

FURTHER TERMS OF SALE

- 18.0 It is agreed between the parties that the land being purchased is the land shown as Lot _____ on the scheme plan Oceanside Masterplan Concept – Stage 1 24.04.18 (*Plan*) attached and is part only of the land in Certificate of Title 803379 (Taranaki Registry).
- 19.0 The parties acknowledge that:
- (a) The existing conditions of consent relating to the subdivision are those set out in a consent order of the Environment Court in ENV-2017-WLG-000007 dated 17 October 2017 (*Existing Consent Conditions*);
 - (b) The vendor has applied for a variation to the Existing Consent Conditions in the form attached (*Proposed Variation*); and
 - (c) Any contract formed as a result of a tendered offer being accepted is conditional on:
 - (i) The Council approving the Proposed Variation; or
 - (ii) If the Council does not approve the Proposed Variation, both vendor and purchaser accepting the final terms of the varied resource consent approved by Council within five working days after the date each party receives notice of the final terms of the varied resource consent.
- 20.0 The parties agree that:
- (a) This Agreement is conditional upon the Vendor obtaining final resource consent (including any variations to the Existing Consent Conditions) as provided for in clause 19.0 (*Final Resource Consent*) by December 2018.
 - (b) This Agreement is conditional upon the deposit of the plan of subdivision with Land Information New Zealand within two years after the date of the Final Resource Consent.
 - (b) The cost of the subdivision shall be met by the Vendor.
 - (c) The parties to this Agreement will at all times use their best endeavours to do all things necessary to make this Agreement unconditional in all respects and to complete as aforesaid.
- 21.0 The Purchaser acknowledges that the Vendor will be entitled, as part of the subdivision, to create easements and covenants and restrictions as may be required to enable title to issue. The purchaser will not object to any such instruments provided that the instruments are created on reasonable grounds because they are required to enable the Vendor to comply with the terms and conditions of the subdivision consent or otherwise to enable the issue of title.
- 22.0 In particular, but without limitation, the purchaser acknowledges that a consent notice substantially in the form provided for in the form set out in paragraph 62 of the Existing Consent Conditions (subject to any amendments provided for in the Proposed Variation, or varied consent conditions that are otherwise agreed by the parties) will be registered against the title to the property and:
- (a) The purchaser will not object to any such consent notice or any change to the terms of the consent notice approved by the Council before the deposit of the plan of subdivision; and
 - (b) The purchaser will, at all times, comply with the requirements of any such consent notice and will, on demand, indemnify the vendor against any loss, cost, claim or expense (including legal costs, on a solicitor-own client basis) that the vendor

incurs as a result of any breach by the purchaser of the conditions of any such consent notice.

- 23.0 The Purchaser acknowledges that after viewing the property and being shown the approximate boundaries and the Plan that the proposed areas are approximate only. If the area of the lot being purchased by the Purchaser after final survey is larger or smaller than the approximate area shown on the front page of this agreement and/or on the Plan no compensation shall be payable provided that the Purchaser will be entitled to a reduction of the purchase price if any alteration to the area of the Property materially diminishes the value of the Property.

If the parties cannot agree on such reduction then the amount of the reduction will be determined by a registered valuer who will be agreed by the parties, or if they cannot agree on one, appointed by the President for the time being of the New Zealand Institute of Valuers. If any variation to the purchase price has not been determined by the settlement date then settlement will proceed on that date subject to an amount fairly representing the purchase price reduction sought by the Purchaser being retained by the Vendor's lawyers as stakeholder for both parties until such variation has been determined.

For the avoidance of doubt, the Purchaser acknowledges that a reduction in the land area of the Property by 5% or less compared with that shown on the scheme plan, on the part of the Vendor will not constitute a reduction that materially diminishes the value of the Property.

- 24.0 Aside from the matters referred to in this agreement, the Purchaser acknowledges that the Purchaser relies solely upon the Purchaser's own judgment and inspection of the property in making this offer and not upon any statements or representations made by the Vendor or the Vendor's agent.
- 25.0 The parties agree that the purchase price recorded in this agreement does not include any capitalised interest and that the "lowest price" for the purposes of s EW32(3) of the Income Tax Act 2007 is equal to the purchase price, and the parties will file their tax returns on that basis.
- 26.0 The Vendor as part of the subdivision will at its own cost provide the following services to the boundary of each lot;
- (i) telecommunications ducting and/or fibre ducting
 - (ii) electricity
 - (iii) water
 - (iv) sewerage
 - (v) gas
- 27.0 The Vendor shall not be liable to pay for or contribute towards the cost or erection or maintenance of any fence between any Lots shown on the Plan and any adjoining land owned by the Vendor but this condition shall not enure for the benefit of any purchaser of such adjoining land or any part thereof. The Vendor shall be responsible for the initial cost of fencing the perimeter of the subdivision.
- 28.0 The Purchaser agrees that:
- (a) the Purchaser will not, at any time before the deposit of the subdivision plan lodge any caveat against the Property or against the title to the land of which the property forms part;

- (b) if the Purchaser does lodge any caveat, the Purchaser, by this Agreement, irrevocably appoints the Vendor (or its nominee) as the Purchaser's true and lawful attorney to do everything necessary in the name of the Purchaser (including to sign all documents) necessary or expedient to have the caveat removed;
- (c) the production of this Agreement to Land Information New Zealand shall be sufficient evidence of the appointment by the Purchaser of the Vendor (or its nominee) as the Purchaser's attorney for this purpose;
- (d) The Purchaser shall, on demand, indemnify the Vendor against any costs associated with removing any such caveat, with the amount of such costs being payable immediately upon demand.

29.0 The stakeholder referred to in Clause 2.4 shall hold the deposit for the benefit of both parties on interest-bearing deposit with a bank to be nominated by the Stakeholder. If this Agreement is validly cancelled, the deposit and all net interest accrued thereon shall be paid to the Purchaser. If this Agreement becomes unconditional in all respects, the deposit and all net interest accrued thereon shall be paid to the Vendor.

29.0 **LAND COVENANTS**

29.1 On, or prior to settlement, the vendor will register a land covenant against the property substantially in the form attached as Annex A (*Land Covenant*). The vendor and the purchaser agree that the Land Covenant is, and all the rights and obligations within it are, incorporated into this Agreement and enforceable between the parties to this Agreement as terms of this Agreement.

29.2 The vendor will ensure that the Land Covenant is registered against all the lots in the subdivision so that the purchaser shall be able to enforce the provisions of the Land Covenant against the owner of every other Lots in the Subdivision (including in any subsequent stages of the Subdivision).

29.0 **OCEANSIDE WAIWHAKAIHO OWNERS' ASSOCIATION LIMITED**

29.1 The purchaser acknowledges and agrees that:

- (a) as a condition of the resource consent, the vendor is required to incorporate an appropriate legal entity, of which the owners of all Lots in the subdivision must be members, which shall:
 - (i) have responsibility for the ongoing maintenance, monitoring and remediation (if necessary), and reporting in relation to the Dune Management Plan requirements; and
 - (ii) be a single point of contact for water billing.
- (b) the vendor has, or will, incorporate a company called Oceanside Waiwhakaiho Owners' Association Limited for this purpose and that, in addition to the purposes set out above, that company shall also own and be responsible for the management of common facilities in the subdivision, and may levy owners of Lots in the subdivision to cover those costs;
- (c) the Company shall have a constitution substantially in the form attached;
- (d) to enforce compliance with the requirement for all Lot owners to be members, the vendor shall have an encumbrance noted on the title to each lot in the subdivision to secure the obligation to be a shareholder in the Company and the purchaser shall not object to any such encumbrance on the title to the property; and

(e) in addition, the vendor may require the purchaser to sign a Deed of Covenant binding the purchaser to the obligation to be and remain a shareholder in the Company for as long as the purchaser is an owner of a lot in the development and to comply with the constitution of the Company and, if the vendor so requires, the purchaser shall execute such Deed of Covenant before settlement.