

# Further Terms Of Sale Te Whāriki Matuku, Stage 3ab

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Refers to lots:  
3101-3154 and 3228-3238  
(excluding 3135)

## FURTHER TERMS OF SALE – TE WHĀRIKI – STAGE 3A

### MATUKU NEIGHBOURHOOD

#### 19. SUBDIVISION

- 19.1 Selwyn District Council will issue resource consent RC185599 / RC185600 to subdivide the land in conformity with the attached plan and to enable a separate Record of Title to be issued for the property.
- 19.2 The vendor will, with reasonable expedition and in accordance with the vendor's construction programme:
- a) Complete all works required to subdivide the Land in a good and competent manner, and in accordance with sound construction and engineering practice; and
  - b) Comply in all respects with the conditions contained in the consent or as may be varied by agreement with the Council; and
  - c) Prepare and submit a land transfer plan in accordance with the preliminary plan attached to the Council for its approval.
- 19.3 The property is sold subject to all existing encumbrances, restrictions, easements and drainage rights and to any further encumbrances, restrictions, easements or consent notices as may be required in order to satisfy the conditions of the 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 24 hereof) easements and drainage rights.
- 19.4 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.
- 19.5 The purchaser acknowledges that they (the purchaser) purchase 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.

## **20. 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.

## **21. 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.

## **22. 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 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 vendors plan of subdivision.

## **23. COMPLIANCE BOND**

- 23.1 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 the 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, and to ensure ongoing compliance with the developer's approval provisions of the land covenant. The procedure for the refund or retention of the Bond shall be as follows.

- 23.2 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 advise the Vendor that the purchaser wishes to have the property inspected for compliance with the developer's approval ("Inspection Request"). The Inspection Request must be in writing and accompanied by a copy of the Code Compliance Certificate for the dwelling. The vendor specifically advises that it shall be a condition of the issue of an Inspection Notice that the purchaser has re-seeded and established the grass berm on the road frontage to the lot following the completion of construction. It is the purchaser's obligation to control and advise their contractors accordingly.
- 23.3 As soon as practicable after receipt of the Inspection Request, a representative of the vendor will inspect the lot to determine if the conditions of the developer's approval has been complied with. Following the inspection the vendor will advise the purchaser if the property complies with the developer's approval, and if the property does not comply, what the purchaser is required to do to attain compliance ("Inspection Notice"). If the Inspection Notice advises that the property does not comply, the purchaser will have a period of two months in which to carry out the work necessary to attain compliance. If the purchaser does not carry out the work to the reasonable satisfaction of the vendor within the two month period (or such longer period as the vendor allows) the vendor will be entitled to retain the Bond. If the Inspection Notice advises that the property does comply with the developer's approval, and that there has been no damage to the infrastructure of the subdivision, the vendor will refund the Bond to the purchaser.
- 23.4 If the Inspection Notice advises that the building complies with the developer's approval, but that there has been 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, the vendor will advise the purchaser 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.
- 23.5 If at the expiry of the period referred to in 23.4 (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 costs of repair or reinstatement, and any amount remaining after the repair or reinstatement shall be refunded to the purchaser.
- 23.6 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.
- 23.7 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.
- 23.8 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.

23.9 For the avoidance of doubt, nothing in this clause 23 shall override the land covenants to be registered in accordance with clause 24 and the developer may enforce the default provisions contained within the land covenants concurrently with the provisions of this clause.

## **24. RESTRICTIVE COVENANTS**

24.1 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. The vendor reserves the right to vary the land covenants in relation to fencing to take into account matters that may arise as the subdivision progresses and which the vendor in good faith considers might adversely affect the utility of any one or more lots, provided that any such changes do not negate the overall effect of the fencing provisions.

## **25. FENCING BY VENDOR**

25.1 The vendor shall 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. The vendor will use its best endeavours to complete the above fencing prior to settlement but the parties acknowledge that circumstances beyond the control of the vendor (such as adverse weather or supplies of fencing materials to the vendor's nominated fencing contractor) may prevent the completion of all of the fencing by the settlement date. In that event the vendor will complete the fencing as soon as it is practicable to do so and the purchaser will not be entitled to delay settlement or to withhold any amount on settlement. General Term 7.1 will not apply.

25.2 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.

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

26.1 The deposit shall be paid by one payment of \$[ ] payable to Saunders & Co Lawyers Trust Account (02-0865-0309680-03) on the date that this agreement is unconditional to be held as a stakeholder until the condition in General Term 9.7 is 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 working days after the date that the vendor's solicitor notifies the purchaser's solicitor that a Record of Title, as defined in Section 12 of the Land Transfer Act 2017, is obtainable.

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

27.1 This agreement is subject to the purchaser obtaining finance on terms and conditions acceptable to the purchaser within 10 working days of the date of this agreement.

27.2 This agreement 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 agreement as to the fulfilment or otherwise of this condition. This condition is inserted for the sole benefit of the purchaser.

## **28. CONTACT DETAILS**

28.1 The purchaser acknowledges and agrees that the vendor shall require the purchaser to provide contact details including name, phone and email, for all purchasers purchasing in Te Whāriki, and the vendor will maintain a database, and to release that information to neighbours and related parties that need to make contact with a lot owner for the purposes of fencing arrangements if necessary, or obtaining affected party approval requests for resource consents

## **29. RATES**

29.1 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 (including / excluding GST) per annum.

## **30. VEHICLE CROSSING**

30.1 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 any applicable development bond paid by the vendor to Selwyn District Council.