AGREEMENT FOR SALE AND PURCHASE OF REAL ESTATE

This form is approved by The Law Association of New Zealand Inc. and by the Real Estate Institute of New Zealand Inc.

DATE:

VENDOR: Exclusive Developments Limited

PURCHASER: **and/or nominee**

The vendor is registered under the GST Act in respect of the transaction and/or will be so registered at settlement: **Yes/~~No~~**
If "Yes", Schedule 1 must be completed by the parties.

Purchase price allocation (PPA) is relevant to the parties for income tax and/or GST purposes: **Vendor** **~~Yes~~/No**
If both parties answer "Yes", use of the PPA addendum for this agreement is recommended. **Purchaser/Purchaser's Nominee** **~~Yes~~/No**

PROPERTY

Address: Lot _____ in the Hikuwai Subdivision, Pounamu Avenue, Albert Town

Estate: **FREEHOLD** **~~LEASEHOLD~~** **~~STRATUM IN FREEHOLD~~**
~~STRATUM IN LEASEHOLD~~ **~~CROSS-LEASE (FREEHOLD)~~** **~~CROSS-LEASE (LEASEHOLD)~~**

If none of the above are deleted, the estate being sold is the first option of freehold.

Legal Description:

Area (more or less): ***Lot/Flat/Unit:*** ***DP:*** ***Record of Title (unique identifier):***

approximately _____ m2 (subject to survey), Lot _____ as shown on the Scheme Plan in Schedule 2 of this Agreement being a subdivision of the land currently contained in Record of Title 1133376.

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PAYMENT OF PURCHASE PRICE

Purchase price: $

~~Plus GST~~ ~~(if any) OR~~ **Inclusive of GST** (if any)
If neither is deleted, the purchase price includes GST (if any).

GST date (refer clause 13.0)**:**

Deposit (refer clause 2.0)**: $** 10% of the purchase price payable as set out in clause 21.0 of the Further Terms of Sale

Balance of purchase price to be paid or satisfied as follows:

~~(1) By payment in cleared funds on the settlement date which is:~~

OR

(2) In the manner described in the Further Terms of Sale. **Interest rate for late settlement:** 14 **% p.a.**

CONDITIONS (refer clause 9.0)

Finance required (clause 9.1)**:**	**Yes/No**	**Finance date:**
LIM required (clause 9.3)**:**	**Yes/No**	**LIM date:**
Building report required (clause 9.4)**:**	**~~Yes~~/No**	**Building report date:**
Toxicology report required (clause 9.5)**:**	**~~Yes~~/No**	**Toxicology report date:**
OIA consent required (clause 9.6)**:**	**~~Yes~~/No**	**OIA date** (clause 9.8)**:**
Land Act consent required (clause 9.7)**:**	**~~Yes~~/No**	**Land Act date** (clause 9.8)**:**

TENANCIES

~~Yes~~/No

Particulars of any tenancies are set out in Schedule 3 or another schedule attached to this agreement by the parties.

It is agreed that the vendor sells and the purchaser purchases the property, and any chattels listed, on the terms and conditions of this agreement.

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GENERAL TERMS OF SALE

1.0 Definitions, time for performance, notices, and interpretation

1.1 Definitions

(1) Unless the context requires a different interpretation, words and phrases not otherwise defined have the same meanings ascribed to those words and phrases in the Goods and Services Tax Act 1985, the Property Law Act 2007, the Resource Management Act 1991 or the Unit Titles Act 2010.

(2) "Accessory unit", "owner", "principal unit", "unit", and "unit plan" have the meanings ascribed to those terms in the Unit Titles Act.

(3) "Agreement" means this document including the front page, these General Terms of Sale, any Further Terms of Sale, and any schedules and attachments.

(4) "Appointee", for the purposes of clause 10, means:

(a) an experienced property lawyer or an experienced litigator or an expert committee (such as a committee of TLANZ) appointed by the parties; and

(b) where, for the purposes of clause 10.8(4), the claim for compensation is made under clause 5.2, the appointee may be an experienced registered valuer or quantity surveyor appointed by the parties; but

(c) if the parties cannot agree on the appointee, the appointment shall be made on the application of either party by the president.

(5) "Associated person", "conveyancer", "offshore RLWT person", "residential land purchase amount", "RLWT", "RLWT certificate of exemption" and "RLWT rules" have the meanings ascribed to those terms in the Income Tax Act 2007.

(6) "Automatic garage door facility" means an electronic facility for the opening and closing of a garage door, operated by a garage door remote control.

(7) "Building", "building consent", "code compliance certificate", "commercial on-seller", "compliance schedule" and "household unit" have the meanings ascribed to those terms in the Building Act.

(8) "Building Act" means the Building Act 1991 and/or the Building Act 2004.

(9) "Building report date" means the building report date stated on the front page of this agreement, or if no date is stated, means the fifteenth working day after the date of this agreement.

(10) "Building warrant of fitness" means a building warrant of fitness supplied to a territorial authority under the Building Act.

(11) "Cleared funds" means an electronic transfer of funds that has been made strictly in accordance with the requirements set out in the PLS Guidelines.

(12) "Commissioner" has the meaning ascribed to that term in the Tax Administration Act 1994.

(13) "Default GST" means any additional GST, penalty (civil or otherwise), interest, or other sum imposed on the vendor (or where the vendor is or was a member of a GST group its representative member) under the GST Act or the Tax Administration Act 1994 by reason of non-payment of any GST payable in respect of the supply made under this agreement but does not include any such sum levied against the vendor (or where the vendor is or was a member of a GST group its representative member) by reason of a default or delay by the vendor after payment of the GST to the vendor by the purchaser.

(14) "Electronic instrument" has the same meaning as ascribed to that term in the Land Transfer Act 2017.

(15) "Finance date" means the finance date stated on the front page of this agreement, or if no date is stated, means the tenth working day after the date of this agreement.

(16) "Going concern", "goods", "principal place of residence", "recipient", "registered person", "registration number", "supply", "taxable activity" and "taxable supply" have the meanings ascribed to those terms in the GST Act.

(17) "GST" means Goods and Services Tax arising pursuant to the Goods and Services Tax Act 1985 and "GST Act" means the Goods and Services Tax Act 1985.

(18) "Key" includes any instrument, tool, or device for opening and shutting a lock to the property, whether a physical key, an electronic key, a code, a combination of these, or otherwise.

(19) "Land Act date" means the Land Act date stated on the front page of this agreement, or if no date is stated, has the meaning described in clause 9.8.

(20) "Landonline Workspace" means an electronic workspace facility approved by the Registrar-General of Land pursuant to the provisions of the Land Transfer Act 2017.

(21) "Leases" means any tenancy agreement, agreement to lease (if applicable), lease, sublease, or licence to occupy in respect of the property, and includes any receipt or other evidence of payment of any bond and any formal or informal document or letter evidencing any variation, renewal, extension, review, or assignment.

(22) "LIM" means a land information memorandum issued pursuant to the Local Government Official Information and Meetings Act 1987.

(23) "LIM date" means the LIM date stated on the front page of this agreement, or if no date is stated, means the fifteenth working day after the date of this agreement, taking into account clause 1.1(50)(c).

(24) "LINZ" means Land Information New Zealand.

(25) "Local authority" means a territorial authority or a regional council.

(26) "OIA consent" means consent to purchase the property under the Overseas Investment Act 2005.

(27) "OIA date" means the OIA date stated on the front page of this agreement, or if no date is stated, has the meaning described in clause 9.8.

(28) "PLS Guidelines" means the most recent edition, as at the date of this agreement, of the New Zealand Law Society Property Law Section Guidelines, issued by the New Zealand Law Society.

(29) "President" means the president of TLANZ, or other authorised delegate.

(30) "Proceedings" means any application to any court or tribunal or any referral or submission to mediation, adjudication or arbitration or any other dispute resolution procedure.

(31) "Property" means the property described in this agreement.

(32) "Purchase price" means the total purchase price stated in this agreement which the purchaser has agreed to pay the vendor for the property and the chattels included in the sale.

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(33) "Purchase price allocation" means an allocation of the purchase price, and (if applicable) any other consideration for the property and the chattels included in the sale, to the property, chattels or any part thereof that affects a person's tax position under the Income Tax Act 2007 and/or the GST Act.
(34) "Regional council" means a regional council within the meaning of the Local Government Act 2002.
(35) "REINZ" means the Real Estate Institute of New Zealand Incorporated.
(36) "Remote settlement" means settlement of the sale and purchase of the property by way of the purchaser's lawyer paying the moneys due and payable on the settlement date directly into the trust account of the vendor's lawyer, in consideration of the vendor agreeing to meet the vendor's obligations under clause 3.8(2), pursuant to the protocol for remote settlement recommended in the PLS Guidelines.
(37) "Residential (but not otherwise sensitive) land" has the meaning ascribed to that term in the Overseas Investment Act 2005.
(38) "Rules" means body corporate operational rules under the Unit Titles Act.
(39) "Secure web document exchange" means an electronic messaging service enabling messages and electronic documents to be posted by one party to a secure website to be viewed by the other party immediately after posting.
(40) "Settlement" means (unless otherwise agreed by the parties in writing) the moment in time when the vendor and purchaser have fulfilled their obligations under clause 3.8.
(41) "Settlement date" means the date specified as such in this agreement.
(42) "Settlement statement" means a statement showing the purchase price, plus any GST payable by the purchaser in addition to the purchase price, less any deposit or other payments or allowances to be credited to the purchaser, together with apportionments of all incomings and outgoings apportioned at the settlement date.
(43) "Tax information" and "tax statement" have the meanings ascribed to those terms in the Land Transfer Act 2017.
(44) "Territorial authority" means a territorial authority within the meaning of the Local Government Act 2002.
(45) "Title" includes where appropriate a record of title within the meaning of the Land Transfer Act 2017.
(46) "TLANZ" means The Law Association of New Zealand Incorporated.
(47) "Toxicology report date" means the toxicology report date stated on the front page of this agreement, or if no date is stated, means the fifteenth working day after the date of this agreement.
(48) "Unit title" means a unit title under the Unit Titles Act.
(49) "Unit Titles Act" means the Unit Titles Act 2010.
(50) "Working day" means any day of the week other than:
  (a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday and Labour Day;
  (b) if Waitangi Day or Anzac Day falls on a Saturday or Sunday, the following Monday;
  (c) a day in the period commencing on the 24th day of December in any year and ending on the 5th day of January (or in the case of the LIM date, ending on the 15th day of January) in the following year, both days inclusive;
  (d) the day observed as the anniversary of any province in which the property is situated;
  (e) the day on which a public holiday is observed to acknowledge Matariki, pursuant to the Te Kāhui o Matariki Public Holiday Act 2022; and
  (f) any other day that the Government of New Zealand declares to be a public holiday.

A working day shall be deemed to commence at 9.00 am and to terminate at 5.00 pm.

1.2 Unless a contrary intention appears on the front page or elsewhere in this agreement:
(1) the interest rate for late settlement is equivalent to the interest rate charged by the Inland Revenue Department on unpaid tax under the Tax Administration Act 1994 during the period for which the interest rate for late settlement is payable, plus 5% per annum; and
(2) a party is in default if it did not do what it has contracted to do to enable settlement to occur, regardless of the cause of such failure.

1.3 Time for Performance
(1) Where the day nominated for settlement or the fulfilment of a condition is not a working day, then the settlement date or the date for fulfilment of the condition shall be the last working day before the day so nominated.
(2) Any act done pursuant to this agreement by a party, including service of notices, after 5.00 pm on a working day, or on a day that is not a working day, shall be deemed to have been done at 9.00 am on the next succeeding working day.
(3) Where two or more acts done pursuant to this agreement, including service of notices, are deemed to have been done at the same time, they shall take effect in the order in which they would have taken effect but for clause 1.3(2).

1.4 Notices
The following apply to all notices between the parties relevant to this agreement, whether authorised by this agreement or by the general law:
(1) All notices must be served in writing.
(2) Any notice under section 28 of the Property Law Act 2007, where the purchaser is in possession of the property, must be served in accordance with section 353 of that Act.
(3) All other notices, unless otherwise required by the Property Law Act 2007, must be served by one of the following means:
  (a) on the party as authorised by sections 354 to 361 of the Property Law Act 2007, or
  (b) on the party or on the party's lawyer:
    (i) by personal delivery; or
    (ii) by posting by ordinary mail; or
    (iii) by email; or
    (iv) in the case of the party's lawyer only, by sending by document exchange or, if both parties' lawyers have agreed to subscribe to the same secure web document exchange for this agreement, by secure web document exchange.
(4) In respect of the means of service specified in clause 1.4(3)(b), a notice is deemed to have been served:
  (a) in the case of personal delivery, when received by the party or at the lawyer's office;
  (b) in the case of posting by ordinary mail, on the fifth working day following the date of posting to the address for service notified in writing by the party or to the postal address of the lawyer's office;

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(c) in the case of email:
(i) when sent to the email address provided for the party or the party's lawyer on the back page; or
(ii) any other email address notified subsequently in writing by the party or the party's lawyer (which shall supersede the email address on the back page); or
(iii) if no such email address is provided on the back page or notified subsequently in writing, the office email address of the party's lawyer's firm appearing on the firm's letterhead or website;
(d) in the case of sending by document exchange, on the second working day following the date of sending to the document exchange number of the lawyer's office;
(e) in the case of sending by secure web document exchange, on the first working day following the date of sending to the secure web document exchange.

(5) Any period of notice required to be given under this agreement shall be computed by excluding the day of service.

1.5 Interpretation and Execution

(1) If there is more than one vendor or purchaser, the liability of the vendors or of the purchasers, as the case may be, is joint and several.
(2) Where the purchaser executes this agreement with provision for a nominee, or as agent for an undisclosed or disclosed but unidentified principal, or on behalf of a company to be formed, the purchaser shall at all times remain liable for all obligations on the part of the purchaser.
(3) If any inserted term (including any Further Terms of Sale) conflicts with the General Terms of Sale the inserted term shall prevail.
(4) Headings are for information only and do not form part of this agreement.
(5) References to statutory provisions shall be construed as references to those provisions as they may be amended or re-enacted or as their application is modified by other provisions from time to time.
(6) Reference to a party's lawyer includes reference to a conveyancing practitioner (as defined in the Lawyers and Conveyancers Act 2006), engaged by that party, provided that all actions of that conveyancing practitioner (including without limitation any actions in respect of any undertaking or in respect of settlement) must strictly accord with the PLS Guidelines.
(7) This agreement may be signed by means of an electronic signature.

1.6 Use of form

(1) Each party warrants that neither they nor their lawyer or agent has altered, removed, or added to the published text of this edition of the TLANZ/REINZ Agreement for Sale and Purchase of Real Estate. This warranty does not prohibit nor apply to:
(a) removal of published text by way of strikethrough (for example, ~~strikethrough~~), nor
(b) the addition of text to the published text in a manner which leaves the published text in place and which makes the alteration, removal, or addition reasonably identifiable.

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2.0 Deposit

2.1 The purchaser shall pay the deposit to the vendor or the vendor's agent immediately upon execution of this agreement by both parties or at such other time as is specified in this agreement.

2.2 If the deposit is not paid on the due date for payment, the vendor may at any time thereafter serve on the purchaser notice requiring payment. If the purchaser fails to pay the deposit on or before the third working day after service of the notice, time being of the essence, the vendor may cancel this agreement by serving notice of cancellation on the purchaser. No notice of cancellation shall be effective if the deposit has been paid before the notice of cancellation is served.

2.3 The deposit shall be in part payment of the purchase price.

~~2.4 The person to whom the deposit is paid shall hold it as a stakeholder until the latest of those of the following matters which are applicable to this agreement:~~

~~(1) the requisition procedure under clause 6.0 is completed without either party cancelling this agreement; and/or~~
~~(2) where this agreement is entered into subject to any condition(s) expressed in this agreement, each such condition has been fulfilled or waived; and/or~~
~~(3) where the property is a unit title:~~
~~(a) a pre-contract disclosure statement that complies with section 146 of the Unit Titles Act, and a pre-settlement disclosure statement that complies with section 147 of the Unit Titles Act, have been provided to the purchaser by the vendor within the times prescribed in those sections; and/or~~
~~(b) all rights of delay or cancellation under sections 149, 149A, 151, or 151A of the Unit Titles Act that have arisen have been waived or have expired without being exercised; and/or~~
~~(c) this agreement is cancelled pursuant to sections 149A or 151A of the Unit Titles Act; and/or~~
~~(4) this agreement is:~~
~~(a) cancelled pursuant to clause 6.2(3)(c); and/or~~
~~(b) avoided pursuant to clause 9.10(5).~~

~~2.5 Where the person to whom the deposit is paid is a real estate agent, the period for which the agent must hold the deposit as a stakeholder pursuant to clause 2.4 shall run concurrently with the period for which the agent must hold the deposit under section 123 of the Real Estate Agents Act 2008, but the agent must hold the deposit for the longer of those two periods, or such lesser period as is agreed between the parties in writing as required by section 123 of the Real Estate Agents Act 2008, but in no event shall the deposit be released prior to the expiry of the requisition period under clause 6.0, unless the requisition period is expressly waived in writing.~~

3.0 Possession and Settlement

Possession

3.1 Unless particulars of a tenancy are included in this agreement, the property is sold with vacant possession and the vendor shall so yield the property on the settlement date.

3.2 If the property is sold with vacant possession, then subject to the rights of any tenants of the property, the vendor shall permit the purchaser or any person authorised by the purchaser in writing, upon reasonable notice:
(1) to enter the property on one occasion prior to the settlement date for the purposes of examining the property, chattels and fixtures which are included in the sale; and
(2) to re-enter the property no later than the day prior to the settlement date to confirm compliance by the vendor with any agreement made by the vendor to carry out any work on the property, the chattels and the fixtures.

3.3 Possession shall be given and taken on the settlement date. Outgoings and incomings in respect of the settlement date are the responsibility of and belong to the vendor.

3.4 On the settlement date, the vendor shall make available to the purchaser keys to all exterior doors that are locked by key, electronic door openers to all doors that are opened electronically, and the keys and/or security codes to any alarms. The vendor does not have to make available keys, electronic door openers, and security codes where the property is tenanted and these are held by the tenant.

Settlement

3.5 The vendor shall prepare, at the vendor's own expense, a settlement statement. The vendor shall tender the settlement statement to the purchaser or the purchaser's lawyer a reasonable time prior to the settlement date. If the property is a unit title, the vendor's settlement statement must show any periodic contributions to the operating account that have been struck prior to the settlement date (whether or not they are payable before or after the settlement date) and these periodic contributions to the operating account shall be apportioned. There shall be no apportionment of contributions to any long-term maintenance fund, contingency fund or capital improvement fund.

3.6 The purchaser's lawyer shall:
(1) within a reasonable time prior to the settlement date create a Landonline Workspace for the transaction, notify the vendor's lawyer of the dealing number allocated by LINZ, and prepare in that workspace a transfer instrument in respect of the property; and
(2) prior to settlement:
(a) lodge in that workspace the tax information contained in the transferee's tax statement; and
(b) certify and sign the transfer instrument.

3.7 The vendor's lawyer shall:
(1) within a reasonable time prior to the settlement date prepare in that workspace all other electronic instruments required to confer title on the purchaser in terms of the vendor's obligations under this agreement; and
(2) prior to settlement:
(a) lodge in that workspace the tax information contained in the transferor's tax statement; and
(b) have those instruments and the transfer instrument certified, signed and, where possible, pre-validated.

3.8 On the settlement date:
(1) the balance of the purchase price, interest and other moneys, if any, shall be paid by the purchaser in cleared funds or otherwise satisfied as provided in this agreement (credit being given for any amount payable by the vendor under clause 3.12 or 3.13, or for any deduction allowed to the purchaser under clause 5.2, or for any compensation agreed by the vendor in respect of a claim made by the purchaser pursuant to clause 10.2(1), or for any interim amount the purchaser is required to pay to a stakeholder pursuant to clause 10.8);
(2) the vendor's lawyer shall immediately thereafter:
(a) release or procure the release of the transfer instrument and the other instruments mentioned in clause 3.7(1) so that the purchaser's lawyer can then submit them for registration;
(b) pay to the purchaser's lawyer the LINZ registration fees on all of the instruments mentioned in clause 3.7(1), unless these fees will be invoiced to the vendor's lawyer by LINZ directly; and
(c) deliver to the purchaser's lawyer any other documents that the vendor must provide to the purchaser on settlement in terms of this agreement, including where this agreement provides for the property to be sold tenanted, all leases relating to the tenancy that are held by the vendor and a notice from the vendor to each tenant advising them of the sale of the property and directing them to pay to the purchaser as landlord, in such manner as the purchaser may prescribe, all rent or other moneys payable under the leases.

3.9 All obligations under clause 3.8 are interdependent.

3.10 The parties shall complete settlement by way of remote settlement in accordance with the PLS Guidelines. Where the purchaser considers it is necessary or desirable to tender settlement, this may be effected (in addition to any other valid form of tender) by the purchaser's lawyer providing to the vendor's lawyer a written undertaking that:
(1) the purchaser is ready, willing, and able to settle;
(2) the purchaser's lawyer has certified and signed the transfer instrument and any other instruments in the Landonline Workspace for the transaction that must be signed on behalf of the purchaser; and
(3) the purchaser's lawyer holds in their trust account in cleared funds the amount that the purchaser must pay on settlement.

Last-Minute Settlement

3.11 If due to the delay of the purchaser, settlement takes place between 4.00 pm and 5.00 pm on the settlement date ("last-minute settlement"), the purchaser shall pay the vendor:
(1) one day's interest at the interest rate for late settlement on the portion of the purchase price paid in the last-minute settlement; and
(2) if the day following the last-minute settlement is not a working day, an additional day's interest (calculated in the same manner) for each day until, but excluding, the next working day.

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Purchaser Default: Late Settlement

3.12 If any portion of the purchase price is not paid upon the due date for payment, then, provided that the vendor provides reasonable evidence of the vendor's ability to perform any obligation the vendor is obliged to perform on that date in consideration for such payment:

(1) the purchaser shall pay to the vendor interest at the interest rate for late settlement on the portion of the purchase price so unpaid for the period from the due date for payment until payment ("the default period"); but nevertheless, this stipulation is without prejudice to any of the vendor's rights or remedies including any right to claim for additional expenses and damages. For the purposes of this clause, a payment made on a day other than a working day or after the termination of a working day shall be deemed to be made on the next following working day and interest shall be computed accordingly; and

(2) the vendor is not obliged to give the purchaser possession of the property or to pay the purchaser any amount for remaining in possession, unless this agreement relates to a tenanted property, in which case the vendor must elect either to:

(a) account to the purchaser on settlement for incomings in respect of the property which are payable and received during the default period, in which event the purchaser shall be responsible for the outgoings relating to the property during the default period; or

(b) retain such incomings in lieu of receiving interest from the purchaser pursuant to clause 3.12(1).

(3) If the parties are unable to agree upon any amount payable under this clause 3.12, either party may make a claim under clause 10.0.

Vendor Default: Late Settlement or Failure to Give Possession

3.13 (1) For the purposes of this clause 3.13:

(a) the default period means:

(i) in clause 3.13(2), the period from the settlement date until the date when the vendor is able and willing to provide vacant possession and the purchaser takes possession; and

(ii) in clause 3.13(3), the period from the date the purchaser takes possession until the date when settlement occurs; and

(iii) in clause 3.13(5), the period from the settlement date until the date when settlement occurs; and

(b) the vendor shall be deemed to be unwilling to give possession if the vendor does not offer to give possession.

(2) If this agreement provides for vacant possession but the vendor is unable or unwilling to give vacant possession on the settlement date, then, provided that the purchaser provides reasonable evidence of the purchaser's ability to perform the purchaser's obligations under this agreement:

(a) the vendor shall pay the purchaser, at the purchaser's election, either:

(i) compensation for any reasonable costs incurred for temporary accommodation for persons and storage of chattels during the default period; or

(ii) an amount equivalent to interest at the interest rate for late settlement on the entire purchase price during the default period; and

(b) the purchaser shall pay the vendor an amount equivalent to the interest earned or which would be earned on overnight deposits lodged in the purchaser's lawyer's trust bank account on such portion of the purchase price (including any deposit) as is payable under this agreement on or by the settlement date but remains unpaid during the default period less:

(i) any withholding tax; and

(ii) any bank or legal administration fees and commission charges; and

(iii) any interest payable by the purchaser to the purchaser's lender during the default period in respect of any mortgage or loan taken out by the purchaser in relation to the purchase of the property.

(3) If this agreement provides for vacant possession and the vendor is able and willing to give vacant possession on the settlement date, then, provided the purchaser provides reasonable evidence of the purchaser's ability to perform the purchaser's obligations under this agreement, the purchaser may elect to take possession in which case the vendor shall not be liable to pay any interest or other moneys to the purchaser but the purchaser shall pay the vendor the same amount as that specified in clause 3.13(2)(b) during the default period. A purchaser in possession under this clause 3.13(3) is a licensee only.

(4) Notwithstanding the provisions of clause 3.13(3), the purchaser may elect not to take possession when the purchaser is entitled to take it. If the purchaser elects not to take possession, the provisions of clause 3.13(2) shall apply as though the vendor were unable or unwilling to give vacant possession on the settlement date.

(5) If this agreement provides for the property to be sold tenanted then, provided that the purchaser provides reasonable evidence of the purchaser's ability to perform the purchaser's obligations under this agreement, the vendor shall on settlement account to the purchaser for incomings which are payable and received in respect of the property during the default period less the outgoings paid by the vendor during that period. Apart from accounting for such incomings, the vendor shall not be liable to pay any other moneys to the purchaser but the purchaser shall pay the vendor the same amount as that specified in clause 3.13(2)(b) during the default period.

(6) The provisions of this clause 3.13 shall be without prejudice to any of the purchaser's rights or remedies including any right to claim for any additional expenses and damages suffered by the purchaser.

(7) If the parties are unable to agree upon any amount payable under this clause 3.13, either party may make a claim under clause 10.0.

Deferment of Settlement and Possession

3.14 If:

(1) this is an agreement for the sale by a commercial on-seller of a household unit; and

(2) a code compliance certificate has not been issued by the settlement date in relation to the household unit,

then, unless the parties agree otherwise (in which case the parties shall enter into a written agreement in the form (if any) prescribed by the Building (Forms) Regulations 2004), the settlement date shall be deferred to the fifth working day following the date upon which the vendor has given the purchaser notice that the code compliance certificate has been issued (which notice must be accompanied by a copy of the certificate).

3.15 In every case, if neither party is ready, willing, and able to settle on the settlement date, the settlement date shall be deferred to the third working day following the date upon which one of the parties gives notice it has become ready, willing, and able to settle.

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3.16 If:

(1) the property is a unit title; and

(2) the settlement date is deferred pursuant to either clause 3.14 or clause 3.15; and

(3) the vendor considers on reasonable grounds that an extension of time is necessary or desirable in order for the vendor to comply with clause 8.3,

then the vendor may extend the settlement date:

(a) where there is a deferment of the settlement date pursuant to clause 3.14, to the tenth working day after the date upon which the vendor gives the purchaser notice that the code compliance certificate has been issued, provided the vendor gives notice of the extension to the purchaser no later than the second working day after such notice; or

(b) where there is a deferment of the settlement date pursuant to clause 3.15, to the tenth working day after the date upon which one of the parties gives notice that it has become ready, willing, and able to settle, provided the vendor gives notice of the extension to the purchaser no later than the second working day after such notice.

New Title Provision

~~3.17 (1) Where:~~

~~(a) the transfer of the property is to be registered against a new title yet to be issued; and~~

~~(b) a search copy, as defined in section 60 of the Land Transfer Act 2017, of that title is not obtainable by the tenth working day prior to the settlement date;~~

~~then, unless the purchaser elects that settlement shall still take place on the agreed settlement date, the settlement date shall be deferred to the tenth working day after the later of the date on which:~~

~~(i) the vendor has given the purchaser notice that a search copy is obtainable; or~~

~~(ii) the requisitions procedure under clause 6.0 is complete.~~

~~(2) Clause 3.17(1) shall not apply where it is necessary to register the transfer of the property to enable a plan to be deposited and title to the property to be issued.~~

4.0 Residential Land Withholding Tax

4.1 If the vendor does not have a conveyancer or the vendor and the purchaser are associated persons, then:

(1) the vendor must provide the purchaser or the purchaser's conveyancer, on or before the second working day before the due date for payment of the first residential land purchase amount payable under this agreement, with:

(a) sufficient information to enable the purchaser or the purchaser's conveyancer to determine to their reasonable satisfaction whether section 54C of the Tax Administration Act 1994 applies to the sale of the property; and

(b) if the purchaser or the purchaser's conveyancer determines to their reasonable satisfaction that section 54C of the Tax Administration Act 1994 does apply, all of the information required by that section and either an RLWT certificate of exemption in respect of the sale or otherwise such other information that the purchaser or the purchaser's conveyancer may reasonably require to enable the purchaser or the purchaser's conveyancer to determine to their reasonable satisfaction the amount of RLWT that must be withheld from each residential land purchase amount;

(2) the vendor shall be liable to pay any costs reasonably incurred by the purchaser or the purchaser's conveyancer in relation to RLWT, including the cost of obtaining professional advice in determining whether there is a requirement to withhold RLWT and the amount of RLWT that must be withheld, if any; and

(3) any payments payable by the purchaser on account of the purchase price shall be deemed to have been paid to the extent that:

(a) RLWT has been withheld from those payments by the purchaser or the purchaser's conveyancer as required by the RLWT rules; and

(b) any costs payable by the vendor under clause 4.1(2) have been deducted from those payments by the purchaser or the purchaser's conveyancer.

4.2 If the vendor does not have a conveyancer or the vendor and the purchaser are associated persons and if the vendor fails to provide the information required under clause 4.1(1), then the purchaser may:

(1) defer the payment of the first residential land purchase amount payable under this agreement (and any residential land purchase amount that may subsequently fall due for payment) until such time as the vendor supplies that information; or

(2) on the due date for payment of that residential land purchase amount, or at any time thereafter if payment has been deferred by the purchaser pursuant to this clause and the vendor has still not provided that information, treat the sale of the property as if it is being made by an offshore RLWT person where there is a requirement to pay RLWT.

4.3 If pursuant to clause 4.2 the purchaser treats the sale of the property as if it is being made by an offshore RLWT person where there is a requirement to pay RLWT, the purchaser or the purchaser's conveyancer may:

(1) make a reasonable assessment of the amount of RLWT that the purchaser or the purchaser's conveyancer would be required by the RLWT rules to withhold from any residential land purchase amount if the sale is treated in that manner; and

(2) withhold that amount from any residential land purchase amount and pay it to the Commissioner as RLWT.

4.4 Any amount withheld by the purchaser or the purchaser's conveyancer pursuant to clause 4.3 shall be treated as RLWT that the purchaser or the purchaser's conveyancer is required by the RLWT rules to withhold.

4.5 The purchaser or the purchaser's conveyancer shall give notice to the vendor a reasonable time before payment of any sum due to be paid on account of the purchase price of:

(1) the costs payable by the vendor under clause 4.1(2) that the purchaser or the purchaser's conveyancer intends to deduct; and

(2) the amount of RLWT that the purchaser or the purchaser's conveyancer intends to withhold.

5.0 Risk and insurance

5.1 The property and chattels shall remain at the risk of the vendor until possession is given and taken.

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5.2 If, prior to the giving and taking of possession, the property is destroyed or damaged, and such destruction or damage has not been made good by the settlement date, then the following subclauses shall apply:

(1) if the destruction or damage has been sufficient to render the property untenantable and it is untenantable on the settlement date, the purchaser may:

(a) complete the purchase at the purchase price, less a sum equal to any insurance moneys received or receivable by or on behalf of the vendor in respect of such destruction or damage, provided that no reduction shall be made to the purchase price if the vendor's insurance company has agreed to reinstate for the benefit of the purchaser to the extent of the vendor's insurance cover; or

(b) cancel this agreement by serving notice on the vendor in which case the vendor shall return to the purchaser immediately the deposit and any other moneys paid by the purchaser, and neither party shall have any right or claim against the other arising from this agreement or its cancellation;

(2) if the property is not untenantable on the settlement date, the purchaser shall complete the purchase at the purchase price less a sum equal to the amount of the diminution in value of the property which, to the extent that the destruction or damage to the property can be made good, shall be deemed to be equivalent to the reasonable cost of reinstatement or repair;

(3) if the property is zoned for rural purposes under an operative District Plan, damage to the property shall be deemed to have rendered the property untenantable where the diminution in value exceeds an amount equal to 20% of the purchase price; and

(4) if the amount of the diminution in value is disputed, the parties shall follow the same procedure as that set out in clause 10.8 for when an amount of compensation is disputed.

5.3 The purchaser shall not be required to take over any insurance policies held by the vendor.

6.0 Title, boundaries and requisitions

6.1 The vendor shall not be bound to point out the boundaries of the property except that on the sale of a vacant residential lot which is not limited as to parcels the vendor shall ensure that all boundary markers required by the Cadastral Survey Act 2002 and any related rules and regulations to identify the boundaries of the property are present in their correct positions at the settlement date.

6.2 (1) The purchaser is deemed to have accepted the vendor's title ~~except as to objections or requisitions which the purchaser is entitled to make and notice of which the purchaser serves on the vendor on or before the earlier of:~~

~~(a) the tenth working day after the date of this agreement; or~~

~~(b) the settlement date.~~

~~(2) Where the transfer of the property is to be registered against a new title yet to be issued, the purchaser is deemed to have accepted the title except as to such objections or requisitions which the purchaser is entitled to make and notice of which the purchaser serves on the vendor on or before the fifth working day following the date the vendor has given the purchaser notice that the title has been issued and a search copy of it as defined in section 60 of the Land Transfer Act 2017 is obtainable.~~

~~(3) If the vendor is unable or unwilling to remove or comply with any objection or requisition as to title, notice of which has been served on the vendor by the purchaser, then the following provisions will apply:~~

~~(a) the vendor shall notify the purchaser ("a vendor's notice") of such inability or unwillingness on or before the fifth working day after the date of service of the purchaser's notice;~~

~~(b) upon receiving a vendor's notice under clause 6.2(3)(a), the purchaser is entitled to cancel this agreement by notice to the vendor;~~

~~(c) if the vendor does not give a vendor's notice the vendor shall be deemed to have accepted the objection or requisition and it shall be a requirement of settlement that such objection or requisition shall be complied with before settlement;~~

~~(d) if the purchaser does not on or before the fifth working day after service of a vendor's notice either:~~

~~(i) cancel this agreement under clause 6.2(3)(b); or~~

~~(ii) notify the vendor that the purchaser waives the objection or requisition;~~

~~then either the vendor or the purchaser may (notwithstanding any intermediate negotiations) by notice to the other, cancel this agreement.~~

~~(4) Nothing in this clause 6.2 prevents the purchaser from waiving any objection or requisition by notice at any time before this agreement is cancelled.~~

~~6.3 In the event of cancellation under clause 6.2(3), the purchaser shall be entitled to the immediate return of the deposit and any other moneys paid under this agreement by the purchaser and neither party shall have any right or claim against the other arising from this agreement or its cancellation. In particular, the purchaser shall not be entitled to any interest or to the expense of investigating the title or to any compensation whatsoever.~~

~~6.4 (1) If the title to the property being sold is a cross-lease title or a unit title and there are:~~

~~(a) in the case of a cross-lease title:~~

~~(i) alterations to the external dimensions of any leased structure; or~~

~~(ii) buildings or structures not intended for common use which are situated on any part of the land that is not subject to a restricted use covenant;~~

~~(b) in the case of a unit title, encroachments out of the principal unit or accessory unit title space (as the case may be);~~

~~then the purchaser may requisition the title under clause 6.2 requiring the vendor:~~

~~(c) in the case of a cross-lease title, to deposit a new plan depicting the buildings or structures and register a new cross-lease or cross-leases (as the case may be) and any other ancillary dealings in order to convey good title; or~~

~~(d) in the case of a unit title, to deposit an amendment to the unit plan, a redevelopment plan or new unit plan (as the case may be) depicting the principal and/or accessory units and register such transfers and any other ancillary dealings in order to convey good title.~~

~~(2) The words "alterations to the external dimensions of any leased structure" shall only mean alterations which are attached to the leased structure and enclosed.~~

6.5 The vendor shall not be liable to pay for or contribute towards the expense of erection or maintenance of any fence between the property and any contiguous land of the vendor but this proviso shall not enure for the benefit of any subsequent purchaser of the contiguous land; and the vendor shall be entitled to require the inclusion of a fencing covenant to this effect in any transfer of the property.

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7.0 Vendor's warranties and undertakings

~~7.1 The vendor warrants and undertakes that at the date of this agreement the vendor has not:~~

~~(1) received any notice or demand and has no knowledge of any requisition or outstanding requirement:~~

~~(a) from any local or government authority or other statutory body, or~~

~~(b) under the Resource Management Act 1991, or~~

~~(c) from any tenant of the property, or~~

~~(d) from any other party, or~~

~~(2) given any consent or waiver,~~

~~which directly or indirectly affects the property and which has not been disclosed in writing to the purchaser.~~

7.2 The vendor warrants and undertakes that at the date of this agreement the vendor has no knowledge or notice of any fact which might result in proceedings being instituted by or against the vendor or the purchaser in respect of the property.

7.3 The vendor warrants and undertakes that at settlement:

~~(1) The chattels included in the sale listed in Schedule 2 and all plant, equipment, systems or devices which provide any services or amenities to the property, including, without limitation, automatic garage door facility, security, heating, cooling, or air-conditioning, are delivered to the purchaser in reasonable working order, but in all other respects in their state of repair as at the date of this agreement (fair wear and tear excepted).~~

~~(2) All electrical and other installations on the property are free of any charge whatsoever and all chattels included in the sale are the unencumbered property of the vendor.~~

(3) There are no arrears of rates, water rates or charges outstanding on the property and where the property is subject to a targeted rate that has been imposed as a means of repayment of any loan, subsidy or other financial assistance made available by or through the local authority, the amount required to remove the imposition of that targeted rate has been paid.

(4) Where an allowance has been made by the vendor in the settlement statement for incomings receivable, the settlement statement correctly records those allowances including, in particular, the dates up to which the allowances have been made.

(5) Where the vendor has done or caused or permitted to be done on the property any works:

(a) any permit, resource consent, or building consent required by law was obtained; and

(b) where any "restricted building work" as defined in the Building Act was done on the property on or after 13 March 2012, such work was carried out or supervised by a suitably qualified person;

(c) to the vendor's knowledge, the works were completed in compliance with any required permits or consents; and

(d) where appropriate, a code compliance certificate was issued for those works.

~~(6) Where under the Building Act, any building on the property sold requires a compliance schedule:~~

~~(a) the vendor has fully complied with any requirements specified in any compliance schedule issued by a territorial authority under the Building Act in respect of the building,~~

~~(b) the building has a current building warrant of fitness, and~~

~~(c) the vendor is not aware of any reason, that the vendor has not disclosed in writing to the purchaser, which would prevent a building warrant of fitness from being supplied to the territorial authority when the building warrant of fitness is next due.~~

~~(7) Since the date of this agreement, the vendor has not given any consent or waiver which directly or indirectly affects the property.~~

~~(8) Any notice or demand received by the vendor, which directly or indirectly affects the property, after the date of this agreement:~~

~~(a) from any local or government authority or other statutory body, or~~

~~(b) under the Resource Management Act 1991, or~~

~~(c) from any tenant of the property, or~~

~~(d) from any other party,~~

~~has been delivered forthwith by the vendor to either the purchaser or the purchaser's lawyer, unless the vendor has paid or complied with such notice or demand. If the vendor fails to so deliver or pay the notice or demand, the vendor shall be liable for any penalty incurred.~~

~~7.4 If the property is or includes part only of a building, the warranty and undertaking in clause 7.3(6) does not apply. Instead the vendor warrants and undertakes at the date of this agreement that, where under the Building Act the building of which the property forms part requires a compliance schedule:~~

~~(1) to the vendor's knowledge, there has been full compliance with any requirements specified in any compliance schedule issued by a territorial authority under the Building Act in respect of the building,~~

~~(2) the building has a current building warrant of fitness, and~~

~~(3) the vendor is not aware of any reason, that the vendor has not disclosed in writing to the purchaser, which would prevent a building warrant of fitness from being supplied to the territorial authority when the building warrant of fitness is next due.~~

7.5 The vendor warrants and undertakes that on or immediately after settlement:

(1) If the water and wastewater charges are determined by meter, the vendor will have the water meter read and will pay the amount of the charge payable pursuant to that reading; but if the water supplier will not make special readings, the water and wastewater charges shall be apportioned.

(2) Any outgoings included in the settlement statement are paid in accordance with the settlement statement and, where applicable, to the dates shown in the settlement statement, or will be so paid immediately after settlement.

(3) The vendor will give notice of sale in accordance with the Local Government (Rating) Act 2002 to the territorial authority and regional council in whose district the land is situated and will also give notice of the sale to every other authority that makes and levies rates or charges on the land and to the supplier of water.

(4) Where the property is a unit title, the vendor will notify the body corporate in writing of the transfer of the property and the name and address of the purchaser.

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8.0 Unit title and cross-lease provisions

Unit Titles

8.1 If the property is a unit title, sections 144 to 153 of the Unit Titles Act require the vendor to provide to the purchaser a pre-contract disclosure statement and a pre-settlement disclosure statement in accordance with the Unit Titles Act. The requirements of this clause 8 are in addition to, and do not derogate from, the requirements of that Act.

8.2 If the property is a unit title, then except to the extent the vendor has disclosed otherwise to the purchaser in writing prior to the parties entering into this agreement, the vendor warrants and undertakes as follows as at the date of this agreement:

(1) The information in the pre-contract disclosure statement provided to the purchaser was complete and correct to the extent required by the Unit Titles Act.

(2) Apart from regular periodic contributions, no contributions have been levied or proposed by the body corporate.

(3) There are no unsatisfied judgments against the body corporate and no proceedings have been instituted against or by the body corporate.

(4) No order or declaration has been made by any Court or Tribunal against the body corporate or the vendor under any provision of the Unit Titles Act.

(5) The vendor has no knowledge or notice of any fact which might result in:

(a) the vendor or the purchaser incurring any other liability under any provision of the Unit Titles Act, or

(b) any proceedings being instituted by or against the body corporate, or

(c) any order or declaration being sought against the body corporate or the vendor under any provision of the Unit Titles Act.

(6) The vendor is not aware of proposals to pass any body corporate resolution relating to its rules nor are there any unregistered changes to the body corporate rules.

(7) No lease, licence, easement, or special privilege has been granted by the body corporate in respect of any part of the common property.

(8) No resolution has been passed and no application has been made and the vendor has no knowledge of any proposal for:

(a) the transfer of the whole or any part of the common property;

(b) the addition of any land to the common property;

(c) the cancellation of the unit plan;

(d) the deposit of an amendment to the unit plan, a redevelopment plan, or a new unit plan in substitution for the existing unit plan; or

(e) any change to utility interest or ownership interest for any unit on the unit plan.

8.3 If the property is a unit title, not less than five working days before the settlement date, the vendor will provide:

(1) a certificate of insurance for all insurances effected by the body corporate under the provisions of section 135 of the Unit Titles Act; and

(2) a pre-settlement disclosure statement from the vendor, certified correct by the body corporate, under section 147 of the Unit Titles Act.

8.4 If the property is a unit title, then except to the extent the vendor has disclosed otherwise to the purchaser in writing prior to the parties entering into this agreement, the vendor warrants and undertakes as at the settlement date:

(1) Other than contributions to the operating account, long-term maintenance fund, contingency fund, or capital improvements fund that are shown in the pre-settlement disclosure statement, there are no other amounts owing by the vendor under any provision of the Unit Titles Act.

(2) All contributions and other moneys payable by the vendor to the body corporate have been paid in full.

(3) Since the date of this agreement, the vendor has not voted on any matter that would alter the warranties at clause 8.2(2), (3), (4), (5), (6), (7), and (8) without the written consent of the purchaser.

8.5 If the property is a unit title and if the vendor does not provide the certificates of insurance and the pre-settlement disclosure statement under section 147 of the Unit Titles Act in accordance with the requirements of clause 8.3, then in addition to the purchaser's rights under sections 150, 151 and 151A of the Unit Titles Act, the purchaser may:

(1) postpone the settlement date until the fifth working day following the date on which that information is provided to the purchaser, or

(2) elect that settlement shall still take place on the settlement date, such election to be a waiver of any other rights to delay or cancel settlement under the Unit Titles Act or otherwise.

8.6 If the property is a unit title, each party specifies that:

(1) any email address of that party's lawyer provided on the back page of this agreement, or notified subsequently in writing by that party's lawyer shall be an address for service for that party for the purposes of section 205(1)(d) of the Unit Titles Act, and

(2) if that party is absent from New Zealand, that party's lawyer shall be that party's agent in New Zealand for the purposes of section 205(2) of the Unit Titles Act.

8.7 Unauthorised Structures – Cross-Leases and Unit Titles

(1) Where structures (not stated in clause 6.0 to be requisitionable) have been erected on the property without:

(a) in the case of a cross-lease title, any required lessors' consent; or

(b) in the case of a unit title, any required body corporate consent,

the purchaser may demand within the period expiring on the earlier of:

(i) the tenth working day after the date of this agreement; or

(ii) the settlement date;

that the vendor obtain the written consent of the current lessors or the body corporate (as the case may be) to such improvements ("a current consent") and provide the purchaser with a copy of such consent on or before the settlement date.

(2) Should the vendor be unwilling or unable to obtain a current consent, then the procedure set out in clauses 6.2(3) and 6.3 shall apply, with the purchaser's demand under clause 8.7(1) being deemed to be an objection and requisition.

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9.0 Conditions and mortgage terms

9.1 Finance condition

(1) If the purchaser has indicated that finance is required on the front page of this agreement, this agreement is conditional upon the purchaser arranging finance for such amount as the purchaser may require from a bank or other lending institution of the purchaser's choice on terms and conditions satisfactory to the purchaser in all respects on or before the finance date.

(2) If the purchaser avoids this agreement for failing to arrange finance in terms of clause 9.1(1), the purchaser must provide a reasonable explanation of the steps taken by the purchaser to arrange finance, together with supporting evidence, immediately upon request by the vendor.

9.2 Mortgage terms

(1) Any mortgage to be arranged pursuant to a finance condition shall be upon and subject to the terms and conditions currently being required by the lender in respect of loans of a similar nature.

9.3 Land Information Memorandum condition

(1) If the purchaser has indicated on the front page of this agreement that a LIM is required:

(a) that LIM is to be obtained by the purchaser at the purchaser's cost; and

(b) this agreement is conditional upon the purchaser approving that LIM by the LIM date, provided that such approval must not be unreasonably or arbitrarily withheld.

(2) If, on reasonable grounds, the purchaser does not approve the LIM, the purchaser shall give notice to the vendor ("the purchaser's notice") on or before the LIM date stating the particular matters in respect of which approval is withheld and, if those matters are capable of remedy, what the purchaser reasonably requires to be done to remedy those matters. If the purchaser does not give a purchaser's notice the purchaser shall be deemed to have approved the LIM. If through no fault of the purchaser, the LIM is not available on or before the LIM date and the vendor does not give an extension when requested, then unless the purchaser waives this condition, this condition shall not have been fulfilled and the provisions of clause 9.10(5) shall apply.

(3) The vendor shall give notice to the purchaser ("the vendor's notice") on or before the third working day after receipt of the purchaser's notice advising whether or not the vendor is able and willing to comply with the purchaser's notice by the settlement date.

(4) If the vendor does not give a vendor's notice, or if the vendor's notice advises that the vendor is unable or unwilling to comply with the purchaser's notice, and if the purchaser does not, on or before the fifth working day after the date on which the purchaser's notice is given, give notice to the vendor that the purchaser waives the objection to the LIM, this condition shall not have been fulfilled and the provisions of clause 9.10(5) shall apply.

(5) If the vendor gives a vendor's notice advising that the vendor is able and willing to comply with the purchaser's notice, this condition is deemed to have been fulfilled, and it shall be a requirement of settlement that the purchaser's notice shall be complied with, and also, if the vendor must carry out work on the property, that the vendor shall obtain the approval of the territorial authority to the work done, both before settlement.

9.4 Building report condition

(1) If the purchaser has indicated on the front page of this agreement that a building report is required, this agreement is conditional upon the purchaser obtaining at the purchaser's cost on or before the building report date a report on the condition of the buildings and any other improvements on the property that is satisfactory to the purchaser, on the basis of an objective assessment.

(2) The report must be prepared in good faith by a suitably-qualified building inspector in accordance with accepted principles and methods and it must be in writing.

(3) Subject to the rights of any tenants of the property, the vendor shall allow the building inspector to inspect the property at all reasonable times upon reasonable notice for the purposes of preparation of the report.

(4) The building inspector may not carry out any invasive testing in the course of inspection without the vendor's prior written consent.

(5) If the purchaser avoids this agreement for non-fulfilment of this condition pursuant to clause 9.10(5), the purchaser must provide the vendor immediately upon request with a copy of the building inspector's report.

9.5 Toxicology report condition

(1) If the purchaser has indicated on the front page of this agreement that a toxicology report is required, this agreement is conditional upon the purchaser obtaining at the purchaser's cost on or before the toxicology report date, a toxicology report on the property that is satisfactory to the purchaser, on the basis of an objective assessment.

(2) The purpose of the toxicology report shall be to detect whether the property has been contaminated by the preparation, manufacture or use of drugs including, but not limited to, methamphetamine.

(3) The report must be prepared in good faith by a suitably-qualified inspector in accordance with accepted principles and methods and it must be in writing.

(4) Subject to the rights of any tenants of the property, the vendor shall allow the inspector to inspect the property at all reasonable times upon reasonable notice for the purposes of carrying out the testing and preparation of the report.

(5) The inspector may not carry out any invasive testing in the course of the inspection without the vendor's prior written consent.

(6) If the purchaser avoids this agreement for non-fulfilment of this condition pursuant to clause 9.10(5), the purchaser must provide the vendor immediately upon request with a copy of the inspector's report.

9.6 Overseas Investment Act consent condition

(1) If the purchaser has indicated on the front page of this agreement that OIA consent is required, this agreement is conditional upon OIA consent being obtained on or before the OIA date on terms and conditions that are satisfactory to the purchaser, acting reasonably, the purchaser being responsible for payment of the application fee. This condition is inserted for the benefit of both parties, but (subject to clause 9.6(2)) may not be waived by either party, and the vendor will take reasonable steps required to enable this condition to be fulfilled by the purchaser.

(2) If the purchaser has indicated on the front page of this agreement that OIA consent is not required, or has failed to indicate whether it is required, then the purchaser warrants that the purchaser does not require OIA consent.

9.7 If this agreement relates to a transaction to which the Land Act 1948 applies, this agreement is conditional upon the vendor obtaining the necessary consent by the Land Act date.

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9.8 If the Land Act date or OIA date is not shown on the front page of this agreement that date shall be the settlement date or that date 65 working days after the date of this agreement whichever is the sooner, except where the property comprises residential (but not otherwise sensitive) land in which case that date shall be the settlement date or that date 20 working days after the date of this agreement, whichever is the sooner.

9.9 Resource Management Act condition
If this agreement relates to a transaction to which section 225 of the Resource Management Act 1991 applies then this agreement is subject to the appropriate condition(s) imposed by that section. All condition(s) under section 225(2) of that Act are deemed to be satisfied by both parties once the survey plan has deposited.

9.10 Operation of conditions
If this agreement is expressed to be subject either to the above or to any other condition(s), then in relation to each such condition the following shall apply unless otherwise expressly provided:
(1) The condition shall be a condition subsequent.
(2) The party or parties for whose benefit the condition has been included shall do all things which may reasonably be necessary to enable the condition to be fulfilled by the date for fulfilment.
(3) Time for fulfilment of any condition and any extended time for fulfilment to a fixed date shall be of the essence.
(4) The condition shall be deemed to be not fulfilled until notice of fulfilment has been served by one party on the other party.
(5) If the condition is not fulfilled by the date for fulfilment, either party may at any time before the condition is fulfilled or waived avoid this agreement by giving notice to the other. Upon avoidance of this agreement, the purchaser shall be entitled to the immediate return of the deposit and any other moneys paid by the purchaser under this agreement and neither party shall have any right or claim against the other arising from this agreement or its termination.
(6) At any time before this agreement is avoided, the purchaser may waive any finance condition and either party may waive any other condition which is for the sole benefit of that party. Any waiver shall be by notice.

10.0 Claims for compensation

10.1 If the purchaser has not purported to cancel this agreement, the breach by the vendor of any term of this agreement does not defer the purchaser's obligation to settle, but that obligation is subject to the provisions of this clause 10.0.

10.2 The provisions of this clause apply if:
(1) the purchaser claims a right to compensation (and in making such a claim, the purchaser must act reasonably, but the vendor taking the view that the purchaser has not acted reasonably does not affect the purchaser's ability or right to make such a claim) for:
(a) a breach of any term of this agreement;
(b) a misrepresentation;
(c) a breach of section 9 or section 14 of the Fair Trading Act 1986;
~~(d) an equitable set-off, or~~
(2) there is a dispute between the parties regarding any amounts payable:
(a) under clause 3.12 or clause 3.13; or
(b) under clause 5.2.

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10.3 To make a claim under this clause 10.0:
(1) the claimant must serve notice of the claim on the other party as early as is reasonably practicable and in any event no later than on or before the last working day prior to the settlement date, time being of the essence (except for claims made after the settlement date for amounts payable under clause 3.12 or clause 3.13, in respect of which the claimant may serve notice of the claim on the other party at any time after a dispute arises over those amounts); and
(2) the notice must:
(a) state the particular breach of the terms of this agreement, or the claim under clause 3.12, clause 3.13 or clause 5.2, or for misrepresentation, or for breach of section 9 or section 14 of the Fair Trading Act 1986, or for an equitable set-off; and
(b) state a genuine pre-estimate of the loss suffered by the claimant; and
(c) be particularised and quantified to the extent reasonably possible as at the date of the notice.

10.4 If the claimant is unable to give notice under clause 10.3 in respect of claims under clause 10.2(1) or clause 10.2(2)(b) on or before the date that notice is due under clause 10.3(1) by reason of the conduct or omission of the other party, the notice may be served on or before the working day immediately preceding the last working day on which settlement must take place under a settlement notice served by either party under clause 11.1, time being of the essence.

10.5 If the amount of compensation is agreed, it shall be deducted from or added to the amount to be paid by the purchaser on settlement.

10.6 If the purchaser makes a claim for compensation under clause 10.2(1) but the vendor disputes that the purchaser has a valid or reasonably arguable claim, then:
(1) the vendor must give notice to the purchaser within three working days after service of the purchaser's notice under clause 10.3, time being of the essence; and
(2) the purchaser's right to make the claim (on the basis that such claim is valid or reasonably arguable) shall be determined by an appointee. The appointee's costs shall be met by the party against whom the determination is made or otherwise as determined by the appointee.

10.7 If the purchaser makes a claim for compensation under clause 10.2(1) and the vendor fails to give notice to the purchaser pursuant to clause 10.6, the vendor is deemed to have accepted that the purchaser has a valid or reasonably arguable claim.

10.8 If it is accepted, or determined under clause 10.6, that the purchaser has a right to claim compensation under clause 10.2(1) but the amount of compensation claimed is disputed, or if the claim is made under clause 10.2(2) and the amount of compensation claimed is disputed, then:
(1) an interim amount shall be paid on settlement by the party required to a stakeholder until the amount of the claim is determined;
(2) if the parties cannot agree on a stakeholder, the interim amount shall be paid to a stakeholder nominated on the application of either party by the president;

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(3) the interim amount must be a reasonable sum having regard to the circumstances, except that:
  (a) where the claim is under clause 3.13 the interim amount shall be the lower of the amount claimed, or an amount equivalent to interest at the interest rate for late settlement for the relevant default period on such portion of the purchase price (including any deposit) as is payable under this agreement on or by the settlement date;
  (b) neither party shall be entitled or required to undertake any discovery process, except to the extent this is deemed necessary by the appointee under clause 10.8(4) for the purposes of determining that the requirements of clauses 10.3(2)(b)-(c) have been met.

(4) if the parties cannot agree on the interim amount, the interim amount shall be determined by an appointee. The appointee's costs shall be met equally by the parties, or otherwise as determined by the appointee.

(5) the amount of the claim determined to be payable shall not be limited by the interim amount;

(6) the stakeholder shall lodge the interim amount on an interest-bearing call deposit with a bank registered under the Reserve Bank of New Zealand Act 1989 in the joint names of the vendor and the purchaser;

(7) the interest earned on the interim amount net of any withholding tax and any bank or legal administration fees and commission charges shall follow the destination of the interim amount; and

(8) apart from the net interest earned on the interim amount, no interest shall be payable by either party to the other in respect of the claim for compensation once the amount of the claim has been determined, provided that if the amount determined is in excess of the interim amount, the party liable to make payment of that excess shall pay interest to the other party at the interest rate for late settlement on the amount of that excess if it is not paid on or before the third working day after the date of notification of the determination, computed from the date of such notification until payment.

10.9 Where a determination has to be made under clause 10.6(2) or clause 10.8(4) and the settlement date will have passed before the determination is made, the settlement date shall be deferred to the second working day following the date of notification to both parties of the determination. Where a determination has to be made under both of these clauses, the settlement date shall be deferred to the second working day following the date on which notification to both parties has been made of both determinations. However, the settlement date will only be deferred under this clause 10.9 if, prior to such deferral, the purchaser's lawyer provides written confirmation to the vendor's lawyer that but for the resolution of the claim for compensation, the purchaser is ready, willing, and able to complete settlement.

10.10 The procedures prescribed in clauses 10.1 to 10.9 shall not prevent either party from taking proceedings for specific performance of this agreement.

10.11 A determination under clause 10.6 that the purchaser does not have a valid or reasonably arguable claim for compensation under clause 10.2(1) shall not prevent the purchaser from pursuing that claim following settlement.

10.12 Where a determination is made by an appointee under either clause 10.6 or clause 10.8, that appointee:
(1) shall not be liable to either party for any costs or losses that either party may claim to have suffered in respect of the determination; and
(2) may make an order that one party must meet all or some of the reasonable legal costs of the other party, and in making such an order the appointee may without limitation take into account the appointee's view of the reasonableness of the conduct of the parties under this clause.

10.13 Where the appointee is determined by the president, the president shall not be liable to either party for any costs or losses that either party may claim to have suffered in respect of that determination.

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11.0 Notice to complete and remedies on default

11.1 (1) If the sale is not settled on the settlement date, either party may at any time thereafter serve on the other party a settlement notice.
(2) The settlement notice shall be effective only if the party serving it is at the time of service in all material respects ready, willing, and able to proceed to settle in accordance with this agreement, or is not so ready, willing, and able to settle only by reason of the default or omission of the other party.
(3) If the purchaser is in possession, the vendor's right to cancel this agreement will be subject to sections 28 to 36 of the Property Law Act 2007 and the settlement notice may incorporate or be given with a notice under section 28 of that Act complying with section 29 of that Act.

11.2 Subject to clause 11.1(3), upon service of the settlement notice the party on whom the notice is served shall settle:
(1) on or before the twelfth working day after the date of service of the notice; or
(2) on the first working day after the 13th day of January if the period of twelve working days expires during the period commencing on the 6th day of January and ending on the 13th day of January, both days inclusive,
time being of the essence, but without prejudice to any intermediate right of cancellation by either party.

11.3 (1) If this agreement provides for the payment of the purchase price by instalments and the purchaser fails duly and punctually to pay any instalment on or within one month from the date on which it fell due for payment then, whether or not the purchaser is in possession, the vendor may immediately give notice to the purchaser calling up the unpaid balance of the purchase price, which shall upon service of the notice fall immediately due and payable.
(2) The date of service of the notice under this clause shall be deemed the settlement date for the purposes of clause 11.1.
(3) The vendor may give a settlement notice with a notice under this clause.
(4) For the purposes of this clause a deposit is not an instalment.

11.4 If the purchaser does not comply with the terms of the settlement notice served by the vendor then, subject to clause 11.1(3):
(1) Without prejudice to any other rights or remedies available to the vendor at law or in equity, the vendor may:
  (a) sue the purchaser for specific performance; or
  (b) cancel this agreement by notice and pursue either or both of the following remedies, namely:
    (i) forfeit and retain for the vendor's own benefit the deposit paid by the purchaser, but not exceeding in all 10% of the purchase price; and/or
    (ii) sue the purchaser for damages.
(2) Where the vendor is entitled to cancel this agreement, the entry by the vendor into a conditional or unconditional agreement for the resale of the property or any part thereof shall take effect as a cancellation of this agreement by the vendor if this agreement has not previously been cancelled and such resale shall be deemed to have occurred after cancellation.

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(3) The damages claimable by the vendor under clause 11.4(1)(b)(ii) shall include all damages claimable at common law or in equity and shall also include (but shall not be limited to) any loss incurred by the vendor on any bona fide resale contracted within one year from the date by which the purchaser should have settled in compliance with the settlement notice. The amount of that loss may include:
   (a) interest on the unpaid portion of the purchase price at the interest rate for late settlement from the settlement date to the settlement of such resale;
   (b) all costs and expenses reasonably incurred in any resale or attempted resale; and
   (c) all outgoings (other than interest) on or maintenance expenses in respect of the property from the settlement date to the settlement of such resale.

(4) Any surplus money arising from a resale shall be retained by the vendor.

11.5 If the vendor does not comply with the terms of a settlement notice served by the purchaser, then, without prejudice to any other rights or remedies available to the purchaser at law or in equity the purchaser may:
(1) sue the vendor for specific performance; or
(2) cancel this agreement by notice and require the vendor forthwith to repay to the purchaser any deposit and any other money paid on account of the purchase price and interest on such sum(s) at the interest rate for late settlement from the date or dates of payment by the purchaser until repayment.

11.6 The party serving a settlement notice may extend the term of the notice for one or more specifically stated periods of time and thereupon the term of the settlement notice shall be deemed to expire on the last day of the extended period or periods and it shall operate as though this clause stipulated the extended period(s) of notice in lieu of the period otherwise applicable; and time shall be of the essence accordingly. An extension may be given either before or after the expiry of the period of the notice.

11.7 Nothing in this clause shall preclude a party from suing for specific performance without serving a settlement notice.

11.8 A party who serves a settlement notice under this clause shall not be in breach of an essential term by reason only of that party's failure to be ready, willing, and able to settle upon the expiry of that notice.

12.0 Non-merger

12.1 The obligations and warranties of the parties in this agreement shall not merge with:
(1) the giving and taking of possession;
(2) settlement;
(3) the transfer of title to the property;
(4) delivery of the chattels (if any); or
(5) registration of the transfer of title to the property.

13.0 Goods and Services Tax and Purchase Price Allocation

13.1 If this agreement provides for the purchaser to pay (in addition to the purchase price stated without GST) any GST which is payable in respect of the supply made under this agreement, then:
(1) the purchaser shall pay to the vendor the GST which is so payable in one sum on the GST date;
(2) where the GST date has not been inserted on the front page of this agreement the GST date shall be the settlement date;
(3) where any GST is not so paid to the vendor, the purchaser shall pay to the vendor:
   (a) interest at the interest rate for late settlement on the amount of GST unpaid from the GST date until payment; and
   (b) any default GST;
(4) it shall not be a defence to a claim against the purchaser for payment to the vendor of any default GST that the vendor has failed to mitigate the vendor's damages by paying an amount of GST when it fell due under the GST Act; and
(5) any sum referred to in this clause is included in the moneys payable by the purchaser on settlement pursuant to clause 3.8(1).

13.2 If the supply under this agreement is a taxable supply, the vendor will deliver a tax invoice to the purchaser on or before the GST date or such earlier date as the purchaser is entitled to delivery of an invoice under the GST Act.

13.3 (1) Without prejudice to the vendor's rights and remedies under clause 13.1, where any GST is not paid to the vendor on or within one month of the GST date, then whether or not the purchaser is in possession, the vendor may immediately give notice to the purchaser calling up any unpaid balance of the purchase price, which shall upon service of the notice fall immediately due and payable.
(2) The date of service of the notice under this clause shall be deemed the settlement date for the purposes of clause 11.1.
(3) The vendor may give a settlement notice under clause 11.1 with a notice under this clause.

13.4 Each party warrants that their response to the statement on the front page regarding purchase price allocation being relevant to the vendor or purchaser/purchaser's nominee for income tax and/or GST purposes is correct.

14.0 Zero-rating

14.1 The vendor warrants that the statement on the front page regarding the vendor's GST registration status in respect of the supply under this agreement and any particulars stated by the vendor in Schedule 1 are correct at the date of this agreement and will remain correct at settlement.

14.2 The purchaser warrants that any particulars stated by the purchaser in Schedule 1 are correct at the date of this agreement.

14.3 Where the particulars stated on the front page and in Schedule 1 indicate that:
(1) the vendor is and/or will be at settlement a registered person in respect of the supply under this agreement;
(2) the recipient is and/or will be at settlement a registered person;
(3) the recipient intends at settlement to use the property for making taxable supplies; and
(4) the recipient does not intend at settlement to use the property as a principal place of residence by the recipient or a person associated with the recipient under section 2A(1)(c) of the GST Act,

GST will be chargeable on the supply under this agreement at 0% pursuant to section 11(1)(mb) of the GST Act.

14.4 If GST is chargeable on the supply under this agreement at 0% pursuant to section 11(1)(mb) of the GST Act, then on or before settlement the purchaser will provide the vendor with the recipient's name, address, and registration number if any of those details are not included in Schedule 1 or they have altered.

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14.5 (1) If any of the particulars stated by the purchaser in Schedule 1:
(a) are incomplete; or
(b) alter between the date of this agreement and settlement,
the purchaser shall notify the vendor of the particulars which have not been completed and the altered particulars as soon as practicable before settlement.
(2) The purchaser warrants that any added or altered particulars will be correct as at the date of the purchaser's notification.
(3) If the GST treatment of the supply under this agreement should be altered as a result of the added or altered particulars, the vendor shall prepare and deliver to the purchaser or the purchaser's lawyer an amended settlement statement, if the vendor has already tendered a settlement statement, and a credit note or a debit note, as the case may be, if the vendor has already issued a tax invoice.

14.6 If
(1) the particulars in Schedule 1 state that part of the property is being used as a principal place of residence at the date of this agreement; and
(2) that part is still being so used at the time of the supply under this agreement,
then, the supply of that part will be a separate supply in accordance with section 5(15)(a) of the GST Act.

14.7 If
(1) the particulars stated in Schedule 1 indicate that the recipient intends to use part of the property as a principal place of residence by the recipient or a person associated with the recipient under section 2A(1)(c) of the GST Act; and
(2) that part is the same part as that being used as a principal place of residence at the time of the supply under this agreement,
then the references in clauses 14.3 and 14.4 to "the property" shall be deemed to mean the remainder of the property excluding that part and the references to "the supply under this agreement" shall be deemed to mean the supply under this agreement of that remainder.

14.8 If the particulars stated on the front page and in Schedule 1 indicate in terms of clause 14.3 that GST will be chargeable on the supply under this agreement at 0% pursuant to section 11(1)(mb) of the GST Act, but any of the particulars stated by the purchaser in Schedule 1 should alter between the date of this agreement and settlement, such that GST no longer becomes chargeable on the supply at 0%, then:
(1) the purchase price shall be plus GST (if any), even if it has been expressed as being inclusive of GST (if any) on the front page of this agreement; and
(2) if the vendor has already had to account to the Inland Revenue Department for the GST which is payable in respect of the supply under this agreement and did so on the basis that in accordance with clause 14.3 the GST would be chargeable at 0%, the purchaser shall pay GST and any default GST to the vendor immediately upon demand served on the purchaser by the vendor (and where any GST or default GST is not so paid to the vendor, the purchaser shall pay to the vendor interest at the interest rate for late settlement on the amount unpaid from the date of service of the vendor's demand until payment).

15.0 Supply of a Going Concern

15.1 If there is a supply under this agreement to which section 11(1)(mb) of the GST Act does not apply but which comprises the supply of a taxable activity that is a going concern at the time of the supply, then, unless otherwise expressly stated in this agreement:
(1) each party warrants that it is a registered person or will be so by the date of the supply;
(2) each party agrees to provide the other party by the date of the supply with proof of its registration for GST purposes;
(3) the parties agree that they intend that the supply is of a taxable activity that is capable of being carried on as a going concern by the purchaser; and
(4) the parties agree that the supply made pursuant to this agreement is the supply of a going concern on which GST is chargeable at 0%.

15.2 If it subsequently transpires that GST is payable in respect of the supply and if this agreement provides for the purchaser to pay (in addition to the purchase price without GST) any GST which is payable in respect of the supply made under this agreement, then the provisions of clause 13.0 of this agreement shall apply.

16.0 Limitation of Liability

16.1 If a person enters into this agreement as trustee of a trust and is not a beneficiary of the trust, then that person will be known as an "independent trustee" and clauses 16.2 and 16.3 will apply.

16.2 The liability of an independent trustee under this agreement is limited to the extent of the indemnity from the assets of the trust available to the independent trustee at the time of enforcement of that indemnity.

16.3 However, if the entitlement of the independent trustee to be indemnified from the trust assets has been lost or impaired (whether fully or in part) by reason of the independent trustee's act or omission (whether in breach of trust or otherwise), then the limitation of liability in clause 16.2 does not apply, and the independent trustee will be personally liable up to the amount that would have been indemnified from the assets of the trust had the indemnity not been lost.

17.0 Counterparts

17.1 This agreement may be executed and delivered in any number of counterparts (including scanned and emailed PDF counterparts).

17.2 Each executed counterpart will be deemed an original and all executed counterparts together will constitute one (and the same) instrument.

17.3 This agreement shall not come into effect until each person required to sign has signed at least one counterpart and both vendor and purchaser have received a counterpart signed by each person required to sign.

17.4 If the parties cannot agree on the date of this agreement, and counterparts are signed on separate dates, the date of the agreement is the date on which the last counterpart was signed and delivered to all parties.

18.0 Agency

18.1 If the name of a licensed real estate agent is recorded on this agreement, it is acknowledged that the sale evidenced by this agreement has been made through that agent whom the vendor has appointed as the vendor's agent according to an executed agency agreement.

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18.2 The scope of the authority of the agent under clause 18.1 does not extend to making an offer, counteroffer, or acceptance of a purchaser's offer or counteroffer on the vendor's behalf without the express authority of the vendor for that purpose. That authority, if given, should be recorded in the executed agency agreement.

18.3 The vendor shall be liable to pay the agent's charges including GST in accordance with the executed agency agreement.

19.0 Collection of Sales Information

19.1 Once this agreement has become unconditional in all respects, the agent referred to in clause 18.0 may provide certain information relating to the sale to REINZ.

19.2 This information includes the sale price, address and other details about the property. The information is stored on a secure password protected network under REINZ's control.

19.3 REINZ combines this information with other property and market information and uses it itself or makes it available to real estate agencies and valuers, and other third parties (or service providers to any of them) for the following purposes:

(1) provision of appraisals and valuations to prospective vendors or purchasers of properties in the same area as the property;

(2) publication of reports and guidance on the real estate market nationally or in particular locations; and

(3) research, statistical, and predictive analysis for internal use or publication.

19.4 The information provided to REINZ under clause 19.1 does not specifically identify either of the parties to this agreement but may be combined with other information in the databases maintained by REINZ or other recipients, resulting in it becoming personal information under the Privacy Act 2020. Either party is therefore entitled to request access to and correction of any personal information held by REINZ by contacting REINZ at info@reinz.co.nz or by post or telephone.

~~20.0 COVID-19 / Pandemic Provisions~~

~~20.1 The parties acknowledge that the Government of New Zealand or a Minister of that Government may, as a result of public health risks arising from a Pandemic, order restrictions on personal movement pursuant to the COVID-19 Public Health Response Act 2020 (or other legislation), and the effect of such restrictions may be that personal movement within or between particular regions is unlawful for the general population of those regions.~~

~~20.2 Where such a legal restriction on personal movement exists either nationally or in the region or district where the property is located:~~

~~(1) The date for satisfaction of any condition that has not yet been satisfied or waived will be the later of:~~

~~(a) the date that is 10 working days after the restriction on personal movement in the region or district in which the property is located is removed; or~~

~~(b) the date for satisfaction of the condition as stated elsewhere in this agreement.~~

~~(2) The settlement date will be the later of:~~

~~(a) the date that is 10 working days after all conditions are satisfied or waived; or~~

~~(b) the date that is 10 working days after the date on which the restriction on personal movement in the region or district in which the property is located is removed; or~~

~~(c) the settlement date as stated elsewhere in this agreement.~~

~~(3) Nothing in the previous provisions of this clause is to have the effect of bringing forward a date specified in this agreement.~~

~~20.3 Clause 20.2 applies whether such legal restriction on personal movement exists at, or is imposed after, the date of this agreement, and on each occasion such restriction is imposed.~~

~~20.4 Neither party will have any claim against the other for a deferral of a condition date or the settlement date under this clause 20.0.~~

~~20.5 For the purposes of this clause 20.0, "Pandemic" means the COVID-19 pandemic, or such other pandemic or epidemic that gives rise to Government orders restricting personal movement.~~

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FURTHER TERMS OF SALE

see attached pages

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SCHEDULE 1

(GST Information – see clause 14.0)

This Schedule must be completed if the vendor has stated on the front page that the vendor is registered under the GST Act in respect of the transaction evidenced by this agreement and/or will be so registered at settlement. Otherwise there is no need to complete it.

Section 1 Vendor			
1(a)	The vendor's registration number (if already registered): 119-582-741		
1(b)	(i)	All of the property is being used as a principal place of residence at the date of this agreement.	~~Yes~~/No/~~NA~~
	(ii)	The supply of all of the property will be a taxable supply.	Yes/~~No~~/~~NA~~
	(iii)	Part of the property is being used as a principal place of residence at the date of this agreement	~~Yes~~/No/~~NA~~
	(iv)	That part is: (e.g. "the main farmhouse" or "the apartment above the shop")	
	(v)	The supply of that part described in 1(b)(iv) will be a taxable supply.	~~Yes~~/No/~~NA~~
Section 2 Purchaser			
2(a)	The purchaser is registered under the GST Act and/or will be so registered at settlement.		Yes/No
2(b)	The purchaser intends at settlement to use the property for making taxable supplies.		Yes/No
If the answer to either or both of questions 2(a) and 2(b) is "No", go to question 2(e)			
2(c)	The purchaser's details are as follows: (i) Full name:		
	(ii) Address:		
	(iii) Registration number (if already registered):		
2(d)	The purchaser intends at settlement to use the property as a principal place of residence by the purchaser or by a person associated with the purchaser under section 2A(1)(c) of the GST Act (connected by blood relationship, marriage, civil union, de facto relationship or adoption). **OR** The purchaser intends at settlement to use part of the property (and no other part) as a principal place of residence by the purchaser or by a person associated with the purchaser under section 2A(1)(c) of the GST Act. That part is: (e.g. "the main farmhouse" or "the apartment above the shop")		Yes/No Yes/No
2(e)	The purchaser intends to direct the vendor to transfer title to the property to another party ("nominee").		Yes/No
If the answer to question 2(e) is "Yes", then please continue. Otherwise, there is no need to complete this Schedule any further.			
Section 3 Nominee			
3(a)	The nominee is registered under the GST Act and/or is expected by the purchaser to be so registered at settlement.		Yes/No
3(b)	The purchaser expects the nominee at settlement to use the property for making taxable supplies.		Yes/No
If the answer to either or both of questions 3(a) and 3(b) is "No", there is no need to complete this Schedule any further.			
3(c)	The nominee's details (if known to the purchaser) are as follows: (i) Full name:		
	(ii) Address:		
	(iii) Registration number (if already registered):		
3(d)	The purchaser expects the nominee to intend at settlement to use the property as a principal place of residence by the nominee or by a person associated with the nominee under section 2A(1)(c) of the GST Act (connected by blood relationship, marriage, civil union, de facto relationship or adoption). **OR** The purchaser expects the nominee to intend at settlement to use part of the property (and no other part) as a principal place of residence by the nominee or by a person associated with the nominee under section 2A(1)(c) of the GST Act. That part is: (e.g. "the main farmhouse" or "the apartment above the shop")		Yes/No Yes/No

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AMENDMENTS TO THE GENERAL TERMS OF SALE

Clause 1.1: Insert further definitions at clause 1.1 as follows:

1.1 In this Agreement:

Consents means all consents, approvals and permits necessary to give effect to the Scheme Plan and Consents has a corresponding meaning.

LINZ means Land Information New Zealand.

Lodge any Submission means (without limitation) personally or through any agent or servant or directly or indirectly, lodge or support in any way any objection submission to any Planning Proposal and includes (without limitation) taking part in any planning hearing, appeal or reference arising in respect of a Planning Proposal whether as a party or otherwise.

Planning Proposal means any application, request, or preparation in relation to any planning approval process and includes (without limitation) any resource consent application and / or plan change and / or variation of any nature under the relevant District Plan or proposed District Plan or Regional Plan or any comparative process which enables or facilitates subdivision, use or development of land.

Scheme Plan means the draft plan for the Subdivision attached to this agreement as Schedule 2

Settlement Date means the date that is five (5) working days after the date on which the Vendor notifies the Purchaser in writing that a search copy of a new record of title for the Property (as defined in section 60 of the Land Transfer Act 2017) is available.

Specified Event means natural disaster, war, civil disorders, pandemics, monetary or economic developments, acts of government or other factors beyond the reasonable control of the Vendor whether similar or not.

Stakeholder means the Vendor's solicitor as nominated by the Vendor which at the date of this Agreement is Todd & Walker Law Limited.

Subdivision means the proposed subdivision of part of the Vendor's Land set out in the Scheme Plan.

Territorial Authority means Queenstown Lakes District Council.

Vendor's Land means the land contained or previously contained in Records of Title 1133376 and 903097.

FURTHER TERMS OF SALE

20. Conditions

For the benefit of the Vendor

20.1. This Agreement is conditional upon:

a. the Vendor obtaining the required Consents on terms and conditions acceptable in all respects to the Vendor in the Vendor's sole opinion;

b. the Vendor notifying the Purchaser within three years of the date of this Agreement that a separate record of title for the Property has been obtained.

20.2. The conditions referred to in clause 20.1 have been inserted for the sole benefit of the Vendor.

20.3. If at any time it becomes apparent to the Vendor (in its sole discretion) that any of the conditions in clause 20.1 will not be fulfilled, the Vendor may notify the Purchaser accordingly and immediately without further notice cancel this Agreement and any Deposit paid in accordance with this Agreement shall be returned to the Purchaser.

For the benefit of the Purchaser

20.4. This Agreement is conditional upon the Purchaser undertaking and confirming to the Vendor that the Purchaser is satisfied in its sole discretion with a due diligence investigation relating to the Property on or before the date that is _____ working days from the date of this agreement. This condition is inserted for the sole benefit of the Purchaser and the Purchaser is not required to disclose any reason for non-fulfilment of this condition.

21. Deposit

21.1 The Purchaser will pay the Deposit to the Stakeholder upon the date that any conditions inserted for the sole benefit of the Purchaser are satisfied, or if there are no conditions for the sole benefit of the Purchaser in this Agreement then immediately upon the date of signing this Agreement by both parties.

21.2 The Vendor and Purchaser agree that the Deposit shall be held in the Stakeholder's trust account on interest bearing deposit in the sole name of the Vendor, and that upon receipt of all necessary documentation to satisfy the Stakeholder's customer due diligence requirements pursuant to the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 in relation to the Purchaser, the Deposit shall be held in the Stakeholder's trust account on interest bearing deposit in the joint names of the Vendor and the Purchaser, and:

a. on the issue of a separate record of title for the Property, the Deposit plus net interest (if any) less any applicable withholding tax and commission (**Net Deposit**) will be released to the Vendor; or

b. in the event that this Agreement is cancelled;

i) as a result of a default by the Purchaser, the Net Deposit will be released to the Vendor; and

ii) for any other reason save the default of the Purchaser, the Net Deposit will be refunded to the Purchaser.

21.3 The Stakeholder will not be liable to any party by reason of any delay in investing the Deposit or any part of it or for any loss or diminution in value of the Deposit or any failure on the part of the bank, or any costs deducted by the bank for handling the Deposit or any interest.

22. Subdivision

22.1. The Scheme Plan shows part of the Vendor's intended subdivision for the Development. The Purchaser acknowledges that:

a. The Vendor reserves the right to at any time without limitation at its sole discretion to start, stop, restart and to change any aspect of the Subdivision.

b. It is not purchasing the Property on reliance on any part of the Subdivision proceeding, other than the separate development of the Property that is the subject of this Agreement;

22.2. The Vendor will at the Vendor's expense:

a. Use best endeavours to obtain the Consents with reasonable speed following the date of this Agreement;

b. Once the Consents have been obtained and subject to the Vendor confirming the condition in clause 20.1 a. is satisfied, the Vendor will commence, progress and undertake the works to complete the Subdivision substantially but not necessarily exactly in accordance with the Scheme Plan in a proper and workmanlike manner and in accordance with all statutory, regulatory bylaws and requirements of the Territorial Authority;

c. implement the Consents by carrying out all requirements and complying with all conditions which the Territorial Authority has imposed in the Consents;

d. instruct its surveyor to prepare a survey plan substantially in accordance with the Consents and the Scheme Plan (**Final LT Plan**);

e. procure the approval of the Final LT Plan by the Territorial Authority and LINZ;

f. lodge the Final LT Plan (once approved by the Territorial Authority and LINZ) (**Approved Survey Plan**) with LINZ; and

g. deposit the Approved Survey Plan with LINZ and procure that LINZ issues a separate record of title in respect of the Property.

23. Easements, Encumbrances, Access, Rights and Obligations

23.1. The Purchaser acknowledges that a separate record of title has not issued for the Property and the Purchaser accepts that title to the Property will be subject to all existing easements, consent notices and encumbrances (but not any mortgage) and any further easements, consent notices, encumbrances and Advice Notes as may be required by the Territorial Authority or deemed necessary or appropriate by the Vendor (in its sole and complete discretion, and subjective judgment) for completion of the Subdivision.

23.2. The Vendor reserves the right to grant, create and/or register (prior to settlement) any easements, consent notices, covenants or any other encumbrances, rights or obligations that:

a. may be required by the Territorial Authority (under the Consents or otherwise);

b. result from or are anticipated by the terms of this Agreement;

c. are created in respect of access, services and/or utilities for the Property;

d. the Vendor deems necessary in its sole discretion in order to complete the Subdivision.

23.3. The Purchaser shall take the title to the Property subject to the interests referred to in clauses 23.1 and 23.2 and shall not be entitled to requisition the title in respect of any of those interests or make any claim for compensation pursuant to clause 10 of the General Terms of Sale as a result of those interests.

23.4. The Vendor retains the following rights in relation to the Subdivision (for the Vendor and the Vendor's employees, agents and contractors):

a. to construct or lay any road, path or access way;

b. to construct or lay any drain, detention basin, piping, cable, ducting, line or locate any transformer or supply box in the reasonable opinion of the Vendor necessary or desirable to complete the Subdivision;

c. to excavate, contour, lower, fill, landscape or plant any part of the Vendor's Land (but not the Property once a separate record of title has issued for the Property);

d. to cut down or remove so much of the soil and substrata of the road frontage (or accessway frontage) of the Property as the Vendor or the Vendor's engineer deems reasonably necessary or desirable for forming a batter to the roads, access ways or any right of way; and

e. to amend the Subdivision and Scheme Plan at its sole discretion in respect of any land shown on the Scheme Plan as legal road and / or reserve (provided that legal access is provided to the Property) so that any such area is not vested as road or reserve but remains private or in other ownership.

23.5. The Vendor and / or its surveyors, consultants, engineers and contractors shall have the right to enter upon the Property and adjoining land at all times before settlement with all such plant, machinery, vehicles and equipment to do all such work as shall in the option of the Vendor be necessary or desirable to complete the Subdivision without being liable for damage or compensation, including (but in no way limited to) the right to:

a. contour, landscape, excavate and / or fill any part of the Property;

b. cut and / or remove any vegetation, materials and improvements from the Property;

c. erect, install and construct any batter, transformer, junction box or other installation for the provision and / or reticulation of services and / or utilities.

23.6. The Vendor shall be entitled to enter upon the Property after settlement has been completed where any work is required to be carried out in order to satisfy any condition of the Consent or pursuant to any easement or covenant in order to give effect to any such work. The Vendor shall at its sole cost make good any damage cause to the Property as result of any such work by restoring the surface of the Property as nearly as possible to its former condition prior to the works being undertaken.

23.7. The Purchaser acknowledges that the Property will form part of a development which is intended to be modern, of high quality and well designed, and is therefore sold subject to certain land covenants (including, amongst other items, design controls and a non-objection provision), a draft of which is annexed to this Agreement as Schedule 3, which will be registered against the record of title for the Property prior to settlement. The Vendor reserves the right to vary the draft covenant instrument prior to registration to incorporate any changes which in the sole and absolute discretion of the Vendor are deemed to be necessary or desirable to ensure that all lots within the Subdivision are developed to a high standard for the benefit of purchasers. The Purchaser agrees and covenants with the Vendor to:

a. comply with the covenants contained in Schedule 3 from the date of this Agreement to the extent that any of the requirements in the covenants are applicable to any actions the Purchaser may take in relation to the construction and design of any building or structure proposed for the Property and / or any use of the Property.

24. Measurement and Areas

24.1. The area, dimensions and description of the Property and all measurements are approximate only and are subject to:

a. any variation arising from the creation of the Final LT plan; and

b. any alteration required by LINZ, the District Land Registrar, and/or the Territorial Authority; and

c. any variation permitted to be made by the Vendor in accordance with the terms of this Agreement.

24.2. Any variation to the Scheme Plan or the Final LT Plan (for whatever reason) shall not entitle the Purchaser to make any objection or requisition in respect of the Property or its record of title. If the area of the Property as indicated on the Scheme Plan and the final area of the Property shown on the Final LT Plan differ:

a. by 5% or greater (downwards only) from the area shown in the Scheme Plan for the Property (but excluding the area of any Access Lot), the Purchase Price shall be adjusted in accordance with the following formula:

A = B x C

where:

A = the adjusted Purchase Price

B = the final area of the Property in square metres recorded on the record of title for the Property

C = the purchase price shown on the front page of this Agreement divided by the area of the Property shown on the Scheme Plan

25. Utilities

25.1. It is acknowledged by the parties that:

a. the Vendor is not responsible for the reticulation of any power or other services or supplies within the Property, which for the avoidance of doubt shall include any stormwater attenuation devices and / or pumps or sewage pumps required by the Territorial Authority to be installed at the time a dwelling is constructed on the Property;

b. all costs of connection to services will be the responsibility of the Purchaser; and

c. the Vendor will ensure that the Property has legal access to power, water, sewer, and telecommunications to the boundary of the Property.

26. Settlement

26.1. The Purchase Price and all other moneys payable by the Purchaser to the Vendor under this Agreement shall be paid in cleared funds on the Settlement Date and settlement shall take place no later than 3:00pm on the Settlement Date.

27. Purchaser's Acknowledgement

27.1. The Purchaser acknowledges that:

a. this Agreement and its schedules and attachments contain the entire agreement between the parties and the Purchaser purchases the Property solely in reliance upon the Purchaser's own judgement and not upon any

representation, warranty or marketing material provided by the Vendor or any agent of the Vendor other than as contained in this Agreement. The Purchaser acknowledges that it has not been induced to enter into this Agreement by any representation, whether verbal or otherwise, which is not set out in this Agreement; and

b. the Vendor gives no warranty to the Purchaser as to when:

(i) a separate record of title to the Property will issue; or

(ii) the Purchaser will be able to register a transfer of the Property from the Vendor to the Purchaser.

c. the Vendor gives no warranty as to the type, location or improvements of any communal or public facilities, reserves or access that will form part of the Subdivision and any plans or documents or other marketing material providing to the Purchaser showing or anticipating any such public or communal facilities are indicative only and subject to the terms of the Consent, any requirements of the Territorial Authority and / or the discretion of the Vendor.

28. No Withholding or Objection

28.1. The Purchaser shall not:

a. withhold the balance of the Purchase Price (or any part of it) or demand any retention on Settlement by reason of any defect or fault in the Subdivision, or for any other reason or claim; or

b. make any objection, requisition or claim for compensation because of any alteration to the Scheme Plan or the Subdivision generally.

29. Requisitions

29.1. The Purchaser shall be deemed to have accepted the Vendor's title and shall have no rights of requisition in relation to the Vendor's Land, including and without limitation, any new record of title to issue for the Property.

30. Variations to the Scheme Plan

30.1. The Vendor may at any time alter the Scheme Plan and any subsequent plan relating to the Subdivision in such manner as the Vendor considers appropriate having regard to the circumstances. The Purchaser shall not be entitled to claim any compensation, damages, right of set-off or to make any objection or requisition based on such alteration, variation, cancellation or addition.

31. Caveat

31.1. The Purchaser will not lodge a caveat against the Vendor's Land or the Property, unless both a separate record of title has issued for the Property and the Vendor is in default of any of its obligations under this Agreement, in which case the Purchaser may lodge a caveat only against the record of title for the Property.

32. Power of Attorney

32.1. In consideration of the Vendor entering into this Agreement the Purchaser does hereby irrevocably nominate, constitute and appoint the Vendor or any nominee of the Vendor to be the true and lawful attorney of the Purchaser for the purposes of executing all documents, plans and consents and to perform all acts, matters and things as may be necessary to:

a. complete the subdivision;

b. withdraw any caveat lodged against any titles or derivative titles to the Land.

32.2. Production of this power of attorney to the Purchaser's solicitors, agent or mortgagee from time to time shall without further requirement or reference to the Purchaser comprise an irrevocable authorisation and instruction to the person involved or the Purchaser's mortgagee to execute any consents sought by the Vendor in relation to the Subdivision and the deposit of any plan and the issue of titles therefrom, with a further requirement that the person concerned or the Purchaser's mortgagee shall forthwith consent to such registration.

32.3. A separate power of attorney in a form required by the Vendor's solicitors may be required as a condition of Settlement.

33. Lowest Price – Accruals

33.1. For the purposes of the financial arrangements rules in the Income Tax Act 2007, the parties agree that:

a. the purchase price (as adjusted under this agreement and excluding any default interest) is the lowest price (within the meaning of section EW 32(2) of the Income Tax Act 2007) that they would agree for the sale and purchase of the Property, on the date of this agreement was entered into, if payment would have been required in full at the time the first right in the contracted property (being the Property) was transferred;

b. the purchase price (as adjusted under this agreement and excluding any default interest) is the value of the Property; and

c. they will compute their taxable income for the relevant period on the basis that the purchase price (as adjusted under this agreement and excluding any default interest) includes no capitalised interest and will file their tax returns accordingly.

34. Guarantee and Trustee Liability

34.1. If the Purchaser is a company, the director or directors of the Purchaser company personally guarantee to the Vendor compliance by the Purchaser with the Purchaser's obligations under this Agreement and indemnify the Vendor against all costs, claims or liabilities incurred by the Vendor as a result of any breach by the Purchaser of this Agreement.

34.2. If the Purchaser is a trustee of a trust, the liability of every person who is a trustee of that trust shall be personal and unlimited for all trustees who are beneficiaries of that

trust. The limitation provided to a limited liability trustee pursuant to clause 16.1 of the General Terms of Sale still applies.

34.3. The signatory/ies to this Agreement warrant that the director(s) of the Purchaser company has approved entry into this Agreement and in particular the personal guarantees provided to the Vendor on their behalf pursuant to clause 35.1.

35. Force Majeure

35.1. In the event that a Specified Event renders it impracticable for the Vendor to commence or continue the Subdivision or obtain a separate record of title to the Property, then the Vendor may by notice in writing to the Purchaser advise of the Specified Event and cancel this agreement. Upon cancellation the Purchaser shall be entitled to the Deposit and neither party shall have any right or claim against the other arising from this agreement.

36. Overseas Investment Act 2005

36.1. The Purchaser warrants and undertakes as at the date of this agreement and at settlement that it is not an overseas person (as that term is defined in the Overseas Investment Act 2005) and therefore does not require consent under the Overseas Investment Act 2005 to acquire the Property.

37. On-sale and Assignment

37.1. Subject to clause 37.2, the Purchaser must not on-sell the Property or assign or transfer (including but not limited to by nomination, assignment or novation) any of its rights or obligations under this Agreement prior to the date settlement has been completed pursuant to this Agreement without the prior written consent of the Vendor (such consent may be withheld in the Vendor's sole discretion).

37.2. Nothing in clause 37.1 shall prevent the Purchaser named on the front page of this Agreement from nominating a related party to complete settlement. The term 'related party' for the purpose of this clause means where the Purchaser named on the front page of this agreement:

a. is a director and shareholder of any limited liability company;

b. remains one of purchasers if the nominees are natural persons;

c. is a relative or family member of the named purchaser on the Agreement;

d. is a beneficiary of any trust settled.

38. No Objection

38.1. With effect on and from the date of this Agreement, the Purchaser covenants that it will not personally or via an agent Lodge any Submission; obtain any order,

injunction or any other remedy; or make any complaint against any contractor or any consultant, which relates to the Vendor's Land.

38.2. The Purchaser will not object to marketing methods employed by the Vendor in an endeavour to sell other lots forming part or parts of the Vendor's Land, including the use of signs, the placement of signs and the maintenance of display units and/or a sales office on the Vendor's Land (but not on the Property once a separate record of title for the Property issues), provided that the Vendor does not cause unreasonable interference to the Purchaser in its use and enjoyment of the Property.

38.3. If requested by the Vendor, the Purchaser shall promptly give its unqualified:

a. written approval, to any Planning Proposal relating to the Vendor's Land; and/or

b. submission in support of any Planning Proposal relating to the Vendor's Land.

39. Severability

39.1. If any provision of this Agreement becomes invalid, illegal or otherwise unenforceable, such provision shall be severed from this Agreement and shall be inoperative and the remaining provisions will remain operative and shall be enforceable by the parties to the fullest extent permitted by law.

40. Site Dig Out

40.1. In consideration for the Vendor entering into this Agreement, the Purchaser agrees to engage the Vendor on a charge up basis to complete the initial site excavation works (being the site stripping, cut and fill and such other works required for building foundation preparation as required by the Purchaser to construct a dwelling on the Property) (together the **Site Works**).

40.2. The Vendor will charge on a time and attendance basis for the Site Works and will provide an estimate prior to completing the Site Works. The Vendor will invoice the Purchaser for the Site Works on a monthly basis for work completed during that month.

40.3. The Vendor warrants that:

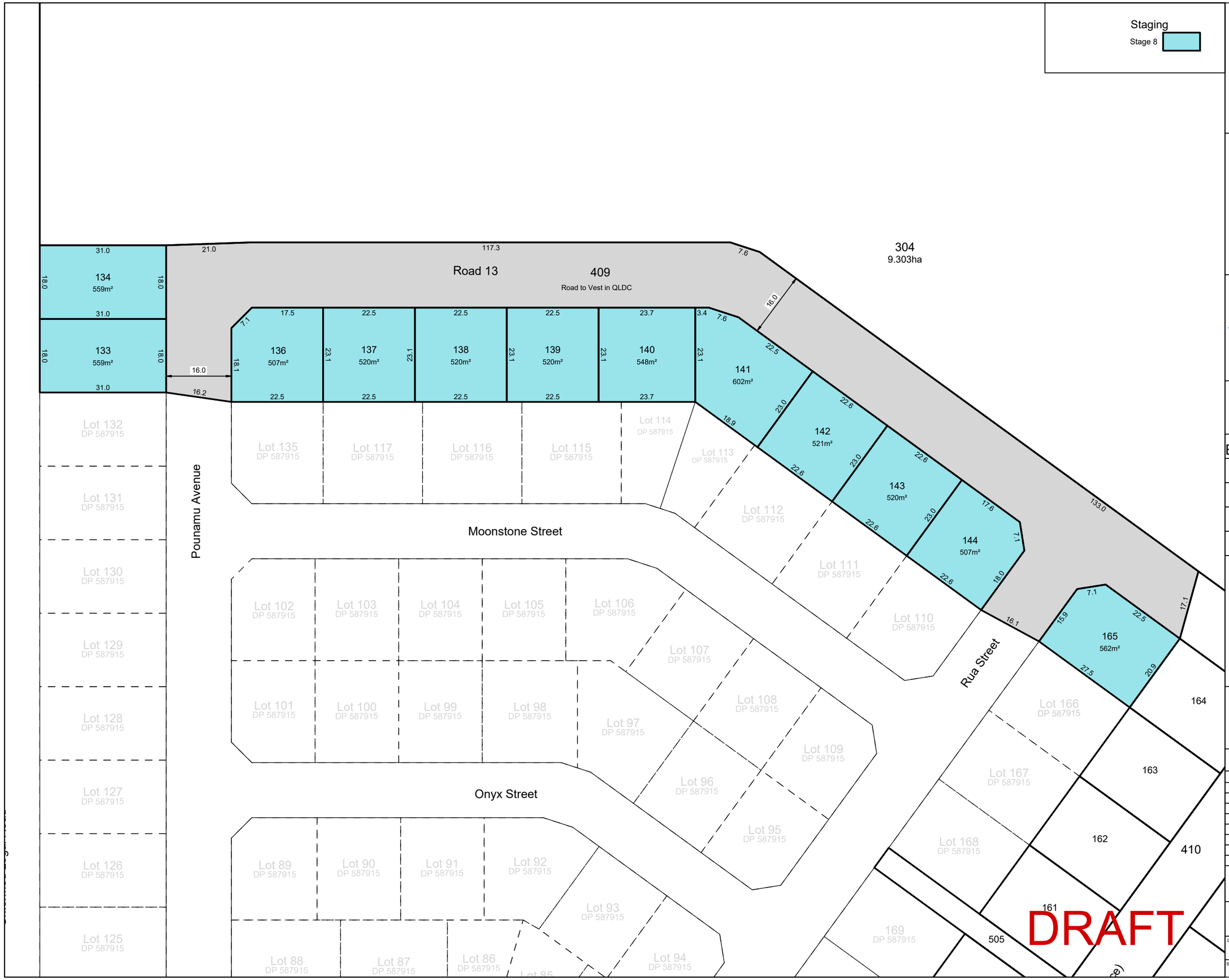
a. it will charge a reasonable fee for the Site Works that is not above an objective market rate for those services; and

b. it will complete the Site Works in a timely manner and in accordance with proper trade practice.

SCHEDULE 2 – SCHEME PLAN

Staging

Stage 8



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Notes

Warning

This Plan has been prepared for the purpose of a resource consent application only. It is not a precise survey plan. As areas and dimensions are likely to vary upon survey it should not be attached to sale & purchaseagreements without an appropriate condition to cover such variations.

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CSNZ THE CONSULTING SURVEYORS OF NEW ZEALAND
A DIVISION OF THE NEW ZEALAND INSTITUTE OF SURVEYORS

APPLICANT
Exclusive Developments Ltd

COMPRISED IN
1133376

TERRITORIAL AUTHORITY
QLDC

LAND DISTRICT
Otago

TOTAL AREA

DATE
19/02/2026

Drawing Title

Hikuwai Development
Stage 8
Detailed Plan

Prepared for

Marketing and Sales

Plan Revisions

REV.	DESCRIPTION	DATE
A	For Information	19/02/2026

SCALE

DATUM
Lindis Peak 2000

DRAWING REFERENCE	SHEET	REVISION
U4001	S25	A

SURVEYED	DRAWN	CHECKED	APPROVED	DATE
-	JVB	DM	DM	19/02/2026

SCHEDULE 3 – DRAFT COVENANT INSTRUMENT

Form 26

Covenant Instrument to note land covenant

(Section 116(1)(a) & (b) Land Transfer Act 2017)

Covenantor

Exclusive Developments Limited

Covenantee

Exclusive Developments Limited

Grant of Covenant

The Covenantor, being the registered owner of the burdened land(s) set out in Schedule A, **grants to the Covenantee** (and, if so stated, in gross) the covenant(s) set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s).

Schedule A *Continue in additional Annexure Schedule, if required*

Purpose of covenant	Shown (plan reference)	Burdened Land (Record of Title)	Benefited Land (Record of Title) or in gross
Land Covenant	all the Burdened Land	Lots [-] (inclusive) DP [-] (RTs [-])	Lots [-] (inclusive), DP [-] (RTs [-])
			In gross

Covenant rights and powers (including terms, covenants and conditions)

Delete phrases in [ ] and insert memorandum number as required.
Continue in additional Annexure Schedule if required.

The provisions applying to the specified covenants are those set out in:

~~[Memorandum number , registered under section 209 of the Land Transfer Act 2017].~~

[Annexure Schedule 1].

Annexure Schedule 1

1. Introduction

1.1 In this Instrument:

a Exclusive Developments Limited is subdividing the Burdened Land which will form part of the Hikuwai Subdivision.

b To ensure the Hikuwai Subdivision remains a modern high quality and well-designed development, Exclusive Developments Limited intends all owners of the Burdened Land to be subject to the Covenants set out in this Instrument.

c Exclusive Developments Limited intends that this Instrument shall be and shall remain registered against the titles to the Burdened Land so that owners or occupiers for the time being of the Burdened Land shall be bound by the provisions of this Instrument.

2. Defined terms

2.1 In this Instrument:

a **Adjoining Land** means the land described as Lot 999 DP 587915 held in Record of Title 1133376 and Lot 998 DP 538860 held in Record of Title 903097.

b **Approved Building Plans** means the plans and specifications for a Dwelling to be constructed on the Burdened Land that have been approved in writing by EDL as required by clause 4 of this Instrument.

c **Benefited Land** means the land shown on the front page of this Instrument as the Benefited Land.

d **Bond** means $2,000.00 or such other amount determined by EDL in its sole discretion from time to time.

e **Building** means any structure (excluding fences and landscaping) on the Burdened Land as defined by the District Plan.

f **Burdened Land** means the land shown on the front page of this Instrument as the Burdened Land.

g **Council** means Queenstown Lakes District Council or its successor.

h **Covenantee** means the owner of all or any part or parts of the Benefited Land and their executors, administrators, assignees and successors in title from time to time.

i **Covenantor** means the owner of all or any part or parts of the Burdened Land and their occupiers, invitees, executors, administrators, assignees and successors in title from time to time.

j **Covenants** means the covenants set out in this Instrument.

k **District Plan** means the Queenstown Lakes District Council Proposed District Plan as amended from time to time.

l **Dwelling** means a single self-contained household unit. Where more than one kitchen and / or laundry is provided on any Lot, there shall be deemed to be more than one Dwelling.

m **EDL** means Exclusive Developments Limited and, where the context requires, means any other entity nominated by Exclusive Developments Limited to succeed its rights and/or obligations under this Instrument.

n **Ground Level** means the surface of the ground prior to any earthworks on a Lot, except that where the surface of the ground has been altered through earthworks carried out as part of a subdivision under the Resource Management Act 1991, in which case, "ground level" means the finished surface of the ground following completion of works associated with the most recently completed subdivision immediately prior to the date of registration of this Instrument.

o **Hikuwai Subdivision** means the residential development undertaken by EDL which includes the Burdened Land.

p **Improvements** means existing improvements constructed by EDL on the Burdened Land and adjoining road or reserves, including (but not limited to) roading, footpaths, kerbs, gutters, swale crossings, landscaping, planting and open spaces and walkways.

q **Instrument** means this Covenant Instrument.

r **Lodge any Submission** means (without limitation) personally or through any agent or servant, directly or indirectly, lodge or support in any way any objection or submission to any Planning Proposal and includes (without limitation) taking part in any planning hearing or, appeal or reference arising in respect of a Planning Proposal whether as a party or otherwise.

s **Lot** means all or any land contained in Lots [**-**] to [**-**] (inclusive) Deposited Plan [**-**] (and Lots shall have a corresponding meaning).

t **Planning Proposal** means any application, request, or preparation in relation to any planning approval process and includes (without limitation) any resource consent application and / or plan change and / or variation of any nature under the relevant District Plan or proposed District Plan or Regional Plan or any comparative process which enables or facilitates subdivision, use or development of land.

u **Subdivide** and **Subdivision** means the meaning ascribed to subdivision of land in Section 218(1) of the Resource Management Act 1991 or any similar provision of any replacement legislation.

v **Unit** means any Building that is detached from the Dwelling that is used, designed or capable of being used for temporary or permanent sleeping or living accommodation, whether or not it contains cooking, bathroom and/or laundry facilities.

3. General Covenants

3.1 The Covenantor covenants and agrees:

a to observe and perform all Covenants at all times; and

b to ensure that all occupiers, employees, contractors, invitees and anyone or thing that is present on the Burdened Land under the control of, or at the direction or invitation of the Covenantor, observes and performs all relevant and applicable Covenants at all times; and

c that the Covenants shall run with and bind the Burdened Land for the benefit of the Benefited Land.

3.2 EDL reserves the right for itself to sell, lease, develop, operate or otherwise deal with any Lot for so long as EDL is the registered proprietor of that Lot either subject to or free from all or any

of the Covenants and the exercise of that right by EDL in relation to any such Lot will not release the Covenantor under this Instrument from any of the Covenants affecting or imposed upon the Burdened Land and shall not give to the Covenantor any right of action at law or in equity against EDL.

3.3 Where EDL's consent is required for any matter, if EDL ceases to exist, and where it has not nominated a current and legal person, association or entity to carry out its rights of approval and consent in this Covenant, then the Covenantor shall not be required to obtain such approval or consent.

4. Design Approval and Construction Bond

4.1 Prior to commencing any works to construct a Dwelling and / or a Building on a Lot, the Covenantor must first obtain the written approval of EDL to the proposed Dwelling and / or Building and landscaping plans and specifications. For the purposes of this clause, the Covenantor shall provide the following information to EDL for its consideration as to whether or not approval will be given:

a working drawings showing the floor plan of the Dwelling, location of all Buildings, landscaping and proposed vehicle access; and

b landscape plan showing proposed soft and hard landscape features; and

c specifications and colour schemes for the proposed Dwelling and / or Buildings.

4.2 In determining whether or not to give its approval, EDL will take into account the appearance of the proposed Dwelling and / or Buildings as they relate to the design guidelines outlined in clause 4.3 of this Instrument. EDL's approval shall not be unreasonably withheld if the proposed design of the Dwelling and / or Building/s and landscaping is reasonably sited, is compatible with the design and appearance of other Dwellings constructed or proposed to be constructed on the Burdened Land and does not detract from a quality standard of housing intended for the Burdened Land and the Hikuwai Subdivision.

4.3 EDL will (among other criteria it considers appropriate acting in its sole discretion) favourably consider the following design guidelines in determining whether or not to give its approval in accordance with clause 4.1 of this Instrument:

a at least 85% of the exterior cladding of the Dwelling should consist of the following materials:

i. glazing;

ii. Central Otago schist;

iii. Flat surface solid plaster;

iv. Cedar, Larch, Abodo or other similar timber weatherboards;

v. Pre-primed fibre cement weatherboards; or

vi. Concrete block laid straight stack.

b roof ends that face any legal road should be either gable or mono pitch;

c external colours should be earthy tones as provided for in the District Plan;

d weatherboard detailing should be a box and scriber design to all corners and windows; and

e roof cladding should be factory pre-finished colour steel in 5-Rib design (or similar) or Eurotray (or similar).

4.4 EDL may in its sole discretion by notice in writing to the Covenantor dispense with any of the design Covenants in clause 5.1 a – c (inclusive) of this Instrument in providing its approval in accordance with clause 4.1 of this Instrument. The Covenantor shall not be bound by the Covenants only to the extent EDL has granted any such dispensation in writing. This right of dispensation is personal to EDL and is not capable of being assigned to any other person or entity other than in accordance with clause 3.3.

4.5 Any approval provided by EDL pursuant to clause 4.1 of this Instrument does not constitute any representation that the proposed Dwelling, Building/s and landscaping complies with the Covenants or the District Plan and EDL shall not be liable to the Covenantor for any resulting breach of the Covenants other than in relation to any dispensation that has been granted in accordance with clause 4.4 of this Instrument.

4.6 At the time the Covenantor submits its plans and specifications for EDL's approval, the Covenantor must pay the Bond to EDL or its nominated agent. EDL shall be entitled to use the Bond or any part thereof if the Covenantor or its agents and contractors has in the sole opinion of EDL caused damage to the Improvements and has not repaired any such damage within 20 working days from receiving written notice from EDL setting out the damage caused and the works required to rectify that damage (**Rectification Notice**).

4.7 The Bond or any part of it shall be refunded to the Covenantor when EDL is satisfied that works required by any Rectification Notice (if applicable) have been complied with to EDL's satisfaction (acting reasonably).

4.8 EDL may in its sole discretion nominate an agent to carry out its right of approval and consent required by clause 4.1 of this Instrument or it may carry out its right of approval itself. The Covenantor shall pay any fee charged by EDL or the appointed agent for the purposes of the plan approval required by this Instrument. Any agent appointed shall not have a right to grant any dispensation of the Covenants in accordance with clause 4.4 of this Instrument.

5. Design Covenants

5.1 The Covenantor covenants with the Covenantee:

a not to construct a Dwelling on a Lot that has a floor area less than 160 square metres including any garage or carport connected to or within the Dwelling but excluding covered decks, porches or verandas.

b not to construct on a Lot any Dwelling and / or Building that uses:

i. second hand or previously used materials. The use of Central Otago schist or quality recycled hardwood timbers is permitted;

ii. pole type construction for its foundations;

iii. flat panel materials like plywood or fibrolite for external cladding;

iv. any type of brick for external cladding;

v. corrugated steel roofing of any kind whether used as roofing or external cladding except pre-finished colour steel in 5-Rib design (or similar) or Eurotray design (or similar);

vi. concrete block for any external cladding except where laid straight stack; or

vii. hip roof ends that face any legal road.

c to only use exterior cladding colours on any Building on a Lot that are earthy tones as provided in the District Plan;

d not to construct a Dwelling on a Lot that exceeds 5.5 metres in height above Ground Level (chimneys shall be excluded from calculating height for the purposes of this clause provided any chimney does not extend more than 7 metres above Ground Level);

e not to shift on to a Lot any pre-built transportable or relocatable Dwelling or an existing Building which has previously been lived in;

f to construct a double garage capable of accommodating two standard sized cars that is part of or connected to the Dwelling on a Lot;

6. Use Covenants

6.1 The Covenantor covenants in respect of the Burdened Land:

a to only construct a Dwelling and / or any Building on a Lot in accordance with the Approved Building Plans.

b prior to a Dwelling being constructed on a Lot to keep the Burdened Land neat and tidy and free of significant noxious weeds and overgrowth and shall keep grass and vegetation below a height of 300 millimetres.

c not to occupy any Building without a current code compliance certificate issued under the Building Act 2004 (or any subsequent replacement legislation).

d not to further Subdivide a Lot. EDL may where it is the owner of one or more Lots undertake a further subdivision of any Lot and any such Subdivision by EDL shall not be in breach of this clause.

e once construction of a Dwelling on a Lot has commenced, it shall:

i. complete construction of the Dwelling (including all exterior cladding and painting) to a standard commensurate with the standard of a new Dwelling within 12 months of the commencement of construction; and

ii. complete construction of the driveway to the Dwelling of the Lot within 12 months of the commencement of construction of the Dwelling; and

iii. complete the landscaping of the Lot within 6 months after the date of completion of construction of the Dwelling.

f that all Buildings, fences and landscaped areas on the Lot must be constructed and finished in a good and proper fashion having regard to any applicable trades best practice guidelines.

g not to erect a fence on a Lot (whether a boundary fence or not) constructed of plastic, unpainted fibrolite, shade cloth, wire or plastic netting, corrugated iron or post and wire, iron or steel or unpainted timber (other than hardwoods or tanalised timber) on any Lot without the prior written consent of EDL (such consent may be given or withheld in EDL's absolute discretion).

h not to erect any fence that exceeds 1.8 metres in height above Ground Level.

i not to erect any fence within 4.5m of any road boundary that exceeds 1.2 metres in height above Ground Level.

j not to construct, shift or locate onto a Lot any Unit.

k not to erect more than one Dwelling on any Lot without first having obtained EDL's prior written consent. Such consent can be given or withheld by EDL in its sole discretion. If EDL elects (in its sole discretion) to grant consent, EDL may impose conditions in giving its consent and any such conditions must be strictly complied with by the Covenantor and will be enforceable by EDL against the Covenantor in accordance with clause 9 of this Instrument.

l not to erect any advertisement, sign or hoarding on any Lot of a commercial nature including during the period of construction of a Dwelling on a Lot.

m not to erect any flags, flagpoles or other adornment on a Lot without the prior written consent of EDL (such consent may be given or withheld in EDL's sole discretion).

n not to erect any glass house (which for the purposes of this clause shall include polytunnel or polycarbonate structures) exceeding 15 square metres in area.

o not to use any Lot or permit the same to be used for anything other than residential purposes and not to use any Lot or permit the Lot to be used for any trading, industrial or commercial purposes. The use of a Lot for a home occupation as defined by the District Plan is permitted provided such use complies with the provisions of the District Plan and does not require the Covenantor to obtain resource consent from the Council for that activity.

p not to erect or place or permit to be erected or placed any caravan, mobile home, hut, boat or any structure capable of providing temporary accommodation or other vehicles on any Lot, provided that the storage of mobile homes, caravans, cars, tractors, boats and other such items is permitted on a Lot once a Dwelling has been constructed on a Lot provided they are appropriately screened from view from any legal road.

q not to keep or allow to be kept any substances that are hazardous, noxious or likely to cause nuisance on a Lot which are inconsistent with normal household use and stored in normal household quantities.

r not to erect any satellite dish on any Building that is visible from any legal road.

s to ensure that all services and utilities and pipes associated with the provision of services and utilities are located below ground on any Lot.

t to cause as little interference as reasonably possible with any Improvements and to promptly make good any damage caused by the Covenantor to the Improvements at the sole cost of the Covenantor.

u not to permit odours to emit from any Lot so as to render any Lot or any portion of a Lot to be deemed unsanitary, offensive or detrimental to the occupiers of any other Lot.

v not to permit any Lot to be used (without limitation) for purposes involving cattery, piggery or boarding kennels for dogs or other animals. The keeping of ordinary household pets (such as dogs, cats and birds) shall be permitted provided that no breeding, raising or boarding of such pets shall be for a commercial purpose.

w not to permit the parking of trucks or any large commercial vehicles on or adjoining any Lot or on any access Lot or road, other than for temporary delivery purposes.

x to ensure all rubbish created during construction of a Dwelling and / or Building on a Lot is securely contained in an appropriate bin and / or skip with a lid or netting to ensure rubbish is contained within the Lot and is not disbursed throughout the Hikuwai Subdivision by wind or other means.

y to ensure all gas cylinders and washing lines are suitably screened from any legal road.

7. Fencing

7.1 For as long as any Lot is owned by EDL, EDL shall not be liable to contribute towards the cost of, or assist with the erection or maintenance of, any boundary or dividing fence between that Lot owned by EDL and any contiguous Lot.

8. Non-Objection

8.1 The Covenantor covenants for the benefit of EDL that:

a it will not, and will not encourage or support any other person to:

i. object to or Lodge any Submission against any Planning Proposal;

ii. obtain an order, injunction or any other remedy;

iii. make any complaint against any contractor or any consultant,

which relates to the actions of EDL in respect of the Hikuwai Subdivision and / or any future use, Subdivision or development of the Adjoining Land by EDL.

8.2 The Covenantor hereby gives written approval (including affected person's approval under the RMA) in respect of any such Planning Proposal referred to in clause 8.1 (**Covenantor's Written Approval**).

8.3 EDL shall be entitled to provide a copy of this Instrument to the Council or any other relevant authority as evidence that the Covenantor's Written Approval is given. The Covenantor must provide any necessary further written approval to any such Planning Proposal if requested by EDL. If requested by EDL, the Covenantor shall promptly give its unqualified and irrevocable:

a written approval (including any affected party approval under section 95E of the Resource Management Act 1991) to any Planning Proposal undertaken by EDL relating to the Hikuwai Subdivision and / or the Adjoining Land; and/or

b submission in support of any Planning Proposal undertaken by EDL in relation to the Hikuwai Subdivision and / or the Adjoining Land.

8.4 The Covenantor shall sign all documents and do all things required by EDL to meet the Covenantor’s obligations under this clause.

9. Enforcement and Consequences of Breach

9.1 The Covenantor and Covenantee acknowledge and agree that this Instrument is subject to Subpart 1 and Part 2 the Contract and Commercial Law Act 2017 and that the covenants contained in this Instrument are intended to create obligations on the Covenantor, confer benefits on the Covenantee and (where relevant) EDL and are enforceable at the suit of the Covenantee and (where relevant) EDL.

9.2 The Covenantor acknowledges that the Covenantee and (where relevant) EDL shall not be liable to the Covenantor for any loss, damage, claim or expenses (including where such loss, damage, claim and expense arises from the approval or non-approval by the EDL pursuant to this Instrument) or a failure to enforce the Covenants set out in this Instrument.

9.3 At all times:

a the Covenantor shall provide reasonable access to EDL, its designated employees and contractors to inspect the Dwelling and / or Buildings, fences and landscaping on a Lot to check compliance with the Covenants;

b should EDL (acting reasonably) determine that there has been any non-compliance with the applicable Covenants it may in its sole discretion advise the Covenantor in writing and the Covenantor must, as soon as practicable and in any event within 20 working days, remedy the specified non-compliance at the Covenantor's cost; and

c where the non-compliance matters are not rectified by the Covenantor within 20 working days of the receipt of notice from EDL then the Covenantor acknowledges that EDL shall have the right to enter the Burdened Land to remedy such non-compliance in accordance with its rights under clause 9.4 of this instrument.

9.4 In the event that the Covenantor fails to observe and perform the Covenants set out in this Instrument, a Covenantee and (where relevant) EDL shall have a right (but not an obligation) to do whatever may be reasonably required to remedy such failure on the part of the Covenantor, and the cost incurred by the Covenantee in remedying the default shall be refunded by the Covenantor to the Covenantee or (where relevant) EDL as the case may be upon demand.

9.5 If any breach or non-observance of the Covenants continues for a period of 20 working days after the date that written notice of the breach or non-observance of the Covenants is given to the Covenantor by the Covenantee and / or (where relevant) EDL then (without prejudice to any other rights or remedies available to the Covenantee and / or EDL) the Covenantor will:

a pay to the Covenantee and / or EDL (as the case may be) as liquidated damages the sum of $500 per day for every day that such breach or non-observance of the Covenants continues after the date written notice of the breach of non-observance is given; and

b remove or cause to be removed from the Burdened Land any Dwelling, Building and / or fence or other structure erected or placed on or adjacent to the Burdened Land in breach or non-observance of the Covenants; and

c replace any building materials used in breach or non-observance of the Covenants.

9.6 All notices relating to this Instrument are to be served in writing. The address for service of any notice to the Covenantor is the rating address that relates to the applicable Lot or if a Dwelling has not been constructed on the Lot the address of the solicitor that undertook the conveyance of that Lot. The address for service of any notice to EDL is the address maintained at the Companies Office.

9.7 EDL is under no obligation to enforce any breach or purported breach of the Covenants against any owner of the Burdened Land and any such enforcement action taken by EDL shall be at its sole discretion.

10. Liability

10.1 Without prejudice to the Covenantor's and Covenantee's other rights, this Instrument binds the Covenantor's and Covenantee's successors in title so that contemporaneously with the acquisition of any interest in the Burdened Land all such successors in title become bound to comply with this Instrument. However, the liability of any Covenantor under this Instrument is limited to obligations and liabilities that accrue during that Covenantor's time as registered proprietor of the Burdened Land and only in respect of that part of the Burdened Land owned by that Covenantor. A Covenantor will not be liable for any breach of this Instrument which occurs during any period prior to or after its terms as registered proprietor of the Burdened Land (however, for the avoidance of doubt, any Covenantor shall remain liable for any such antecedent breach following the transfer of its interest in the Burdened Land).

11. Costs

11.1 The Covenantor will pay all costs directly or indirectly attributable to the enforcement and discharge of this Instrument.

12. Implied terms

12.1 No covenants by the Covenantor or by the Covenantor's successors in title are implied in this Instrument other than the covenants for further assurance implied by section 208 of the Land Transfer Act 2017.

13. Expiry

13.1 Any consent or other requirement of the Covenants that is to be obtained by the Grantor from EDL pursuant to this Instrument shall not be required to be obtained and any such consent shall be deemed to have been given by EDL to the Grantor from 1 April 2055.

SCHEDULE 2

List all chattels included in the sale

(Strike out or add as applicable. If necessary complete on a separate schedule or the further terms of sale)

Stove	( )	**Rangehood**	( )	**Wall/under bench oven**	( )	**Cooktop/hob**	( )
Dishwasher	( )	**Kitchen waste disposal**	( )	**Smoke detectors**	( )	**Bathroom extractor fans**	( )
Security alarm	( )	**Heat pump**	( )	**Heated towel rail**	( )	**Garage door remote control**	( )
Garden shed	( )	**Light fittings**		**Window coverings**		**Fixed floor coverings**	

Automatic garage door facility

Both parties should check that Schedule 2 (list of chattels) includes an accurate list of all items which are included with the sale and purchase (in addition to, or as part of any building).

SCHEDULE 3

Residential Tenancies

Name of Tenant(s):

Rent: **Term:** **Bond:** **Pet Bond:**

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Commercial/Industrial Tenancies

(If necessary complete on a separate schedule)

1. Name of Tenant(s):

Rent: **Term:** **Right of Renewal:** **Other:**

2. Name of Tenant(s):

Rent: **Term:** **Right of Renewal:** **Other:**

3. Name of Tenant(s):

Rent: **Term:** **Right of Renewal:** **Other:**

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WARNING AND DISCLAIMER

- This agreement is a standard form document. It is therefore likely that amendments and additions may need to be made in order to suit the circumstances of each of the vendor and the purchaser, and to suit the particular property involved. It is also important that you are certain that any amendments made correctly reflect your understanding of what has been agreed. **You should always get legal advice before you sign the agreement and throughout the buying and selling process**.
- TLANZ and REINZ accept no liability whatsoever in respect of this document and any agreement which may arise from it.
- The vendor should check the correctness of all warranties made under clause 7, clause 8, and elsewhere in this agreement.
- In the case of a unit title, before the purchaser enters into the agreement, the vendor **must** provide to the purchaser a pre-contract disclosure statement under section 146 of the Unit Titles Act.
- The transaction may have tax implications for the parties and it is recommended that both parties seek their own professional advice regarding the tax implications of the transaction before signing, including:
  - the GST treatment of the transaction, which depends upon the GST information supplied by the parties and could change before settlement if that information changes; and
  - the income tax treatment of the transaction, including any income tax implications of purchase price allocation.

PROFESSIONAL ADVICE SHOULD BE SOUGHT REGARDING THE EFFECT AND CONSEQUENCES OF ANY AGREEMENT ENTERED INTO BETWEEN THE PARTIES.

Acknowledgements

Where this agreement relates to the sale of a residential property and this agreement was provided to the parties by a real estate agent, or by a licensee on behalf of the agent, the parties acknowledge that they have been given the guide about the sale of residential property approved by the Real Estate Authority and a copy of the agency's in-house complaints and dispute resolution process.

The person or persons signing this agreement acknowledge that either:

(a) they are signing in a personal capacity as the 'vendor' or 'purchaser' named on the front page, or

(b) they have authority to bind the party named as 'vendor' or 'purchaser' on the front page.

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WARNING *(This warning does not form part of this agreement)*

Before signing, each party should read this entire contract and should obtain all relevant professional advice.
This is a binding contract. Once signed, you will be bound by the terms of it and there may be no, or only limited, rights to terminate it.

Signature of Purchaser(s):	**Signature of Vendor(s):**
Name:	**Name:** Lee Joseph Brown
Director / Trustee / Authorised Signatory / Agent / Attorney*	**Director ~~/ Trustee / Authorised Signatory / Agent / Attorney*~~**
Delete the options that do not apply	*Delete the options that do not apply*
If no option is deleted, the signatory is signing in their personal capacity	*If no option is deleted, the signatory is signing in their personal capacity*
Name:	**Name:**
Director / Trustee / Authorised Signatory / Agent / Attorney*	**Director / Trustee / Authorised Signatory / Agent / Attorney***
Delete the options that do not apply	*Delete the options that do not apply*
If no option is deleted, the signatory is signing in their personal capacity	*If no option is deleted, the signatory is signing in their personal capacity*
Name:	**Name:**
Director / Trustee / Authorised Signatory / Agent / Attorney*	**Director / Trustee / Authorised Signatory / Agent / Attorney***
Delete the options that do not apply	*Delete the options that do not apply*
If no option is deleted, the signatory is signing in their personal capacity	*If no option is deleted, the signatory is signing in their personal capacity*

*If this agreement is signed under:

(i) a Power of Attorney – please attach a **Certificate of non-revocation** (available from TLANZ: 4098WFP or REINZ); or

(ii) an Enduring Power of Attorney – please attach a **Certificate of non-revocation and non-suspension of the enduring power of attorney** (available from TLANZ: 4997WFP or REINZ).

Also insert the following wording for the Attorney's Signature above:

Signed for [full name of the donor] by his or her Attorney [attorney's signature].

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AGREEMENT FOR SALE AND PURCHASE OF REAL ESTATE

VENDOR: Exclusive Developments Limited

Contact Details:

VENDOR'S LAWYERS:

Firm: Todd Walker

Individual Acting: Ben King

Email: ben.king@toddwalker.com

Contact Details:

Email address for service of notices (clause 1.4)**:** ben.king@toddwalker.com

PURCHASER:

Contact Details:

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PURCHASER'S LAWYERS:

Firm:

Individual Acting:

Email:

Contact Details:

Email address for service of notices (clause 1.4)**:**

SALE BY LICENSED REAL ESTATE AGENT: Private Treaty

Manager:

Salesperson:

Second Salesperson:

Contact Details:

Licensed Real Estate Agent under Real Estate Agents Act 2008

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