, Rottweiler, Japanese Akita, Japanese Tosa, Dogo Argentino or Brazilian Fila. The keeping of pigeons is expressly prohibited.

## 1.7 Signs

Permit any advertisement, sign or hoarding of a commercial nature (excluding a professionally made "For Sale" sign) to be erected on any part of the property or dwelling, including any sign indicating that the dwelling is a Show Home, PROVIDED THAT under no circumstances shall any signage be affixed to any of the decorative fences referred to in clause 1.9.

## 1.8 Gas

Allow any portable gas cylinders or bottles to be placed on the Lot which are visible from the road, but this does not apply to gas bottles for use with outdoor barbeques or free-standing outdoor gas heaters.

## 1.9 Decorative Fences –Reserve Boundaries

In respect of Lots **Not Applicable**:

- a) remove or modify the decorative steel railing fence on the boundary between the Lot and the adjoining Reserve: and
- b) build or permit to be built any building or structure within two metres of the boundary between the Lot and the adjoining Reserve. In this context, a building or structure shall not include a swimming pool or any structure the sole purpose of which is for landscaping but shall include any additional fencing

## 1.10 Dwelling Height

Erect on any of Lots, **except for Lots 318 to 320, 334, 335, and 402**, a dwelling greater in height than a single storey. The Grantee may, at the Grantee's sole discretion, approve plans with living areas situated within the roof cavity of the dwelling provided that there are no windows set into the roofline or gable area and that the only natural light permitted into the roof cavity is from skylights. Any such dwelling shall not be deemed to be in breach of this clause by virtue of its having a living area situated within the roof cavity.

## 1.11 New Materials

Erect or permit to be erected on the Lot any building using anything other than new materials PROVIDED THAT second-hand bricks may be allowed for exterior cladding at the Grantee's discretion. No pre-lived in or pre-built dwelling shall be transported on to the Lot.

## 1.12 Non-permitted Cladding Materials

Construct any building on the Lot with an external cladding of unrelieved flat sheet fibrolite, hardiflex, galvanised steel or similar materials PROVIDED THAT this restriction shall not apply to the cladding of soffits or gable ends.

### 1.13 Painting

Leave the outside of any dwelling unfinished, or any exterior walls or doors unpainted or unstained PROVIDED THAT this clause shall not apply where natural timber cladding or decorative brick, stone or concrete are used.

### 1.14 Building Materials

Use as a roofing material any material other than tiles (clay, ceramic, concrete, decramastic, pre-coated pressed steel) of a single colour or pre-painted long-run pressed steel (the use of zincalume shall not be permitted), nor exterior cladding of material other than clay brick, weather-board, concrete block, masonry, stucco, solid plaster or glazing or a combination of the above. Preferred building materials are detailed in the Grantee's Design Guidelines.

### 1.15 Fencing Materials

Erect or permit to be erected on the land any fence or boundary wall of any material containing cement board sheets or panels, corrugated iron, or metal sheeting.

### 1.16 Boundary Fencing – Road Frontage Setbacks

#### a) Interpretation

**“Maximum Length”** means 50% of the length of the Road Boundary, except in relation to Lot 320 where it shall mean 60% of the length of the Road Boundary, or at the sole discretion of the Developer any other length it deems acceptable to achieve the desired neighbourhood scene.

**“Road Boundary”** means a boundary between a Lot and any legal road

**“Side Boundary”** means a boundary between a lot and an adjoining lot that is not a Road Boundary

**“Total Length”** means the total length of the fence taken in a line parallel to the road

**“Transparent”** means able to be seen through either because no solid construction is present or because there are spaces between the elements used in the construction that are at least the same width as the elements themselves

#### b) Road Boundary Fencing – **Lots 306 to 316, 318, 319, 321, 334, 335, 341, 344, 398 to 401, and 403 :**

The Grantor shall not permit any fence or other structure (other than a letterbox, and any decorative metal fence referred to in clause 1.9(a)) to be erected in the area between the Road Boundary and a line drawn parallel to the Road Boundary, with the distance between such line and the Road Boundary being determined by those parts of the dwelling closest to the Road Boundary.

#### c) Road Boundary Fencing – **Lots 320 and 402:**

The Grantor shall not permit any fence or other structure (other than a letterbox) to be erected in the area between the Road Boundary and a line

drawn parallel to the Road Boundary, with the distance between such line and the Road Boundary being determined by those parts of the dwelling closest to the Road Boundary PROVIDED HOWEVER, that in recognition of the larger Road Boundary length of these lots, and the desirability of allowing privacy, the Grantor shall be entitled to erect a fence closer to the Road Boundary than provided above so long as the fence is erected at least 1 metre from the Road Boundary and complies with the following requirements:

- (i) The fence is constructed using primarily the same materials as the external walls of the dwelling
- (ii) The fence is no higher than 1.8 metres above finished ground level
- (iii) The Total Length of the fence does not exceed the Maximum Length. By way of illustration only, the Grantee Acknowledges that a curved fence, or a fence that is parallel to the boundary but which has a return, or is Transparent, will comply with this restriction notwithstanding that in overall length such fence may exceed the Maximum Length.
- (iv) The Developer may exempt Lots 402 and 403 being west facing road boundaries, fronting Springs Road, from clause 1.16 c) and may allow up to a 1.8 metre fence to be erected no less than 1 metre from the Springs Road boundary, up to the maximum length allowed in clause 1.16a, provided the area between the road boundary and fence is suitably landscaped. This clause shall be interpreted at the sole discretion of the Grantee.

### 1.17 Side Boundary Fences

- a) Permit any fence to be erected on the common Side Boundaries between any of Lots **6 to 316, 8 to 321, 334, 335, 341, to 344, and 398 to 403** and where those same lots also adjoin the future stages of the development, within 1 metre of the point where the Side Boundary meets the Road Boundary and providing the fence complies with the following requirements:
  - (i) the fence is a maximum of 1.2 metres in height within 1 metre of the point where the Side Boundary meets the Road Boundary; and
  - (ii) the fence is raked at an angle of 30 degrees until it reaches its maximum height of 1.8 metres above finished ground level.
  - (iii) Notwithstanding clauses 1.17(a) (i) & (ii) above, the common Side Boundary fences between the following Lots shall be exempt from the provisions of clauses 1.17(a) (i) & (ii): **320 & 321, 316 & 317, and 402 & 403.**
- b) Permit any fence erected on the Lot or any boundary to exceed 1.8 metres generally above finished ground level.

### **1.18 Letterbox**

Erect a dwelling without contemporaneously erecting a new letterbox of a design, colour and cladding consistent with the dwelling or fences, or as approved by the Grantee in accordance with clause 1.22.

### **1.19 Completion of Landscaping, Driveways and Paths**

Permit the dwelling to be occupied unless all driveways and paths are completed in permanent materials, all wooden boundary fences are stained, and all unpaved areas are properly grassed or landscaped.

### **1.20 Satellite Dishes / Air Conditioning Units**

- a) Place or allow to be placed on the land or buildings any aerials or satellite dishes unless the same comply with the following requirements:
  - (i) have a maximum diameter of one metre; and
  - (ii) are situated at least four metres from the front facade of the dwelling; and
  - (iii) are mounted below the ridgeline of the roof.
- b) Place or allow to be placed on the land or any part of the buildings any external air conditioning unit visible from the road frontage of the Lot.

### **1.21 Grantee to Approve Plans**

Commence any work on the property:

- a) Without submitting to the Grantee for its approval all building plans, including site plans (showing the position of the vehicle crossing, unless already fixed by the Grantee) specifications, fencing, landscaping plans and builder. Sole discretion lies with the Grantee in approving building and site plans, specifications, fencing and landscaping plans, and interpreting compliance with the Design Guidelines provided by the Grantee, to the Grantee's satisfaction in any respect.
- b) Which does not conform to the plans approved by the Grantee. Any variation to or deviation from the approved plans and Design Guidelines not approved by the Grantee will be a breach of this clause and subject to the provisions of clause 3.

PROVIDED THAT this clause 1.22 will cease to apply and be of no further effect from the date that a Code Compliance Certificate is issued for the first dwelling to be built on the Lot.

AND FURTHER PROVIDED THAT the Grantor acknowledges that the Grantee has no legal responsibility or liability for the enforcement, enforceability or applicability of these covenants, nor does the Grantee undertake to enforce or monitor compliance with these covenants on an ongoing basis.

### **1.22 Construction Fencing**

Commence construction until temporary fencing has been erected on the entire length of all unfenced boundaries. The temporary fence must comprise removable wire or shade cloth (or other see-through material), be a minimum of 1.2 metres in

height and have a rigid frame and in all circumstances be acceptable to the Developer at their sole discretion, and provide only one vehicle access to the lot from the road or right-of-way.

### **1.23 Construction Zone Areas**

Commence construction until a vehicle crossing of no more than four metres width has been installed in a position approved by the Grantee (unless already formed by the Grantee), the kerb cut down at the crossing and the driveway from the road to the Lot formed and suitably based, in accordance with Selwyn District Council required standards. The Grantor shall not make any use of the adjoining lots (whether occupied or not) any berms (except at designated crossings) or footpaths for construction work or for access by vehicles. The Grantor shall be responsible for any damage caused directly from the construction of the dwelling by their contractors to berms footpaths or adjoining lots.

### **1.24 Health and Safety Requirements**

Permit any construction unless the building site complies with the requirements of the Health and Safety in Employment Act 1992 (or any Act passed in substitution).

### **1.25 Delivery of Materials**

Undertake or permit during the course of construction the loading, unloading, delivery, or storage of building materials other than within the boundaries of the property.

### **1.26 Building Rubbish**

Carry out any construction unless an adequate rubbish skip is present within the boundaries of the Lot at all times (and regularly emptied or replaced), nor allow during the course of construction any rubbish to blow outside the boundaries of the Lot.

### **1.27 Washing of Vehicles**

During the course of construction allow any vehicles to be washed down other than within the boundaries of the Lot.

### **1.28 Portable Toilet Facility**

Permit the Grantor's construction workers or contractors to use the property or any other area on the Plan for toileting purposes. Prior to construction commencing, the Grantor shall provide a suitable portable toilet facility within the boundaries of the Lot for use by the Grantor's construction workers and contractors.

## **2 Dispute Resolution**

Except as relates to the exercise of any discretion, opinion, approval or consent requested of the Grantee under these covenants, if any dispute arises between the parties concerning the covenants, then the parties shall enter into negotiations in good faith to resolve their dispute.

If the dispute is not resolved within twenty working days of the date on which the parties began their negotiations, then the parties shall submit to the arbitration of an independent arbitrator appointed jointly by the parties. If the parties agree, that person appointed may act as an expert and not an arbitrator.

If an arbitrator cannot be agreed upon within a further ten days, then an independent arbitrator will be appointed by the President for the time being of the Canterbury Branch of the New Zealand Law Society.

Such arbitration will be determined in accordance with the Arbitration Act 1996 (and its amendments) or any enactment passed in substitution.

### **3 Default Provisions**

If there should be any breach or non-observance of any of these covenants and without prejudice to any other liability, which the Grantor may have to any person having the benefit of this covenant, the Grantor will upon written demand being made by the Grantee or any of the registered proprietors of the lots:

- a) Pay to the person making such demand as liquidated damages the sum of \$100.00 (One Hundred Dollars) per day for every day that such breach or non-observance continues after the date upon which written demand has been made, and;
- b) Remove or cause to be removed from the land any dwelling, garage, building, fence or other structure erected or placed on the land in breach or non-observance of the above covenants, and;
- c) Replace any building materials used in breach or non-observance of the above covenants.