

FURTHER TERMS OF SALE

20 INTERPRETATION

20.1 In this agreement:

- a. "Consents" means resource consents RC246069 & RC 246070 for the subdivision of 6-10 Sarsfield Street, Southbridge (the "Subdivision"), obtained from Selwyn District Council and all other consents reasonably required for the Subdivision, substantially in accordance with the plan attached at Schedule 3.
- b. "The Development" means the area to be subdivided in accordance with the Consents, known as the Sarsfield development
- c. "Settlement" means the parties performance of all their obligations that are required by this agreement to be performed on Settlement and are expected to be performed on Settlement Date.
- d. "Settlement Date" means the tenth Working Day following the date that the Vendor has given the Purchaser notice that a record of title to the property is available.

21 SUBDIVISION

21.1 The Vendor will at its cost as soon as practicable:

- a. Make sure that all reasonable steps are taken to obtain the Consents; and
- b. Once the Consents have been obtained, ensure that a plan of subdivision substantially in accordance with the Plan is lodged for deposit at the Christchurch office of Land Information New Zealand; and
- c. Ensure that all other things reasonably necessary are done to obtain a separate certificate of title for the property.

22 EASEMENTS, ENCUMBRANCES, RIGHTS AND OBLIGATIONS

22.1 The Vendor reserves the right to allow the grant or accept the benefit of any consent notices, easements, rights, building line restrictions, land covenants and other encumbrances, rights and obligations which may:

- a. Be required in order to satisfy any conditions of any Consent; or
- b. Be required to support the Services.

22.2 Without limiting the effect of clause 22.1, the Vendor may allow schemes to be set up for the maintenance, operation and replacement (if necessary) of the Services.

22.3 Such schemes may (without limitation) include the recording of a consent notice or other encumbrance over the title to the property which imposes obligations on the owner of the property from time to time in respect of the operation, maintenance, repair or replacement of the Services or other benefits enjoyed by the property.

22.4 The Purchaser accordingly must:

- a. take title to the property subject to and with the benefit of any such consent notices, easements, rights, building line restrictions, land covenants and other encumbrances, rights and obligations; and
- b. execute all documents (with the inclusion of all terms considered reasonably desirable by the solicitors for the Vendor) and do such acts and things as may be required to obtain the deposit of the Plan, the implementation of any such easements, rights, building line restrictions, land covenants and other encumbrances, rights and obligations.

22.5 The Purchaser acknowledges and agrees that the owner of 2 Sarsfield Street (the "Adjacent Property") benefits from an unregistered private drainage easement over the Property (the

"Drainage Easement"), with a set back of approximately 1 metre from the boundary with the Adjacent Property. The Vendor will have the location of the easement infrastructure for the Drainage Easement surveyed but is under no obligation to arrange for registration of the Drainage Easement.

23 LAND COVENANTS

- 23.1 Land covenants attached as Schedule 4 ("Land Covenants") may be registered against the record of title for the property prior to the Purchaser taking title to the property, together with any other provisions that the Vendor may reasonably require to give effect to the Development.
- 23.2 The Land Covenants will be registered and will run with the title to the property.
- 23.3 The Purchaser will take title to the property subject to the Land Covenants without requisition, right to compensation or set off. The Purchaser acknowledges that the Land Covenants may vary from lot to lot in the Development or may be waived in part or in full on a case by case basis.

24 MEASUREMENT AND AREA

- 24.1 All measurements and areas are subject to any variation which may be found necessary upon checking by the local authority, the surveyor and Land Information New Zealand.
- 24.2 Neither party will be entitled (except as provided in this clause) to:
- a. bring any claim whatsoever against the other based on any such variation of measurement;
 - b. claim any compensation, damages, right of set-off or to make any objection or requisition on such variation
- except in circumstances where the total area of the property as indicated on the Plan and the final measured total area of the property differs by more than 5%.
- 24.3 If the total area of the property differs by more than 5%, the purchase price for the property will be adjusted up or down, as the case may be, by the same proportion as the change in total area.

25 VENDOR'S RIGHTS TO VARY PLAN AND DEVELOPMENT

- 25.1 Subject to the requirements of the Consents, the plan that allows the creation of the separate record of title for the property must not vary from the Plan in any way that substantially and materially alters the boundaries or shape of the property.
- 25.2 Subject to clauses 25.1 and 25.3, the Vendor (and any party related to or nominated by the Vendor) may from time to time and at any time up until 6 months after the completion of the Development, in its sole discretion alter, vary or completely replace (without limitation):
- a. the Plan and any subsequent plan (including without limitation the alteration, variation, creation or cancellation of any proposed easement shown on any such plan);
 - b. the terms of any easement, land covenant, encumbrance or other interest affecting the property;
 - c. the terms of any schemes created in accordance with this agreement; and
 - d. anything else whatsoever relating to the Development other than the House and the property itself.
- 25.3 The Purchaser is not entitled to claim any compensation, damages, right of set-off or to make any objection or requisition based on such replacement, alteration, variation, creation or cancellation. The Purchaser agrees to co-operate with the Vendor in all such replacements,

alterations, variations, creations and cancellations and irrevocably appoints the Vendor as the Purchaser's attorney solely for such purposes.

26 ACCESS FOR COMPLETION

- 26.1 For the avoidance of doubt the Vendor (and anyone authorised by the Vendor) will have access to the property to complete the Development at all times prior to Settlement and for 1 year after Settlement provided that all work is completed with minimum disruption without altering the essential character of the property and that the property is reinstated at the cost of the Vendor. This includes but is not limited to the rights:
- a. to install water, gas, sewer, storm water, electricity and telecommunication reticulation systems ("the Development Facilities").
 - b. to install any transformer, junction box, or other installation relating to the supply of the Development Facilities on the property or any part of the Development.
 - c. to contour, landscape, excavate and/or fill any part of the subdivision.
 - d. to do anything else that is necessary or desirable to complete the Development.
 - e. to carry out all work to any part of the subdivision in accordance with the Consents.
 - f. To carry out construction or other building work on other properties within the Development.
- 26.2 The Vendor is not obliged to exercise any of the Vendor's rights under this clause 26.

27 RESTRICTION ON OBJECTING TO FUTURE DEVELOPMENT

- 27.1 In consideration of the Vendor entering into this agreement, the Purchaser covenants with the Vendor and/or its nominee(s) that the Purchaser shall not at any time Lodge any Submission against any Planning Proposal to subdivide, develop or use:
- a. The property;
 - b. The Development; and/or
 - c. Any land within a 1 kilometre radius of the property.
- 27.2 Without limitation, this clause 27 binds the successors in title to the Purchaser for the benefit of the Vendor and any successor in title to the Vendor and the covenants referred to in this clause 27 may be included in a restrictive covenant and/or memorandum of encumbrance to be registered on the record of title to the property on or before settlement.
- 27.3 The Purchaser (and successors in title) shall provide any necessary written approval to any Planning Proposal if requested by Vendor and/or its nominee(s) and in the event of failing to do so those persons shall be entitled to provide a copy of this clause 27 to the relevant consent authority as evidence that such written approval is given.
- 27.4 For the purposes of this agreement:
- a. "Lodge any Submission" includes (without limitation) personally or through any agent or servant directly or indirectly lodge or support in any way any objection or submission to a Planning Proposal and includes (without limitation) taking any part in a planning hearing, appeal or reference arising in respect of a Planning Proposal whether as a party or otherwise;
 - b. "Planning Proposal" includes (without limitation) any application for resource consent and/or plan change and/or a variation of any nature under or to the relevant District Plan or Proposed District Plan.

28 CONSTRUCTION, DEVELOPMENT AND SALES

- 28.1 The Purchaser will not object (and waives any right to do so):

- a. to any methods, terms or conditions employed by the Vendor and/or its nominee(s) in any endeavour to sell other lots forming part of the Development; nor
 - b. whether before or after settlement, to the use of signs, the placement of signs in the Development and the maintenance of a sales office and / or one or more show homes provided that, following settlement, the Vendor and its nominee(s) do not cause unreasonable interference to the comfort and convenience of the Purchaser in its use and enjoyment of the property.
- 28.2 The Purchaser will not object (and waives any right to do so) to:
- a. the ongoing construction of utilities, roading, and/or walkways within the Development;
 - b. the ongoing construction and development of any communal facilities within the Development;
 - c. the construction and development in due course of any proposed retail, commercial, industrial, mixed use, accommodation complex or other similar works approved by the Vendor and/or its nominee(s) within the Development;
 - d. without limitation, any other construction or development undertaken by the Vendor and/or any other developer within the Development.
- 28.3 The Purchaser shall not transfer, assign or otherwise dispose of its interest in the property within 12 months of settlement without having first constructed a dwelling on the property. This clause will not apply where the Purchaser intends to sell the property to a party with whom the Purchaser has an unconditional agreement to build a dwelling on the property. Where the Purchaser intends to on-sell the property before a dwelling has been built, the Purchaser must provide the Vendor with a copy of the unconditional building construction contract.

29 FENCING

- 29.1 The Purchaser acknowledges and agrees that on settlement the Vendor will register a fencing covenant in the transfer to the Purchaser.
- 29.2 The Vendor will install a letter box for the Property on Lot 8 (the Access Lot), and will fence the side and rear boundary fence (but not the front fence – i.e the fence adjacent to Access Lot) on the Property. The Purchaser shall pay to the Vendor on settlement (to be included in the settlement statement in addition to the purchase price) a one-half share of the cost of fencing the Property, at \$100 plus GST per metre.
- 29.3 The side and rear fences (other than the side fence adjacent to the road on Lots 1 & 3) shall be approximately 1.8 metres, with the side fences angling down to a height of 1.2 metres adjacent to the Access Lot.
- 29.4 The side fence adjacent to the road on Lots 1 & 3 shall comprise a macrocarpa post and railing fence.
- 29.5 The Purchaser will be responsible for fencing the boundary with the Access Lot (to a maximum height of 1.2 metres) but is under no obligation to do so.
- 29.6 The Vendor will use its best efforts to complete the side and rear boundary fencing and to install the letterboxes prior to the settlement date, but if the fencing hasn't been completed or letter boxes installed prior to settlement, the Purchaser is not entitled to delay settlement, retain any of the Purchase Price, bring an action against the Vendor or seek compensation from the Vendor. The Purchaser agrees to settle in full and allow the Vendor (and its agents)

to enter onto the Property following settlement to complete the fencing and installation of the letter boxes.

30 BOND

- 30.1 On settlement in addition to the purchase price, the Purchaser shall pay to the Vendor the sum of \$4,000 as a Bond (the "Bond").
- 30.2 The Bond shall be to ensure that the Purchaser and its agents/contractors comply with the terms of the Covenants and do not damage the Development.
- 30.3 During the term that the Vendor holds the Bond, if the Vendor becomes aware of any breach of the Covenants (including non-compliance with an approved plan and/or not obtaining approval for a plan) and or damage caused to the Development including but not limited to damage to the roading, footpaths, concrete, kerbs, landscaping or any structure or improvements in the Development (the "Breach") the Vendor shall notify the Purchaser in writing of such Breach and if the Purchaser does not rectify the Breach within a reasonable time (as determined by the Vendor in its sole discretion) the Vendor shall have the right to remedy the Breach (if capable of doing so) and deduct any associated costs from the Bond. The Purchaser authorises the Vendor to make any such deductions from the Bond. The Purchaser agrees that it has authorised the Purchaser's solicitor to accept email service of the Breach notice by the Vendor.
- 30.4 The Purchaser must make written request for the repayment of the Bond to the Vendor within 18 months of the settlement of the Property and prior to the occupation of the dwelling on the Property and the Purchaser must provide the Vendor with a copy of the Code Compliance certificate for the dwelling on the Property and a copy of the bank statement/deposit slip showing the bank account name and number for the Bond to be paid into. If the Vendor is satisfied in its sole discretion that the Purchaser has complied with the Land Covenants and has not damaged the Development as at the date of the request, the Vendor shall repay the Bond or such lesser amount due to the deduction in accordance with clause 30.3 to the Purchasers nominated bank account.
- 30.5 In the event that the Purchaser is a building company and on sells the bare land to its third party purchaser as part of a land and build package (whereby the third party purchaser will own the bare land and enter into a build agreement with the Purchaser (the "Building Company") to build a dwelling on the Property (the "Land and Build Agreement") the Purchaser must show the Land and Build Agreement to the Vendor prior to its settlement with the third party purchaser and then the third party purchaser who is the owner of the Property at the time when the Code Compliance Certificate issues shall be entitled to apply to the Vendor for the refund of the Bond in accordance with clause 30.4. In such circumstances the Purchaser (the building company) shall include the necessary provision in its Land and Build Agreement.
- 30.6 If the Purchaser does not comply with clauses 30.4 and 30.5 (as applicable) then the Vendor is entitled to permanently retain the Bond.
- 30.7 The Purchaser acknowledges that the Vendor is not required to hold the Bond in a separate account, nor if the Purchaser entitled to any interest earned on the Bond.
- 30.8 The Purchaser allows the Vendor reasonable access to the Property (if required by the Developer) to inspect compliance with the Covenants.

31 SALE BY PURCHASER AND CONTRACT AND COMMERCIAL LAW ACT 2017

- 31.1 The Purchaser covenants that in the event of a change of control of the Purchaser, or where it sells the property to a third party it shall ensure that the entity or entities controlling the Purchaser or acquiring the property enter into a deed of covenant with respect to the matters covenanted above, with such deed being expressed to be given for the benefit of the Vendor and the other entities referred to in clause 31.2.
- 31.2 In terms of section 12 of the Contract and Commercial Law Act 2017, this agreement is also for the benefit of all nominee(s) of the Vendor (if any) and the obligations of the Purchaser under this agreement may be enforced by such persons as appropriate.

32 NO CAVEAT

- 32.1 The Purchaser must not lodge a caveat against the Vendor's title to the Development land prior to the deposit of the Plan.

33 INCLUSIONS

- 33.1 The parties agree that the Vendor will be responsible for constructing and completing the side fencing (but excluding any front fencing) on the property prior to settlement. The Purchaser acknowledges that the Vendor will not be liable to pay or contribute towards the expense of any maintenance or ongoing costs of boundary fences after settlement but this proviso will not enure for the benefit of any subsequent Purchaser of the contiguous land.

34 LOWEST PRICE

- 34.1 The parties record that where in relation to this agreement it is necessary to determine "the lowest price" the parties would have agreed upon for the sale of the property at the time this agreement is entered into, the consideration payable pursuant to this agreement is the lowest price that they would have agreed upon in accordance with Section EW32(3) "Lowest Price" of the Income Tax Act 2007 and any legislation replacing that section.

35 ENTIRE AGREEMENT

- 35.1 This agreement contains the entire agreement between the parties, notwithstanding any negotiations or discussions prior to the execution of this agreement, and notwithstanding anything contained in any brochure, report or other document. The Purchaser acknowledges that:
- a. it has not been induced to execute this agreement by any representation, verbal or otherwise, made by or on behalf of the Vendor, which is not set out in this agreement; and
 - b. it relies on its own enquiries to satisfy itself as to the suitability of the property in all respects.

36 FORCE MAJEURE

- 36.1 In the even that war, civil disorder, monetary or economic developments, acts of Government, natural disaster or other factors beyond the reasonable control of the vendor whether similar or not ("Specified Events") prevent the Vendor from carrying out its obligations under this agreement or render it impracticable for the Vendor to do so, then the Vendor may by notice in writing to the Purchaser advise of the Specified Event and cancel this agreement and the deposit will be returned in full to the Purchaser.

37 NO WARRANTY

- 37.1 Notwithstanding anything else in this agreement, the Vendor gives no warranty to the Purchaser as to:
- a. when the Plan will be deposited in the Canterbury Registry of Land Information New Zealand; nor
 - b. when the Purchaser will be able to register a memorandum of transfer of the property to the Purchaser; nor
 - c. when Practical Completion and Settlement will be achieved.

38 GUARANTEE

- 38.1 Where the Purchaser is a company, in consideration of the Vendor entering into this Agreement at the request of the directors and shareholders of the Purchaser, each of those directors and shareholders jointly and severally guarantees to the Vendor the performance of all the Purchaser's obligations under this Agreement, and has executed this Agreement in that capacity as well as in their capacity as directors and shareholders of the purchaser company.

37 SUNSET

- 37.1 If a separate record of title has not issued for the property by 1 June 2027 then the purchaser may terminate the agreement and on termination the deposit and any accrued interest will be returned to the purchaser.

Schedule 3
Plan

Schedule 4
Land Covenants