

SCHEDULE 1- LAND COVENANTS

1. The Covenantor as registered owner of the land identified in Schedule A as the Burdened Land has agreed to create land covenants in favour of the Covenantee who is the registered owner of the land identified in Schedule A as the Benefited Land to the intent the Burdened Land will be bound by the conditions described below in perpetuity (or such earlier time as may be specified) and the owners and occupiers for the time being of the Benefited Land may enforce such conditions against the owners for the time being of the Burdened Land and such conditions will run with the Burdened Land for the benefit of the Benefited Land to that intent. Accordingly the Covenantor covenants with the Covenantee and such other person or persons as are nominated by the Covenantee as provided below.
2. Developer shall mean TMB Limited and its successors and assigns or any person or entity appointed as a representative or in the place of TMB Limited.
3. The Covenantor will not erect or place (or permit to be erected or placed) on the land any dwelling house or building without first obtaining the written approval of the Developer or any agent appointed by it to the plans of such dwelling house or building, and the materials, finish and exterior colours to be used in the construction of the dwelling house or building. Any variation to or deviation from the approved plans not approved by the Developer will be a breach of this clause.

Clauses 3, 5(d), 5(g) and 5(i) shall cease to have effect 15 years after the first dwelling house on the land is completed.

4. As a guide to construction and design the Covenantor shall not erect or place on the land or allow to be erected, constructed or placed on the land any dwelling house which is not a new residential dwelling house. Two storied dwelling houses are not permitted unless the Covenantor has obtained the prior written consent of the Covenantee and/or Developer. The dwelling house shall have a minimum ground floor area of 165 square metres (including garages). When the plans are submitted to the Developer for approval under clause 3 the Developer may (at the Developer's sole discretion) vary the minimum ground floor area to ensure the building is congruent with the Developer's modern and well-designed residential subdivision. The exterior cladding shall consist entirely of any of the following materials:
 - (a) Kiln fired concrete brick or stone approved by the Developer;
 - (b) Texture finishes of a good quality plaster system;
 - (c) Timber weatherboard, Linea weatherboard, Palliside weatherboard, aluminium pre finished weatherboard and modern exterior finishes;
 - (d) The colour of any paint finish of the exterior of the dwelling must be approved by the Developer.

PROVIDED THAT

- (i) Alternative upper floor exterior cladding may be used if first approved by the Developer;
- (ii) The Developer may waive the minimum floor area if it is satisfied that in all other respects the building complies with all other requirements of the covenants contained in these clauses;
- (iii) In addition the Covenantor shall not allow any form of metal roofing on the land unless the same is Colour Steel "Endura" roofing;

Notwithstanding anything in the preceding clauses, the Developer in its absolute discretion may approve of an alternative exterior cladding not specified in this instrument if in its opinion any variation does not detract from the value of the adjacent properties.

5. The Covenantor further covenants:

- (a) That construction of the building shall commence no later than twelve months after the settlement date or as agreed with the Covenantee.
- (b) Not to permit the construction of the exterior of any dwelling house on the land to take more than a period of nine months from the commencement of construction of that dwelling house.
- (c) Not to permit the driveway on the land to remain uncompleted without a solid running course for more than two months after completion of the dwelling house. The driveway is required to be finished with an exposed aggregate finish or tinted concrete to be approved by the Developer. Untinted concrete will not be approved. The landscaping is to be completed within two months after the completion of the dwelling to the satisfaction of the Developer.
- (d) That no work for the erection of improvements whether the same be for buildings, accessory buildings, fences, exterior finishings and excavation of foundations upon the land shall be commenced unless plans and specifications and all other details of construction and finishings as the Developer at its absolute discretion may require have been first submitted to it or its agents and have received its written approval, which approval shall not be unreasonably withheld where the Developer is satisfied that the dwelling house will comply with the terms of this instrument and the Covenantor shall not erect or permit to be erected any improvement upon the land not first approved by the Developer in terms of this clause.
- (e) Not to permit or carry out the erection of any temporary building or structure upon the land except such as may be used in conjunction with the construction of

permanent buildings and which will be removed from the land upon completion of the work.

- (f) Not to permit or carry out the placing or erection upon the land or any building previously erected on other land excepting new transportable homes approved by the Developer and temporary structures placed there in conjunction with the construction of a permanent dwelling house.
 - (g) Not to subdivide or cross lease the land and not to erect or allow to be erected on the land any buildings other than one family dwelling house with garaging.
 - (h) Not to permit or cause the land to be occupied or used unless:
 - (i) A building has been substantially completed in accordance with the terms of these covenants, and
 - (ii) The building meets the requirements of the appropriate Local Authority.
 - (i) That no dwelling house shall be constructed to a single rectangle or square and it must contain more than two hips or two gables in the roofline. Flat or raked roofed dwellings are acceptable provided they meet all the covenants and have more than one level of roofing. This covenant may be waived at the sole discretion of the Developer.
6. Unless approved by the Developer, not to erect a fence constructed of materials other than brick, plastered concrete block, wrought iron, air stone or timber and:
- (a) No fence shall exceed 1.83 metres in height above natural ground level.
 - (b) No fence shall exceed 1.2 metres above natural ground level on any road front or side boundary closer than 5 metres from the street boundary or closer than the house to the street boundary, whichever is the greater. The top of the fence will in all cases be level.
 - (c) All retaining walls on road frontages to be approved by the Developer. No timber paling fences are to be erected on road front boundaries. Any timber paling fences visible from the front are to be painted or stained.
 - (d) No fence bordering the existing retaining wall to be more than 1.4 metres high, within 3 metres of the boundary.
7. Not to permit or cause the removal of soil from the land except as shall be necessary for the construction of the building thereon.

8. Not to permit or cause any rubbish to accumulate or be placed upon the land and not to permit any excessive growth of grass so that the same becomes long or unsightly.
9. Not to permit or cause any advertisement sign or hoarding of a commercial nature to be erected on any part of the land without the prior consent in writing of the Developer ("for sale" signs are excluded).
10. Not to allow any animals on the land other than quiet domesticated pets which definition shall without restricting the generality of such term exclude goats, sheep, horses, pigs, poultry, beehives and any dangerous or aggressive dogs.
11. That all clotheslines and garden sheds are to be away from the road or right of way access and obscured from sight of the road or right of way access. Metal garden sheds are not permitted unless they are Colour Steel "Endura" range or timber.
12. Not to permanently park any vehicle, caravan or boat on or within five metres of any street or right of way unless situated within enclosed garages constructed on the land, provided that this prohibition shall not apply to any invitee of the Covenantor where such invitees are not residing with the Covenantor and the vehicles are parked temporarily only.
13. Not without the consent of the Developer erect or permit to be erected any building, structure or other improvement of any kind upon the land, the height of which exceeds 6.0 metres above the finished ground level of the land (that measurement to be taken at the middle point of the land) provided that aerials, satellite dishes, chimneys and other similar appurtenances of a domestic nature will not be a breach of this clause.
14. In the event that the Covenantor or any contractor, employee or invitee of the Covenantor causes any damage to the roading, footpath, kerb or other structure in the subdivision or to any Property including the Property of the Covenantor within the lands described in the plan, the Covenantor covenants to forthwith make good the damage at their own expense or to pay the cost of the repair of the damage in the event that such repair is effected by the developer Council or other like body. To provide support of this clause the Covenantor will pay an additional \$1,500.00 by way of bond on settlement and such money will be held in trust by the Developer's solicitors to be refunded once the Covenantor has completed construction of the dwelling and driveway, or 24 months after the date of deposit of the plan, whichever is the earlier. If any damage has been caused under the first part of this clause the \$1,500.00 or such part of it as is necessary will be used to make good such damage.
15. The Developer will mow the land for a period of four (4) months after the issue of title free of charge to the Covenantor. After the four month period has expired the Covenantor will from that day keep the land in a neat and tidy condition and will prevent long grass and weeds growing thereon. The Developer may after the four month period has expired in order to preserve the overall appearance of the subdivision continue to mow the land on behalf of the Covenantor. The cost of so doing shall be paid by the Covenantor at a rate of \$80.00 plus GST for each mow of the land. The Developer shall not be responsible for any damage to any

structure or object, or deterioration occasioned to the land as a result of the reasonable exercise by the Developer or its powers under this clause. The Covenantor grants the Developer a licence to enter for the purposes of this clause. This clause will continue until the Covenantor commences construction of a house on the land.

16. The Developer may at any time by written notice waive any condition, either temporarily or permanently, and such waiver may be registered against the record of title(s) to the property.
17. Acknowledging that the value of the Benefited Land will be affected by the standard of buildings erected on the land and by failure to comply with the covenants contained in the preceding clauses and sub clauses, the Covenantor covenants for the Grantor personally and their executors, administrators and assigns that should the Covenantor fail to comply with, observe, perform, or complete any of the covenants and restrictions contained in clauses 1-13 and without prejudice to any other liability the Covenantor may have to the Developer or any other person the Covenantor will:
 - (a) Immediately upon receipt of a written demand for payment from the Grantee/ Developer or the Covenantee/Developer's solicitors pay to the Covenantee/Developer as liquidated damages the sum of ONE THOUSAND DOLLARS (\$1,000.00) per day for each day the default continues unremedied, such liquidated damages to be limited to a maximum value of \$150,000.00; and
 - (b) Shall immediately undertake such remedial action as may be required by the Covenantee/Developer including but not limited to permanently removing or causing to be permanently removed from the Property any improvement or structure so erected or repaired or other cause of any breach or non-observance of the foregoing covenants;
 - (c) Pay on demand the Covenantee/Developer's costs incurred in respect of the default and any enforcement or attempted enforcement of the Covenantee/Developer's rights, such costs to include but not be limited to legal costs on a solicitor client basis;
 - (d) Pay interest at the rate of 15% on any money which may be demanded and not paid, such interest to accrue from the date of the demand until the date it is finally received by the Developer,

PROVIDED THAT:

- (i) Except for those defaults notified to the Covenantor when it is a registered owner the Covenantor shall only be liable while the Covenantor is a registered owner of the land.
- (ii) If a default is completely and finally remedied within one month of notice in writing requiring the removal or remedy of such cause of default and the payment by the defaulting party of all reasonable legal costs and other expenses incurred by the party enforcing the said covenants, the sum payable

under clause 14 shall abate to \$1.00 per day provided that this abatement shall not apply in respect of any subsequent default of a similar nature.

The right of the Developer to enforce the terms of the rights and benefits conferred by the foregoing covenants and by this clause shall continue for 12 calendar months from the date on which it ceases to be a Registered Owner of any of the land comprised in [DP XXXX] provided however that the Developer is under no liability whatsoever to enforce these covenants.

