

SCHEDULE A – LAND COVENANT

It is the Covenantor's intention to create for the benefit of the Covenantee, the covenants over the Covenantor's Lots as described in this Schedule A. The Covenantor shall be bound by the covenants and conditions set out in this Schedule A so that the covenants and conditions run with the Lots for the benefit of the Covenantee.

1 Definitions and Interpretation

1.1 In this instrument, unless the context otherwise requires:

"Covenantee" means the Developer and the registered owner of any Lot.

"Covenantor" means the registered owner of any Lot.

"Design Guidelines" means the Developer's architectural, building and landscaping guidelines provided to Lot owners, and any guidelines as may be varied in writing by the Developer from time to time.

"Development" means the development known as Yorktown, located in West Melton, Canterbury and is being carried out by the Developer by way of a subdivision of Lot 1 Deposited Plan 595588 into Lots 1-12 on Deposited Plan [XXX].

"Developer" means Yorktown Developments Limited.

"Developer's Trees" means the trees planted on the Lots by the Developer as more particularly identified on the Developers Landscape Plans attached to this instrument.

"Developer's Trees and Landscaping" means the trees and shrubs planted on the Lots by the Developer, along with any landscape rocks, as more particularly identified on the Developers Landscape Plan attached to this instrument.

"District Plan" means the Selwyn District Plan.

"Factory Farming" means a farm or unit of restricted space and which is not dependent on the soil characteristics of the site on which it is situated, and includes (but not way of limitation) poultry farms, pig farms, mushroom farms, rabbit farms and feed lots for commercial livestock, such as cattle.

"Developer Landscape Plan" means the landscape plan detailing the location of the Developer's Trees and Landscaping and attached to this instrument.

"Lots" means lots 1-4 (inclusive) comprised in Deposited Plan [XXX].

"Maintenance Areas Plan" means those areas of Developers Trees and Landscaping required to be maintained by specific allotments, and more particularly identified on the Maintenance Areas Plan attached to this instrument.

"ROW" means the right of way areas marked "A" and "B" on Deposited Plan [XXX], as more particularly detailed in Easement Instrument [XXX].

- 1.2 The following rules of interpretation apply to this instrument:
- 1.2.1 Headings are for ease of reference only and do not imply any interpretation.
 - 1.2.2 Any obligations on two or more persons shall bind those persons jointly and severally.
 - 1.2.3 Any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done.
 - 1.2.4 Words importing the plural or singular import the singular or plural respectively.
 - 1.2.5 References to persons include references to individuals, companies, partnerships, trusts, organisations and other entities in each case whether or not having separate legal personality.
 - 1.2.6 References to any statute or subordinate legislation include any amendments or replacements of it.

2 Covenants

- 2.1 The Covenantor for itself and its successors in title covenants and agrees for the benefit of the Covenantee that the Covenantor will not:

Dwelling house

- 2.1.1 erect (or permit or suffer to be erected) on the Lot any dwelling house:
- (a) smaller than 200 sqm gross floor area including attached garages;
 - (b) not constructed on site from new materials and which is not built to a high quality individual design appropriate to the Development. Prefabricated concrete panels or timber framing made from new materials shall be interpreted as being constructed on site for the purposes of this clause;
 - (c) using corrugated iron as a wall cladding for greater than 20% of the total exterior cladding;
 - (d) using any second-hand materials for any building on the property other than used bricks;
 - (e) using any cladding other than:
 - I. kiln-fired or concrete brick, blocks, or splitstone;
 - II. natural stone;
 - III. solid plaster or texture plaster finish;
 - IV. any form of flat cladding, concrete block, poured concrete of similar surface textured in solid plaster so as to fully cover the base; or

- V. any other exterior cladding material for which the Covenantor has first obtained the Covenantor's written consent (whilst the Developer is the Covenantor), such other cladding material must be in keeping with the other buildings in the Development;
- (f) using roofing material other than tiles (clay, ceramic or concrete), cedar, slate, cement or bituminous shingles or painted long run pressed or rolled steel, however butynol roofing may be acceptable in certain circumstances at the discretion of the Covenantor; or
- (g) for which the plans, specifications, siting and exterior colour scheme for which have not previously been approved in writing by the Covenantor in accordance with the Design Guidelines (whilst the Developer is the Covenantor).

Colour Schemes

2.1.2 Allow any dwelling house or other structures erected on the Lot to:

- (a) be finished in any tone other than natural tones which keep in with a rural environment; or
- (b) have its exterior painted or finished in a striking colour, provided that specific features (such as a feature door for example) will be considered by the Developer.

Completion of Construction

2.1.3 From the time that building construction commences, allow any building work to remain incomplete longer than 24 months in duration. Furthermore, the Covenantor shall ensure that all Landscaping is completed to a reasonable and presentable standard within 30 months from the commencement of construction.

Other Structures

2.1.4 Erect (or permit or suffer to be erected) on the Lot:

- (a) any glasshouse/s in excess of 60 sqm (or total thereof);
- (b) any auxiliary buildings or building attachments (e.g. sheds, aerials, dishes, solar panels, air conditioning units), garden fences or walls which are not attractively and discreetly integrated with the design of the house (so that they do not visibly stand out to an obvious and unreasonable extent, and so that the visual imprint is minimized as far as reasonably possible);
- (c) any overhead wiring or radio, television, or telecommunication towers; or

any wind devices for the generation of power or pumping of water without the prior written consent of the Covenantor.

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General restrictive covenants

- 2.1.5 Permit the Lot to be occupied or used as a residence by either the erection of temporary structures or the placing on the Lot of caravans and/or vehicles used for residential purposes;
- 2.1.6 Permit the dwelling to be occupied as a residence before:
 - (a) The dwelling has been substantially completed in accordance with the terms of this Land Covenant and the requirements of the Christchurch City Council including issue of a Code Compliance Certificate for any dwelling; and
 - (b) All driveways are of an all-weather surface to avoid detritus being tracked onto the ROW.
- 2.1.7 Permit any construction on the Lot unless the building site at all times complies with the Health and Safety at Work Act 2015 (or any enactment passed in substitution);
- 2.1.8 Other than bed and breakfast accommodation, use the Lot or allow the use of the Lot for any industrial or manufacturing purposes, any type of Factory Farming or any commercial glasshouse operation;
- 2.1.9 Carry out or use as a depot or base for any light or heavy industrial activity or contracting or freight business or carry out any activity or thing which causes nuisance or annoyance to neighbouring occupiers in the Development;
- 2.1.10 Permit or suffer any rubbish, noxious substances, livestock, birds or animals (including domestic pets) likely to cause nuisance or annoyance to neighbours. In particular, the Covenantor shall not allow on or about the Lot any dog, which is dangerous and/or which in any way resembles the Pit Bull Terrier, Rottweiler, or Doberman Pinscher breeds;
- 2.1.11 Use the Lot for a junkyard or dumping ground for scrap metal, machinery, used car bodies or suchlike, or any visible rubbish of any nature, or unsightly excess soil or earth stock piles;
- 2.1.12 Carry on or permit to be carried on the Lot any farming involving the keeping of pigs, hens or chickens (other than for on-site domestic use), roosters, commercial dog kennels or cattery, or any other activity which is or could be of a noxious or noisy nature;
- 2.1.13 Gain vehicular access to the Lot other than via the provided sealed ROW driveway accesses without written consent of the Developer; or
- 2.1.14 Allow their vacant Lot to get untidy, and shall keep it free of rubbish including the accumulation of builder's waste materials, and mown to ensure the grass and/or weeds do not exceed 150mm in height or otherwise becomes unsightly (provided that if making silage or baleage then the maximum height shall be 400mm, this exception shall apply between October and end of March of the following year). The Covenantor reserves

the right to charge for any maintenance carried out to address untidy lots and/or debris carried over to ROW's.

- 2.1.15 Further subdivide any Lot by way of cross-lease, unit title, subdivision into separate fee simple lots or in any other way, is permitted provided that minor boundary adjustments are permitted if no additional titles are created.

Offence to other Development Occupiers

- 2.1.16 Use the Lot in any way, which detrimentally affects the amenities of the Development, including permitting noise to escape from the Lot, which is likely to cause offence to other occupiers in the Development.

Future Development

- 2.1.17 at any time either directly or through any other person:
- (a) object to completion of the Development;
 - (b) object to or support any objection lodged against any application made or to be made by the Developer for any resource consent and/or plan change or variation in order to complete the Development; or
- 2.1.18 object to the placement of marketing signs or to marketing techniques or tactics adopted by the Covenantors in selling their remaining lots in the Development.

3 Developer's Trees and Landscaping Protection and Right of Way Covenants

- 3.1 The Covenantor for itself and its successors in title hereby Covenants and agrees with the Covenantee and its successors in title for the benefit for the Lots:
- 3.1.1 to not remove or relocate any of the Developer's Trees and Landscaping before 1 January 2044 without the prior written consent of the Developer;
 - 3.1.2 Notwithstanding clause 3.1.1, the Covenantor may in the case of an emergency where there is a clear health and safety risk to the public or in the case of poor tree health, fell, or remove any of the Developer's Trees provided that:
 - (a) the Covenantor shall first have used all reasonable endeavours to obtain the consent of the Developer pursuant to clause 3.1.1;
 - (b) any removal of the Developer's Trees shall be kept to the minimum reasonably required to rectify the risk; and
 - (c) if any of the Developer's Trees are relocated or removed under this clause 3.1.2, then a replacement tree of not less than 2 metres in height, and of the same species, must be planted within 6 months of its removal.

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- 3.1.3 To keep and maintain (including but not limited to regular watering, weeding and pruning) the Developer's Trees and Landscaping in accordance with good arborist practises; and
- 3.1.4 To maintain their Lot, the ROW and any road frontage adjoining their Lot (including but not limited to mowing the grass and weeding) in accordance with and as more particularly identified by the Maintenance Areas Plan; and
- 3.1.5 To meet all costs payable pursuant to this clause 3.1 equally, provided that, where the need for maintenance or replacement of the Developer's Trees is directly attributable to the acts, neglect or default of one registered owner (including any tenant, licensee, contractor, invitee, permitted occupant or agent of such owner), then the cost shall in that case be borne wholly by the owner at fault.

4 Fencing

- 4.1 The Covenantor will not call on the Developer to pay for or contribute towards the cost of erection or maintenance of any boundary fence between any two Lots provided that this covenant will not continue for the benefit of any subsequent registered owner of any adjoining Lot.
- 4.2 The Covenantor must at all times comply with the District Plan rules and the restrictions contained in this clause 4.2 as it relates to fencing on the Lot. The Developer does not warrant that any fence complying with these covenants will also comply with the District Plan and it is therefore the Covenantor's obligation to ensure any fences are at all times compliant with the District Plan.
- 4.3 The Covenantor shall not make any changes, including staining or painting, to the post and rail fencing provided by the Developer, other than general maintenance or to add discrete intermediate wires between the rails, unless it firstly obtains the Developer's prior written approval.

5 Default

- 5.1 If there shall be any breach or non-observance on the Covenantor's part of these covenants (and without prejudice to any other liability which the Covenantor may have to the Covenantee or any other person having the benefit of these covenants) the Covenantor will upon written demand being made by the Developer or their nominee or the Covenantee:
 - 5.1.1 Pay to each Covenantee (or other person having the benefit of these covenants) making such demand, as liquidated damages, the sum of \$150.00 per day for every day that such breach or non-observance of the covenants continues after the date upon which written demand has been made;
 - 5.1.2 Immediately remove or cause to be removed from the Lot any dwelling, garage, building, fence or other structure or thing erected or placed on the Lot in breach or non-observance of the foregoing covenants;
 - 5.1.3 Replace any building materials so as to comply with these covenants; and

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- 5.1.4 Reimburse the costs the Developer and/or any Covenantor directly incurs on a dollar for dollar basis as a result of a breach or non-observance, including (but not limited to), those associated with correcting such breach or non-observance of these covenants. All unpaid costs shall accrue interest at the rate of 15% per annum.
- 5.2 Any demand made by the Developer or a Covenantor will be deemed to have been served on the Covenantor if sent to the Covenantor's postal address of the Lot, or where the Lot is a vacant section, the demand will be deemed to have been properly served if sent to the email address of the lawyer or law firm that signed and certified the transfer of the Lot to the Covenantor.
- 5.3 The Covenantor and their successors in title and assigns will only be liable for breaches of the covenants which occur while they are registered as the owner of the Lot.
- 5.4 The Covenantor will not have any claim in damages against the Developer on account of any refusal to grant or the grant of any approval under this clause or for transferring or assigning of its interest and right to grant or withhold approvals as provided herein and such transferee or assignee fails to observe those obligations.

6 Disputes

- 6.1 If a dispute arises in relation to this Instrument:
 - 6.1.1 The party initiating the dispute must provide full written particulars of the dispute to the other party;
 - 6.1.2 The parties must promptly meet and in good faith try to resolve the dispute;
 - 6.1.3 Subject to clause 6.2 if the dispute is not resolved within 20 working days of the written particulars being given (or any longer period agreed by the parties) the dispute must be referred to arbitration in accordance with the Arbitration Act 1996 to be conducted by a single arbitrator to be agreed on jointly by the parties or, failing agreement, to be appointed by the President of the Canterbury and Westland Branch of the New Zealand Law Society.
- 6.2 Notwithstanding clause 6.1.3 if any dispute arises in relation to this instrument including as to what may constitute a breach or as to matters of interpretation of this instrument whilst the Developer is the owner of any Lot then the same shall be referred to the Developer for resolution whose decision shall be final.

7 No Termination

- 7.1 The Covenantor may not determine this instrument for breach of any provision in this instrument (whether express or implied) or for any other cause, it being the intention of the parties that the covenants created herein shall subsist for all time unless they become obsolete or are surrendered.

8 Conditions Relating to Covenants

- 8.1 The Covenantor covenants and agrees that, if called upon by the Covenantor, it will sign any document or give its written approval for, and do any other thing

reasonably necessary to support any application. The Covenantor shall provide any necessary further written approval to such Application if requested by the Covenantee and, in the event of the Covenantor failing to do so, the Covenantee shall be entitled to provide a copy of this instrument to the relevant consent authority as evidence that such written approval is given.

9 Duration of Covenants

- 9.1 Without prejudice to any rights or obligations which may have accrued to or against any person in respect of these covenants before that date, the above covenants shall cease to have any further effect on and from 1st January 2039, except those covenants relating to the care and maintenance of Developer's trees in clause 3 which shall expire on 1st January 2044.