

## **FURTHER TERMS OF SALE**

### **20. Definitions and Interpretation**

20.1 In this agreement, unless the context requires otherwise:

**"Consent Notice"** means the draft consent notice attached to this agreement as Annexure 2, and includes any variation required by the Local Authority or reasonably required by the vendor;

**"Covenants"** means the draft land covenants in general form attached to this agreement as Annexure 1 and includes any variation reasonably required by the vendor;

**"Plan"** means the scheme plan Cato Bolam 44813-DR-PLN-12000 rev A attached to this agreement as Annexure 3

**"Property"** means the property described on the front page of this agreement;

**"Resource Consent"** means resource consent SL2100015 issued by the Whangarei District Council for the subdivision of the Vendor's Land and includes any alterations or variations to such consent reasonably required by the vendor;

**"Settlement Date"** means the date which is ten (10) working days after the date on which the vendor notifies the purchaser in writing that a search copy, as defined in section 60 of the Land Transfer Act 2017, of the title for the Property is available;

**"Vendor's Land"** means all or any part of the land contained in records of title NA118B/444, 153392, NA69D/344 and NA116D/704.

### **21. Deposit**

21.1 The purchaser shall pay a deposit equal to 10% of the purchase price in cleared funds to Thomson Wilson's trust account on the date that of this agreement. The deposit shall be in part payment of the purchase price.

21.2 Thomson Wilson Solicitors will hold the deposit in trust on interest bearing account, and as a stakeholder, for the parties until this agreement becomes unconditional in all respects or is avoided for non-fulfilment of any of the conditions in this agreement. Interest on the deposit (less withholding tax and commission of 5% of the gross interest earned) will follow the final payment or release of the deposit in accordance with this agreement and does not form part of the purchase price. Thomson Wilson is irrevocably authorised to make payment of any withholding tax payable on interest earned on the deposit to the Inland Revenue Department.

21.3 The purchaser must, within five working days of receiving a written request from Thomson Wilson to do so, provide Thomson Wilson with any information about the purchaser that Thomson Wilson reasonably considers necessary in order to satisfy the requirements of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009. The purchaser acknowledges and agrees that the information

required may include (without limitation) some or all of the following:

- (a) The purchaser's, or where the purchaser nominated another party, that parties' full name, place and date of birth and residential address. If a purchaser or a nominee is a company, then the directors and shareholders of the company will provide this information;
- (b) The bank account number from where the deposit under this agreement was paid; and
- (c) The IRD number for each purchaser or nominee (as applicable).

21.4 If the purchaser, having received a request to provide information in accordance with this clause fails within the specified timeframe to do so, the purchaser shall be deemed to be in default of the terms of this agreement.

## **22. Subdivision**

22.1 The vendor will as soon as practicable and at the vendor's cost:

- (a) Implement the Resource Consent by carrying out all requirements and complying with all conditions which the local authority has imposed on the consent holder in relation to the same;
- (b) Prepare a survey plan according to the Resource Consent;
- (c) Lodge the survey plan with the local authority and LINZ for approval;
- (d) Lodge the approved survey plan with LINZ and apply for issue of a new separate title for the Property.

22.2 The purchaser agrees to take title to the Property subject to, or with the benefit of:

- (a) Any existing easements, consent notices, covenants, restrictions, encumbrances, statutory memorials or other instrument registered against the title for the Vendor's Land which relate the Property;
- (b) The Consent Notice and any other consent notices, easements, covenants, restrictions, encumbrances, statutory memorials or other instrument which the vendor deems necessary or other requirements of the local authority or LINZ;
- (c) The Covenants which will be created by the vendor and registered before settlement against the new title for the Property.

22.3 This agreement is conditional upon a search copy, as defined in section 60 of the Land Transfer Act 2017, of the title for the Property being available by twelve (12) months after the date of this agreement. If this clause is not satisfied by that date then the Vendor or the Purchaser may by notice in writing to the other party may cancel this agreement and the purchaser will be entitled to the refund of any deposit paid and neither party will have any further claim or right against the other.

**23. No Objections or Requisitions**

- 23.1 The purchaser acknowledges that it is deemed to have accepted the new title for the Property although the same may not have been issued at the date of this agreement and the purchaser shall have no right to claim any compensation, damages, right of set off or make any objections or requisitions or be entitled to cancel this agreement when the new title for the Property has issued.

**24. Alterations to Plans**

- 24.1 The vendor may at any time or times alter or vary the Plan and any subsequent plan or plans relating to the subdivision of the Vendor's Land in such manner as the vendor deems necessary or desirable in its sole discretion (and including, but not limited to, the right to alter or vary or cancel any covenants or easements shown on the Plan). The purchaser shall have no right to claim any compensation, damages, right of set off or make any objections or requisitions or be entitled to cancel this agreement as a result of any such alterations or variations.

**25. Measurements and Area of Property**

- 25.1 All measurements and areas of the Property shown on the Plan are subject to variation on final survey. If the Variation is less than 10% the purchaser shall not be entitled to bring any claim whatsoever against the vendor based on any such variation of measurements, nor shall the purchaser be entitled to claim any compensation, damages, right of set off or to make any objections or requisitions or be entitled to cancel this agreement based on such variation of measurements. If the variation is more than 10% less than the area on the Plan then the remedy of the Purchaser is limited to cancelling or affirming this agreement without further amendment. To the full extent possible any part of the law and any part of the agreed general terms purporting to provide a right of compensation in those circumstances, including paragraph 8 of this agreement, are expressly negated by this paragraph which is paramount.

**26. Utilities and Access**

- 26.1 It is acknowledged by the parties as follows:
- (a) All costs of connection to services will be the responsibility of the purchaser.
  - (b) The vendor will ensure that the Property has legal access and power services to the boundary of the Property.
  - (c) The vendor will ensure that all necessary easements will be granted or reserved in order protect the provision of those services referred to in clause 26.1(b) to the Property.

**27. Development**

- 27.1 The purchaser will not, and will not encourage or support any other person to, directly or indirectly, lodge or support in any way any objection or submission in opposition to any resource consent under the Resource Management Act 1991 which the vendor needs to subdivide, construct and/or develop a residential subdivision on the Vendor's Land.

**28. No Caveat**

28.1 The purchaser will not lodge a caveat against the title for the Vendor's Land prior to issue of the new title.

**29. Lowest Price**

29.1 The parties acknowledge that:

- (a) despite any deferred or extended date for settlement or the giving and taking of possession under this agreement, the purchase price of the Property set out in this agreement is the lowest price at which the Property could be purchased;
- (b) the purchase price of the Property set out in this agreement does not include any capitalised interest; and
- (c) the "lowest price" for the purposes of section EW 32(3) of the Income Tax Act 2007 is equal to the purchase price of the Property set out in this agreement.

**30. No Assignment**

30.1 The purchaser shall not sell, assign, transfer or otherwise dispose of or alienate the benefit of this agreement without the prior written consent of the vendor which may be withheld for any reason whatsoever and without explanation or reason. If the vendor consents to the sale, assignment, transfer, disposal of, or alienation of the benefit of this agreement by the purchaser, the purchaser shall as a precondition of any such consent, at the purchaser's cost execute a deed of covenant in a form acceptable to the vendor by which the purchaser, assignee, transferee or dispossesee covenants with the vendor that it is bound by the provisions contained or implied within this agreement. For the avoidance of doubt any proposed nomination by the purchaser is subject to the provisions of this clause 30.1.

**31. Entire agreement**

31.1 The parties acknowledge that this agreement contains the entire agreement between the parties, notwithstanding any negotiations or discussions prior to the execution of this agreement and notwithstanding anything contained in any brochure, report or other document.

31.2 The purchaser acknowledges that the purchaser has not been induced to execute this agreement by any representation, verbal or otherwise, made by or on behalf of the vendor or the vendor's agents or consultants or any third party, which is not set out in this agreement.

**32. Governing law**

32.1 This agreement shall be governed by New Zealand law and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand