AGREEMENT FOR SALE AND PURCHASE OF REAL ESTATE

THIS PAGE AND THE FURTHER TERMS OF SALE ARE intended for annexure to and to include the General Terms of Sale contained in the Tenth Edition 2019 (2) form approved by the Real Estate Institute of New Zealand and by the Auckland District Law Society which general terms are modified to be part of this agreement.
(Note: Front page & further terms of sale and GST page are not on REINZ/ADLS form.)

DATE:	**2022**
VENDOR:	**CRANBROOK PROPERTIES LIMITED**
PURCHASER:	Purchaser Mailing address: Purchaser's solicitor:
PROPERTY: **Address:**	
Legal Description:	Fee simple containing (area) m^2; and being **Lot** **on LT** **(preallocated)**
Unique Identifier or CT:	(subject to land covenants etc. see Further Terms of Sale)
PURCHASE PRICE:	$ (Net Price) plus GST (if any) making a total GST inclusive price of **$**
PAYMENT OF PURCHASE PRICE	which shall be payable as set out below where General Term of Sale 13 applies, provided that if this sale is one to which General Term of Sale 14 applies, the supply being zero rated, then the Net Price only shall be payable.
Deposit:	**$25,000** payable on execution of this agreement
Balance of purchase price:	to be paid in cleared funds in full on possession date.
Interest rate for late settlement:	15%
GST Date: (clause 13.0)	Possession Date.
LIM Required: (clause 9.3)	
OIA Consent required: (cl. 9.6)	No
Land Act Consent required: (cl. 9.7)	No
Possession Date: (clause 3.0)	5 working days after the purchaser is advised that a s.172 LTA title search is available.
Tenancies/chattels:	The land is sold with vacant possession and no chattels.
Sale By:	Private sale / Licensed Real Estate Agent

It is agreed that the vendor sells and the purchaser purchases the property on the terms set out above and in the General Terms of Sale contained in the Tenth Edition 2019 (2) form approved by the Real Estate Institute of New Zealand and by the Auckland District Law Society and on the Further Terms of Sale.

(The General Terms of Sale start on the next page followed by the Further Terms of Sale)

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) "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.

(5) "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.

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

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

(8) "Cleared funds" means:

(a) An electronic transfer of funds that has been made strictly in accordance with the requirements set out in the PLS Guidelines; or

(b) A bank cheque, but only in the circumstances permitted by the PLS Guidelines and only if it has been paid strictly in accordance with the requirements set out in the PLS Guidelines.

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

(10) "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.

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

(12) "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.

(13) "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.

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

(15) "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.

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

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

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

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

(20) "PLS Guidelines" means the most recent edition, as at the date of this agreement, of the Property Transactions and E-Dealing Practice Guidelines prepared by the Property Law Section of the New Zealand Law Society.

(21) "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.

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

(23) "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.

(24) "Regional council" means a regional council within the meaning of the Local Government Act 2002.

(25) "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 subclause 3.8(2), pursuant to the protocol for remote settlement recommended in the PLS Guidelines.

(26) "Residential (but not otherwise sensitive) land" has the meaning ascribed to that term in the Overseas Investment Act 2005.

(27) "Rules" means body corporate operational rules under the Unit Titles Act.

(28) "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.

(29) "Settlement" means (unless otherwise agreed by the parties in writing) the moment in time when the vendor and purchaser have fulfilled their obligations under subclause 3.8.

(30) "Settlement date" means the date specified as such in this agreement.

(31) "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.

(32) "Tax information" and "tax statement" have the meanings ascribed to those terms in the Land Transfer Act 2017.

(33) "Territorial authority" means a territorial authority within the meaning of the Local Government Act 2002.

(34) "Title" includes where appropriate a record of title within the meaning of the Land Transfer Act 2017.

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(35) "Unit title" means a unit title under the Unit Titles Act.
(36) "Unit Titles Act" means the Unit Titles Act 2010.
(37) "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 subclause 9.3(2) the 15th day of January) in the following year, both days inclusive; and
(d) the day observed as the anniversary of any province in which the property is situated.
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 subclause 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 subclause 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 third 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;
(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
(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.

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 and/or at such other time as is specified in this agreement.

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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:

(1) the requisition procedure under clause 6.0 is completed without either party cancelling this agreement; and

(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

(3) where the property is a unit title:

(a) a pre-settlement disclosure statement, certified correct by the body corporate, under section 147 of the Unit Titles Act; and

(b) an additional disclosure statement under section 148 of the Unit Titles Act (if requested by the purchaser within the time prescribed in section 148(2)),

have been provided to the purchaser by the vendor within the times prescribed in those sections or otherwise the purchaser has given notice under section 149(2) of the Unit Titles Act to postpone the settlement date until after the disclosure statements have been provided; or

(4) this agreement is:

(a) cancelled pursuant to:

(i) subclause 6.2(3)(c); or

(ii) sections 36 or 37 of the Contract and Commercial Law Act 2017; or

(b) avoided pursuant to subclause 9.10(5); or

(5) where the property is a unit title and the purchaser, having the right to cancel this agreement pursuant to section 151(2) of the Unit Titles Act, has cancelled this agreement pursuant to that section, or has elected not to cancel by giving notice to the vendor, or by completing settlement of the purchase.

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 subclause 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 after the effect of the same is explained to the purchaser by the agent or by the purchaser's lawyer or conveyancer.

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.

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.

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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 subclause 3.12 or 3.13, or for any deduction allowed to the purchaser under subclause 5.2, or for any compensation agreed by the vendor in respect of a claim made by the purchaser pursuant to subclause 10.2(1), or for any interim amount the purchaser is required to pay to a stakeholder pursuant to subclause 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 subclause 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 subclause 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 subclause 3.8 are interdependent.

3.10 The parties shall complete settlement by way of remote settlement, provided that where payment by bank cheque is permitted under the PLS Guidelines, payment may be made by the personal delivery of a bank cheque to the vendor's lawyer's office, so long as it is accompanied by the undertaking from the purchaser's lawyer required by those Guidelines.

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.

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 subclause, 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 subclause 3.12(1).

(3) If the parties are unable to agree upon any amount payable under this subclause 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 subclause 3.13:

(a) the default period means:

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

(iii) in subclause 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

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(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 subclause 3.13(2)(b) during the default period. A purchaser in possession under this subclause 3.13(3) is a licensee only.

(4) Notwithstanding the provisions of subclause 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 subclause 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 subclause 3.13(2)(b) during the default period.

(6) The provisions of this subclause 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 subclause 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.

3.16 If
(1) the property is a unit title;
(2) the settlement date is deferred pursuant to either subclause 3.14 or subclause 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 the warranty by the vendor in subclause 8.2(3),
then the vendor may extend the settlement date:
  (a) where there is a deferment of the settlement date pursuant to subclause 3.14, to the tenth working day following 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 subclause 3.15, to the tenth working day following 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 following 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) Subclause 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

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(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 subclause 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 subclause 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 subclause 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 subclause 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 subclause 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 subclause 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.

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 provisions 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) in the case of a property 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 subclause 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.

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(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) 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;

(c) if the purchaser does not on or before the fifth working day after service of a vendor's notice notify the vendor that the purchaser waives the objection or requisition, either the vendor or the purchaser may (notwithstanding any intermediate negotiations) by notice to the other, cancel this agreement.

6.3 In the event of cancellation under subclause 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 subclause 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.

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, 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) but failure to do so shall only create a right of compensation.

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

(c) 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

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(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 subclause 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.

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, a pre-settlement disclosure statement and, if so requested by the purchaser, an additional disclosure statement.

8.2 If the property is a unit title, the vendor warrants and undertakes as follows:

(1) The information in the pre-contract disclosure statement provided to the purchaser was complete and correct.
(2) Apart from regular periodic contributions, no contributions have been levied or proposed by the body corporate that have not been disclosed in writing to the purchaser.
(3) Not less than five working days before the settlement date, the vendor will provide:
(a) a certificate of insurance for all insurances effected by the body corporate under the provisions of section 135 of the Unit Titles Act; and
(b) a pre-settlement disclosure statement from the vendor, certified correct by the body corporate, under section 147 of the Unit Titles Act. Any periodic contributions to the operating account shown in that pre-settlement disclosure statement shall be apportioned. There shall be no apportionment of contributions to any long-term maintenance fund, contingency fund or capital improvement fund.
(4) There are no other amounts owing by the owner under any provision of the Unit Titles Act.
(5) There are no unsatisfied judgments against the body corporate and no proceedings have been instituted against or by the body corporate.
(6) No order or declaration has been made by any Court against the body corporate or the owner under any provision of the Unit Titles Act.
(7) The vendor has no knowledge or notice of any fact which might result in:
(a) the owner 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 owner under any provision of the Unit Titles Act.
(8) 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 which have not been disclosed in writing to the purchaser.
(9) No lease, licence, easement, or special privilege has been granted by the body corporate in respect of any part of the common property which has not been disclosed in writing to the purchaser.
(10) 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; or

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(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,

which has not been disclosed in writing to the purchaser.

(11) As at settlement, all contributions and other moneys payable by the vendor to the body corporate have been paid in full.

8.3 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 subclause 8.2(3), then in addition to the purchaser's rights under sections 149 and 150 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.

8.4 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.

8.5 If the property is a unit title, any costs owing by the purchaser to the vendor pursuant to section 148(5) of the Unit Titles Act for providing an additional disclosure statement shall be included in the moneys payable by the purchaser on settlement pursuant to subclause 3.8(1). Such costs may be deducted from the deposit if the purchaser becomes entitled to a refund of the deposit upon cancellation or avoidance of this agreement.

8.6 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 subclauses 6.2(3) and 6.3 shall apply, with the purchaser's demand under subclause 8.6(1) being deemed to be an objection and requisition.

9.0 Conditions and mortgage terms

9.1 Finance condition

(1) If the purchaser has identified 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 subclause 9.1(1), the purchaser must provide a satisfactory explanation of the grounds relied upon by the purchaser, 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 LIM 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;

(b) the purchaser is to request the LIM on or before the fifth working day after the date of this agreement; and

(c) this agreement is conditional upon the purchaser approving that LIM, 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 fifteenth working day after the date of this agreement 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 fifteenth working day after the date of this agreement and the vendor does not give an extension when requested, this condition shall not have been fulfilled and the provisions of subclause 9.10(5) shall apply.

(3) The vendor shall give notice to the purchaser ("the vendor's notice") on or before the fifth 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 tenth 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 subclause 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.

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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 fifteenth working day after the date of this agreement 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 subclause 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 fifteenth working day after the date of this agreement, 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 using 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 subclause 9.10(5), the purchaser must provide the vendor immediately upon request with a copy of the inspector's report.

9.6 OIA 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 shown on the front page of this agreement on terms and conditions that are satisfactory to the purchaser, acting reasonably, the purchaser being responsible for payment of the application fee.

(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 shown on the front page of this agreement.

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 a date 65 working days from 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 a date 20 working days from the date of this agreement, whichever is the sooner.

9.9 Resource Management Act condition

(1) 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.

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 for:

(a) a breach of any term of this agreement; or

(b) a misrepresentation; or

(c) a breach of section 9 or section 14 of the Fair Trading Act 1986; or

(d) an equitable set-off, or

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(2) there is a dispute between the parties regarding any amounts payable:
  (a) under subclause 3.12 or subclause 3.13; or
  (b) under subclause 5.2.

10.3 To make a claim under this clause 10.0:
  (1) the claimant must serve notice of the claim on the other party on or before the last working day prior to the settlement date (except for claims made after the settlement date for amounts payable under subclause 3.12 or subclause 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 the agreement, or the claim under subclause 3.12, subclause 3.13 or subclause 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 subclause 10.3 in respect of claims under subclause 10.2(1) or subclause 10.2(2)(b) by the settlement date 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 subclause 11.1.

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 subclause 10.2(1) but the vendor disputes the purchaser's right to make that claim, then:
  (1) the vendor must give notice to the purchaser within three working days after service of the purchaser's notice under subclause 10.3, time being of the essence; and
  (2) the purchaser's right to make the claim shall be determined by an experienced property lawyer or an experienced litigator appointed by the parties. If the parties cannot agree on the appointee, the appointment shall be made on the application of either party by the president for the time being of the New Zealand Law Society. The appointee's costs shall be met by the party against whom the determination is made.

10.7 If the purchaser makes a claim for compensation under subclause 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 right to make that claim.

10.8 If it is accepted, or determined under subclause 10.6, that the purchaser has a right to claim compensation under subclause 10.2(1) but the amount of compensation claimed is disputed, or if the claim is made under subclause 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 for the time being of the New Zealand Law Society;
  (3) the interim amount must be a reasonable sum having regard to all of the circumstances, except that where the claim is under subclause 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;
  (4) if the parties cannot agree on the interim amount, the interim amount shall be determined by an experienced property lawyer, an experienced litigator, or, where the claim for compensation is made under subclause 5.2, an experienced registered valuer or quantity surveyor appointed by the parties. The appointee's costs shall be met equally by the parties. If the parties cannot agree on the appointee, the appointment shall be made on the application of either party by the president for the time being of the New Zealand Law Society;
  (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;
  (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 subclause 10.6(2) or subclause 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 subclauses, 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.

10.10 The procedures prescribed in subclauses 10.1 to 10.9 shall not prevent either party from taking proceedings for specific performance of the contract.

10.11 A determination under subclause 10.6 that the purchaser does not have a right to claim compensation under subclause 10.2(1) shall not prevent the purchaser from pursuing that claim following settlement.

10.12 Where a determination is made by a person appointed under either subclause 10.6 or subclause 10.8, that person 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.

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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 either in all material respects ready, able, and willing to proceed to settle in accordance with clauses 3.0 and 10.0 or is not so ready, able, and willing 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 subclause 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 subclause shall be deemed the settlement date for the purposes of subclause 11.1.

(3) The vendor may give a settlement notice with a notice under this subclause.

(4) For the purpose of this subclause 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 subclause 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.

(3) The damages claimable by the vendor under subclause 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; and

(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 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.

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13.0 Goods and Services Tax

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 subclause 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 subclause 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 subclause shall be deemed the settlement date for the purposes of subclause 11.1.

(3) The vendor may give a settlement notice under subclause 11.1 with a notice under this subclause.

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.

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 subclauses 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 subclause 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

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(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 subclause 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 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 any person enters into this agreement as trustee of a trust and if that person has no right to or interest in any assets of the trust, except in that person's capacity as a trustee of the trust, then that person's liability under this agreement will not be personal and unlimited but will be limited to the actual amount recoverable from the assets of the trust from time to time ("the limited amount").

16.2 If the right of that person to be indemnified from the trust assets has been lost or impaired, that person's liability will become personal but limited to the extent of that part of the limited amount which cannot be recovered from any other person.

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.

18.2 The scope of the authority of the agent under subclause 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 may provide certain information relating to the sale to the Real Estate Institute of New Zealand Incorporated (REINZ).

19.2 This information will be stored on a secure password protected network under REINZ's control and may include (amongst other things) the sale price and the address of the property, but will not include the parties' names or other personal information under the Privacy Act 1993.

19.3 This information is collected, used and published for statistical, property appraisal and market analysis purposes, by REINZ, REINZ member agents and others.

19.4 Despite the above, if REINZ does come to hold any of the vendor or purchaser's personal information, that party has a right to access and correct that personal information by contacting REINZ at info@reinz.co.nz or by post or telephone.

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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): 99-082-178	
1(b)	(i) Part of the property is being used as a principal place of residence at the date of this agreement.	~~Yes~~/No
	(ii) That part is: (e.g. "the main farmhouse" or "the apartment above the shop".)	~~Yes/No~~
	(iii) The supply of that part will be a taxable supply.	~~Yes/No~~
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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FURTHER TERMS OF SALE

20. **CROSSING and FENCING:** The formation and sealing of the drive from the kerb to the point within the boundary required by the local authority is included in the purchase price. The purchaser agrees that certain fencing of the land is required and that all fencing will be in accordance with the mandated fencing specified in the Highland Park Landscape Design and Fencing Rules. The purchaser acknowledges having received a copy of those Rules (or having accessed a copy on the Highland Park website) and agrees to observe the same and to require subsequent purchasers to observe the same including as to placement of internal fences and prohibition of front boundary fences.

21. **LAND COVENANTS, EASEMENTS, INSTRUMENTS, CONSENT NOTICES:** The purchaser acknowledges that the land is subject to the applicable Highland Park Landscape Design and Fencing Rules referred to above and also will also be subject to land covenants in the same (or a substantially similar) form as the 'Highland Park Protective Covenant' annexed hereto in draft form and will also be subject to any right of way easements and to other easements as may be shown on the marketing plan and/or required by the local authority (including (without limitation) any electrical, telecommunications, computer communications, water, drainage, foul sewage or stormwater easements), and to also any other instruments and/or consent notices required on subdivision by the local authority and/or which are intended to be registered on the title, and that all such covenants, easements, instruments and consent notices will carry through to the new titles, and that the purchaser will be bound by the same.

22. **HEIGHT RESTRICTION:** The purchaser acknowledges that under the 'Highland Park Protective Covenant' to be registered on the title the land will be subject to a specific covenant whereby the owner will not be able to erect a House which exceeds 5.5 metres in height. Height restrictions on vegetation will also apply. The only exceptions are at the Developer's discretion, and these are typically limited to chimneys, television or radio aerials, and receiving dishes not exceeding 1 metre in diameter, and solar panels or parts thereof that protrude through the building height restriction where those structures are associated with usual residential use.

23. **NO FURTHER SUBDIVISION:** The purchaser further acknowledges that the land will be subject to further covenants under the said 'Highland Park Protective Covenant' to be registered on the title whereby the owner may build only one new House on the Land and will not further subdivide the Land, either in fee simple, by unit title, stratum estate, leases, cross lease or by any other means. Any owner who attempts any such building or further subdivision shall be in breach of the covenant. The parties acknowledge that damages and monetary penalties are unlikely adequately to compensate a Grantee affected by breach of the covenant against such building or further subdivision, and that a Grantee who is affected shall be entitled to an injunction to restrain another in breach and/or to an order requiring any such breach to be remedied and to payment of the costs of the Grantor in every case. (Note This covenant expires completely after 15 years from the completion of the whole development.)

24. **SERVICES:** The land is sold serviced with specific connection points within or close to the boundary for water, sewage, power, and Chorus fibre telecommunications. It is the purchaser's responsibility to pay all further connection and other costs to take advantage of the connections.

25. **NO CAVEAT:** The purchaser will not caveat the title of the vendor.

26. **LOWEST PRICE:** It is agreed that the purchase price is the lowest price that the parties would have agreed upon for the property under the rules relating to the accrual treatment of income and expenditure in the Income Tax Act 2004 and that on this basis, no income or expenditure arises under those rules.

27. **BOUNDARIES:** The purchaser acknowledges that General Term of Sale 6.1 applies only to unfenced boundaries.

28. **NO REPRESENTATION:** The purchaser acknowledges that they enter this contract in reliance on the purchaser's own skill and judgement and on such independent or other advice as the purchaser may commission, and not on any artists impressions, indicative plans, presentations or promotional material of the vendor or any representation whatsoever of any other party.

SCHEDULE 2

List all chattels included in the sale
(strike out or add as applicable)

Stove	**Rangehood**	**Wall oven**	**Cooktop**
Dishwasher	**Kitchen waste disposal**	**Light fittings**	**Smoke detector(s)**
Burglar alarm	**Heated towel rail(s)**	**Heat pump(s)**	**Garage door remote control(s)**
Blinds	**Curtains**	**Fixed floor coverings**	

SCHEDULE 3

Residential Tenancies

Name of Tenant(s):

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

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:**

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WARNING *(This warning does not form part of this agreement)*
This is a binding contract. Read the information set out on the back page before signing.

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.

Where this agreement relates to the sale of a unit title property, the purchaser acknowledges that the purchaser has been provided with a pre-contract disclosure statement under section 146 of the Unit Titles Act.

Signature of Purchaser(s): **Signature of Vendor(s):**

Director / Trustee / Authorised Signatory / Agent / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Director / Trustee / Authorised Signatory / Agent / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Director / Trustee / Authorised Signatory / Agent / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Director / Trustee / Authorised Signatory / Agent / Attorney*
Delete the options that do not apply
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 ADLS: 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 ADLS: 4997WFP or REINZ); or
(iii) where the attorney signs for a trustee, a Certificate in the relevant form in Schedule 4 to the Trustee Act 1956.

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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Form 26

Covenant Instrument to note land covenant

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

Covenantor

CRANBROOK PROPERTIES LIMITED

Covenantee

CRANBROOK PROPERTIES 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

Purpose of covenant	**Shown (plan reference)**	**Burdened Land (Record of Title)**	**Benefited Land (Record of Title) or in gross**
Land Covenant		Record of Title [ ] (inclusive)	Record of Title [ ] (inclusive)

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

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

Schedule B

HIGHLAND PARK PROTECTIVE COVENANTS

PRELIMINARY

1. **Definitions**

Construction Timeframe - means 6 months from the grant of Building Consent, or such other time as the Grantee Cranbrook Properties Limited may agree to.

Covenants - means these Highland Park Protective Land Covenants in their entireties which are set out in 1 to 39 below.

Developer - means Highland Glenn Development (but not its successors in title) as Grantee and delegate of the Grantee.

Development - known as Highland Park 'Stage 15', means the subdivision development by the Developer of the Land into 25 residential lots.

House - means the building described in paragraph 10 comprising the dwelling and garage.

Land - means the land in Schedule A (comprising 25 residential lots), and where the context requires, includes any access allotment partly owned by the Grantor or over which the Grantor has an easement.

Landscape Design and Fencing Rules – means the Landscape Design and Fencing Rules published by the Developer for Highland Park Stage 15.

Lot - means a lot within the Development.

Mandated Fence - means a fence so described in the Highland Park Landscape Design and Fencing Rules.

Residential Design Standards – means the Residential Design Standards published by the Developer for Stage 15.

Works - means the House, Landscaping and Associated Works described in paragraphs 10 through 13.

2. **Intention**

It is the Grantors intention that the Servient Tenement shall until their expiry under paragraph 39 below be bound by and be subject to the Covenants as a general scheme applicable to and for the benefit of the Land.

3. **Covenants subject to Discretion**

Where the Grantee is named as "the Developer" then Cranbrook Properties Limited only and its agents delegates and attorneys shall be entitled to decide to approve or decline to approve or otherwise act as the Covenants specify or allow and such decisions shall bind the Grantor and Grantee.

4. **Covenants binding on successive owners and employees etc**

The Covenants are granted for the purpose of enhancing the value and security of the Land for all owners within the Development and enhancing their enjoyment of the same, and the Grantor, as owner of one or more lots in the subdivision and the executors and administrators successors and assigns of the Grantor and all who take rights from them (employees, contractors, lessees, tenants, licensees and invitees of the Grantor) shall with respect to the servient Lots be bound by the stipulations and restrictions set out in the Covenants. Where there is more than one Lot owner or person who takes rights from the owner, the Covenants shall bind each jointly and severally.

5. **Covenants to benefit successive owners**

The owners and occupiers for the time being of the dominant Lots including successors in title and the Developer shall enjoy the benefit of the Covenants and each may enforce the observance of the same in relation to each owner of each servient Lot.

CONSTRUCTION COVENANTS

6. **Construction Preliminary**

The Grantor will not move soil or change any level of any part of the Land, nor erect or store anything on or near the Land, nor prepare or cause to be prepared any plan for any work on the land except for Works already approved in accordance with paragraphs 7 and 8. Subject to any variation previously approved by the Developer, the Grantor will at all times maintain all the Works and otherwise ensure that the use of, the Land, and all things on the Land complies with the terms of the description of Works in these covenants 10 through 13.

7. **Approval Applications**

The Grantor will not apply for any building consent, and will not contract for any building or Works or other works on the Land, or alteration of any of the same and will not proceed with or allow any construction or other works on or use of the Land until the written approval of the Developer has been first applied for. The Grantor's application for approval shall contain full particulars of the proposed Works (in accordance with the Residential Design Standards and the Landscape Design and Fencing Rules) including:

a. floor plans, and roof plans; and

b. elevations showing all exterior materials and colours; and

c. specifications; and

d. a site plan showing location of House, landscape and vehicle areas; and

e. a landscape plan (or separate Landscape Approval Application); and

f. the names and contact details of the principal contractor/s and principal responsible person/s; and

g. all proposed alterations to Works previously approved.

8. Approval process

The Developer will use best endeavours to reply within 5 working days to the Grantor's application. In considering the application, the Developer shall take into account the anticipated finished appearance of the works in relation to the actual or probable finished appearance of other high quality new dwellings in the neighbourhood. The Developer shall be entitled to require as a condition of approval, the direct agreement by the Grantor's contractor to complete the Works within the Construction timeframe, exactly as approved, but no breach of any such agreement shall exonerate the Grantor from compliance. Where any part of the proposed Works falls outside the works described in paragraphs 10 through 13 below, the Developer (without limiting its discretion to waive compliance) reserves the absolute right to withhold approval or grant the same subject to conditions.

9. Effect of Consent

The grant of a construction and landscaping approval is transferrable to a new lot owner, but, in the interests of ensuring the quality and timing of the work, the approval shall lapse and require a fresh application in the event that the principal contractor changes.

WORKS

10. House Description

The Grantor will erect on the Land one only new (not relocatable or relocated) building (the House) which:

a. comprises a single dwelling house with a floor area of at least 150m2; and

b. incorporates within that area garaging for at least one car; and

c. optionally includes a home office and/or a one bedroom self-contained granny flat; all within the roofline of the whole (so parts do not appear separate); and

d. does not exceed the height specified in the reduced levels in the Schedule of Land Covenants contained in Deposited Plan 544270; and

e. A building height restriction to 5.5 metres applies to all stages unless otherwise specified.

11. House Exterior

The Grantor will ensure that:

a. the basement of the House is fully enclosed and that the dwelling portion is visible and easily accessed from the road; and

b. the exterior of the House is comprised entirely of new materials, excepting only that

i. hardiflex, hardiplank, ply, or fibrolite, is not used unless as base for external plaster finish; and

ii. second-hand bricks, decorative stone, and high quality recycled materials are used only with the consent of the Developer; and

c. the roof, if not flat, has at least 3 roof planes and if of steel or other exterior roofing product, is factory pre-painted and that materials suitable for roofs are not used for wall cladding.- painted and that materials suitable for roofs are not used for wall cladding.

12. Landscaping

The Grantor will ensure that the Land not covered by the House is landscaped and maintained:

a. so that all Mandated Fences are maintained and that all fences, whether mandated or not, are erected and remain at the height and form complying with Highland Park Landscape Design and Fencing Rules and so that no other or additional fencing is erected unless approved by the Developer;

b. so that any brightly coloured ornaments are reasonably concealed from road visibility; and

c. so that no tree or plant is chosen or planted for any part to grow beyond 3 metres in height within 2 metres of any side boundary; and

d. so that trees and plants are chosen & located so no part will grow above 8 metres anywhere on the Land; and

e. to ensure that plant sizes are not exceeded and that grass and groundcover is to be kept trimmed so as not to exceed 100 mm in height.

13. Associated Works

The Grantor will ensure that the landscape plan shows:

a. the location and construction of driveways; and

b. locations and details of lawns, tree and shrub plantings, other vehicle and paved areas, and walls.

c. (where the land has a road frontage) provision for a letter box no larger than 1200 mm x 600 mm x 1200 mm high built from the same exterior materials as the House; and

d. rubbish bin area, any proposed caravan park area, location of washing lines, all to be screened from road visibility; and

e. that any moveable garden shed that the Grantor may wish to install, shall not exceed one in number, nor 2.0 metres in height, nor 10m2 in floor area and shall have a water collection system, so the runoff is contained within the Grantor's section. The garden shed shall be screened from road visibility as far as possible and be painted to compliment or match the main house colour with no other garden shed being permitted, subject to any Resource Consent that predates the covenant; and

f. that solar collectors and exposed rooftop disks and all antennae and equipment and tanks are integrated with the roof design in order to be as unobtrusive as possible and do not exceed normal television antenna height; and

g. that tanks, gas bottles, heating and air conditioning equipment are situated so far as possible in recessed parts of the House and are screened from view as far as possible and at least 4 metres from the Land boundary.

CONDUCT OF WORKS

14. General

As soon as the Building Consent and Developer approval is obtained for the Works (but not before) the Grantor will proceed expeditiously with the completion of the same exactly as approved, complying with every applicable law, by-law and regulation, and with the Covenants and will complete the same within the Construction Timeframe.

15. Fencing

The Grantor will be bound by a Fencing Covenant within the meaning of section 2 of the Fencing Act 1978 as modified by these Covenants.

16. Mandated Fences

Prior to or within a reasonable time after the completion of each purchase of Land from the Developer the Developer will erect the Mandated Fences applicable to the Lot. The Developer will meet the cost of all Mandated Fences but will not be liable for any adjustment or refund by reason a purchaser wishing to erect a single dwelling across more than one Lot.

17. Temporary Fencing

The Grantor will, before commencing the Works, but after erection of a builder's hut, fence with a temporary green windproof fence to the height of 1800 mm the whole boundary of the property not already fenced to that height, excepting (a) one access point only at the boundary facing the approved kerb crossing, and (b) such area, if any, as the Developer may allow not to be temporarily fenced. The Grantor will maintain the fence in good order throughout the construction process and remove the same thereafter in the course of landscaping. The Grantor will not alter or damage the side, rear, or other Mandated Fences.

18. Signage

During the construction process, the Grantor will display the construction street number sign supplied by the Grantee. The Grantor will otherwise at all times display only such other professionally-prepared "show home", "health and safety", "builders" or "for sale" and/or "open home" signage as is approved by the Developer.

The Grantor will ensure that no hand-written or other or business sign is visible from the street or access allotment and that no "signage" vehicles or trailers are habitually parked there or on the Land and visible from the street or access allotment. This covenant shall not affect the parking of light commercial vehicles in use by contractors or members of the Grantor's household, nor statutory signage nor limit the right of the Developer to display any signage around and within the Development or consent in its sole discretion to any small Grantor business plate.

19. Access and Workspace

The Grantor will access the Land only across the approved kerb crossing and will not cross, drive on, or park on, or use or allow any vehicle or thing to be put on or stored on the grass or footpath or on any verge, berm, or adjacent or neighbouring land. During construction all work and all loading and unloading and washing of vehicles will be carried out on the Land behind the windproof fence.

20. Working Hours and Noise

The Grantor will ensure that all work that is unavoidably noisy is conducted with minimum noise. The Grantor will ensure that no such activity that is audible outside the House is conducted before 7:00 am or after 6:30 pm Monday through Saturday, or before 9:00 am or after 3:00 pm Sundays and public holidays. The Grantor will ensure that no building work is conducted before 7:00 am or after 8:00 pm on any day.

21. Facilities

The Grantor will at all times during the construction process have installed and regularly emptied a port-a-loo type toilet for the use of work people.

22. Rubbish Removal

The Grantor will have regularly installed and emptied a rubbish skip of suitable size. The Grantor will ensure that all work people clean up and remove vehicles plant and materials not in immediate use, sweep footpaths and remove excess materials and rubbish each day without fires or burning for any reason and will not allow weeds to grow above 75 mm.

23. Contractor Obligations

The Grantor will procure its main contractor's written agreement with the Developer to observe the Covenants. The Developer may require a bond from the Grantor but the Developer will not request a bond where the written covenant of a reputable contractor is available.

24. Damage

The Grantor will make good any damage to any fence, or any road, kerb, crossing, berm, or footpath fronting the Land, or grassed area between the Land and the nearest kerb.

GENERAL COVENANTS

25. Permitted Use

The Grantor will use the House and Land for residential activity only.

26. Maintenance

The Grantor will keep and maintain the exterior appearance of the House and fences to a high standard and in particular will:

a. keep all roofs spoutings and exterior surfaces and yards clean; and

b. regularly repaint re-varnish and re-stain all surfaces including fences so treated initially; and

c. not allow any surface to be painted or resurfaced in a colour deviating from the initial colour; and

d. maintain driveways and vehicle areas; and

e. ensure that washing lines, tanks, gas bottles, heating and air conditioning equipment, and rubbish bins all remain screened from road visibility; and

f. not park or allow any caravan or motor home on the Land or street or access allotment

except in a designated caravan or motor home park; and

g. maintain all fencing and where it is necessary to replace the same will replace each fence with a fence of the same style and construction and dimensions as the existing fence.

27. Landscape Maintenance

The Grantor will ensure that the Land and the street between the Land and the nearest kerb are maintained in a neat condition at all times, clear of dead plants, weeds, rubbish, containers, equipment and other chattels, and that all grass is regularly mown there and all landscaping and associated works are maintained within the specifications set out in paragraphs 12 and 13.

28. Chattels and Rubbish

The Grantor will not bring or suffer to remain on the Land, or on any road, access allotment or reserve, any damaged, immobile, broken down, or unmaintained vehicle whether registered or not, any unregistered vehicle (except when garaged), any shipping container, or any other industrial container or drum, or any machinery, industrial or recycling items or any rubbish (whether organic or inorganic).

29. Land Contour and Surface Water

The Grantor will not allow any collected surface water to drain across any land of the Grantee or any reserve or access allotment in the Development, except through proper storm water pipes, across the street or access allotment.

30. Animals

Subject to full compliance with local authority by-laws, the Grantor may keep domestic household pets where not kept for commercial purposes and not dangerous, noisy, or annoying to any Grantee. The Grantor will not otherwise keep on the Land any farm or other animal, bird, or reptile of any kind.

31. No Further Subdivision

No Grantor will further subdivide any Lot, either in fee simple, by unit title, stratum estate, and leases, cross lease or by any other means.

32. Access Allotments

Whether or not the Grantee is the part owner and Grantor of any access allotment in the Development, the Grantee will not use or allow the use of such access allotment except strictly in accordance with the easements which affects the same.

33. Land Use Restrictions

The Grantor will not use the Land in any way likely to detract from amenity values of the Development, and without limiting the generality of this, will not permit or allow, and will remove if found in breach, any unapproved alteration to the House, landscaping or associated works.

34. Further Development

Without limiting the generality and totality of the effect of the covenants in paragraph 34 above,

such covenants extend to all aspects of the Development and sales process including the resource consent and any other consent process and all engineering or other works. The Grantor will in like manner not object to or propose or do anything or take or encourage any person to take any step to require the Developer to proceed with any aspect of the Development to any different standard or specification or use, or in any different order or sequence than the Developer itself proposes.

35. **Extent of Further Development Covenants**

Without limiting the generality and totality of the effect of the covenants in paragraph 34 above, such covenants extend to all aspects of the Development and sales process including the resource consent and any other consent process and all engineering or other works. The Grantor will in like manner not object to or propose or do anything or take or encourage any person to take any step to require the Developer to proceed with any aspect of the Development to any different standard or specification or use, or in any different order or sequence than the Developer itself proposes.

36. **Grantee's Responsibility Limited**

The Grantee agrees that the Developer does not have any responsibility or liability for the enforcement, enforceability, applicability or lack of action with respect to enforcement or applicability of any of these Covenants; and that apart from the exercise of its discretion with respect to consents, approvals or disapprovals of matters referred to in these Covenants, the Developer does not undertake to enforce or monitor compliance of these Covenants; and further agrees to keep the Developer indemnified, free and harmless from any claim, liability, loss or action arising against it or its agents in this regard.

37. **Delegation and Assignment by Developer**

The Developer may involve or delegate its discretion under these Covenants to one or more responsible professional firms and may assign the same to a responsible assignee. The Developer will bear all costs for each Lot of the first approval application only.

38. **Notice of Default**

The Grantee may serve notice on the Grantor of any alleged breach or non-observance of any of these Covenants, and may serve notice as well or instead on any contractor of the Grantor. Forthwith on receipt of such notice the recipient shall at its cost take all reasonable steps to remedy the breach or non-observance and carry out such remedial work as the notice may specify. Where the notice is given by or on behalf of the Developer (but not when given by any other Grantee) the recipient shall pay liquidated damages of $200 per day for every day beyond 10 days after service of the notice that the breach or non-observance continues or occurs.

39. **Expiry**

The term of Covenants shall end 12 years following the issue of titles for the whole Development, but shall continue for a further 3 years with respect to Covenants alleged to have been breached and in respect of which notice has been given or enforcement proceedings have been commenced prior to the end of the 12 year period.

RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy

R.W. Muir
Registrar-General
of Land

Identifier **1000421**
Land Registration District **Otago**
Date Issued 11 August 2021

Prior References
865671

Estate	Fee Simple
Area	2.3918 hectares more or less
Legal Description	Lot 1 Deposited Plan 563165

Registered Owners
Cranbrook Properties Limited

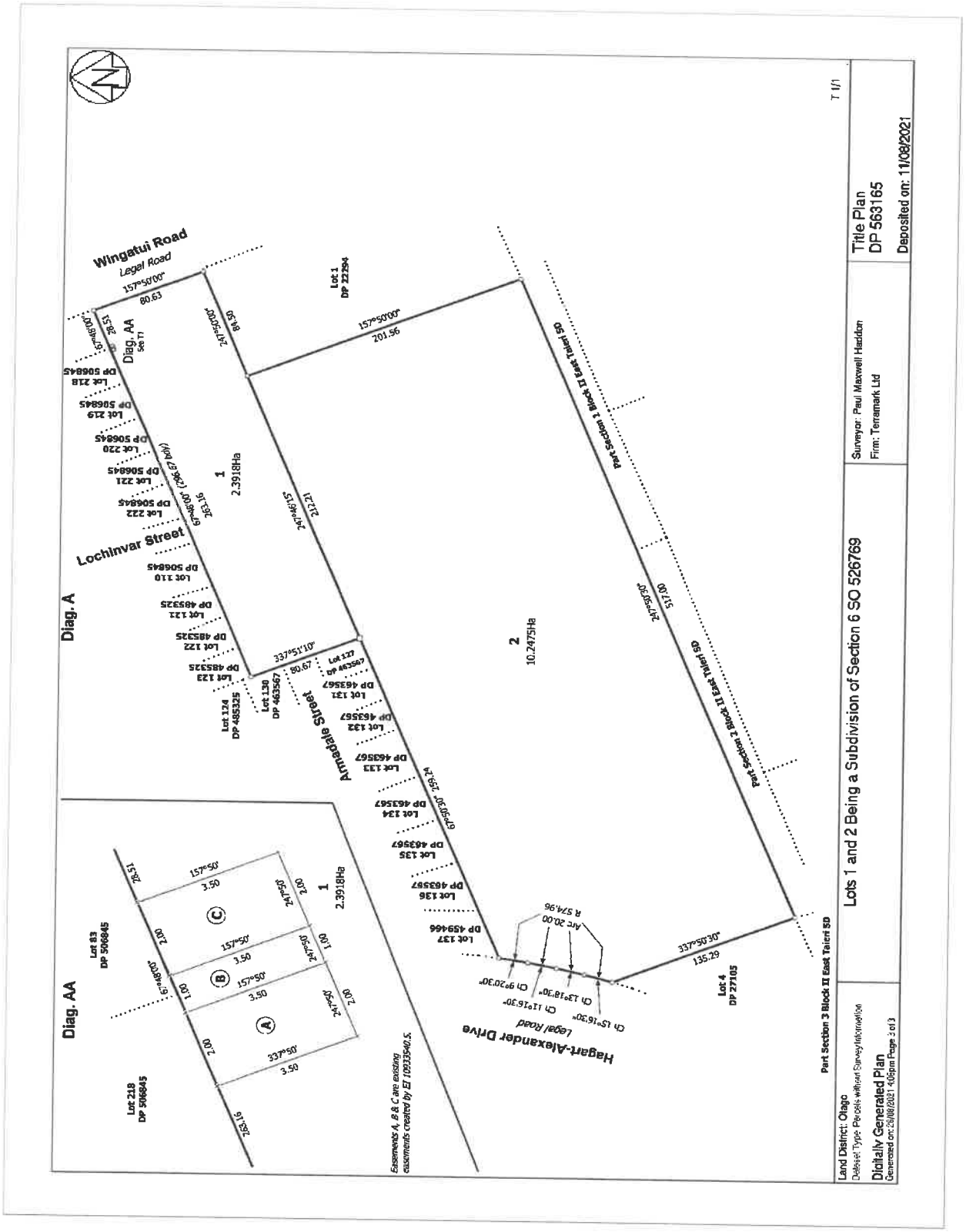
Interests

The owners of the Lots on DP 254 have rights of way over part Sections 1 & 2 on DP 254 shown as roads or streets

Subject to a right (in gross) to drain water over part marked B & C and a right to drain sewage over part marked A & B all on DP 563165 in favour of Dunedin City Council created by Easement Instrument 10933540.5 - 22.1.2018 at 2:16 pm

The easements created by Easement Instrument 10933540.5 are subject to Section 243 (a) Resource Management Act 1991

Identifier **1000421**



BEFORE SIGNING THE AGREEMENT

- Note: the purchaser is entitled to a copy of any signed offer at the time it is made.
- It is recommended both parties seek professional advice before signing. This is especially so if:
  - there are any doubts. Once signed, this will be a binding contract with only restricted rights of termination.
  - the purchaser is not a New Zealand citizen. There are strict controls on the purchase of a property in New Zealand by persons who are not New Zealand citizens.
  - property such as a hotel or a farm is being sold. The agreement is designed primarily for the sale of residential and commercial property.
  - the property is vacant land in the process of being subdivided or there is a new unit title or cross-lease to be issued. In these cases additional clauses may need to be inserted.
  - there is any doubt as to the position of the boundaries.
  - the purchaser wishes to check the weathertightness and soundness of construction of any dwellings or other buildings on the land.
- Both parties may need to have customer due diligence performed on them by their lawyer or conveyancer in accordance with the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 which is best done prior to the signing of this agreement.
- The purchaser should investigate the status of the property under the Council's District Plan. The property and those around it are affected by zoning and other planning provisions regulating their use and future development.
- The purchaser should investigate whether necessary permits, consents and code compliance certificates have been obtained from the Council where building works have been carried out. This investigation can be assisted by obtaining a LIM from the Council.
- The purchaser should compare the title plans against the physical location of existing structures where the property is a unit title or cross-lease. Structures or alterations to structures not shown on the plans may result in the title being defective.
- 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 purchaser should check the minutes of the past meetings of the body corporate, enquire whether there are any issues affecting the units and/or the common property, check the body corporate's long-term maintenance plan and enquire whether the body corporate has imposed or proposed levies for a long-term maintenance fund or any other fund for the maintenance of, or remedial or other work to, the common property.
- The vendor should ensure the warranties and undertakings in clauses 7.0 and 8.0:
  - are able to be complied with; and if not
  - the applicable warranty is deleted from the agreement and any appropriate disclosure is made to the purchaser.
- Both parties should ensure the chattels' list in Schedule 2 is accurate.
- Both parties should seek professional advice regarding the GST treatment of the transaction. This depends upon the GST information supplied by the parties and could change before settlement if that information changes.

THE ABOVE NOTES ARE NOT PART OF THIS AGREEMENT AND ARE NOT A COMPLETE LIST OF MATTERS WHICH ARE IMPORTANT IN CONSIDERING THE LEGAL CONSEQUENCES OF THIS AGREEMENT.

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

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AGREEMENT FOR SALE AND PURCHASE OF REAL ESTATE

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DATE:

VENDOR:
CRANBROOK PROPERTIES LIMITED
Contact Details:

VENDOR'S LAWYERS:
Firm: Lucas and Lucas Limited
Individual Acting: Chris Lucas
Email: chris@lucas.co.nz
Contact Details:
PO BOX 5735
DUNEDIN
PH: 03 477 8080
FAX: 03 477 8020

Email Address for Service of Notices:
(subclause 1.4)
chris@lucas.co.nz

PURCHASER:

Contact Details:

PURCHASER'S LAWYERS:
Firm:
Individual Acting:
Email:
Contact Details:

Email Address for Service of Notices:
(subclause 1.4)

LICENSED REAL ESTATE AGENT:
Agent's Name:
Manager:
Salesperson:
Contact Details:

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