

# SIESTA AT SEVILLE

## WESTFIELD ROAD, SEVILLE GROVE

### ANNEXURE A

#### 1. DEFINITIONS

1.1 In this Contract, unless a contrary intention appears:

- (a) "**Land**" means the land contained within Certificate of Title Volume 1361 Folio 63 and Certificate of Title Volume 1361 Folio 63.
- (b) "**Property**" means the lot the Buyer agrees to purchase upon sub-division of the Land, being **Lot**

#### 2. VARIATION TO PROPERTY PARTICULARS

2.1 The Buyer is aware that the Property is a portion of the Land, and has not been approved as a separate Lot, but is subject to final conditions of subdivision and a final survey. The Buyer shall make no objection, requisition or claim compensation from the Seller even though the Property may vary in respect of the following:

- (i) size or area, unless such variation exceeds more than 3% of the Property's area;
- (ii) provision or position of retaining walls within the Property;
- (iii) the location of its boundaries;
- (iv) the Property's ground level;
- (v) the angles of the Property's boundaries; and
- (vi) the Property becoming subject to any restrictive covenants, including, but not limited to, those covenants particularised below and any other covenants required by any public authority to satisfy any condition of subdivision approval.

2.2 Where the Property's area is varied by more than 3%, either Party may terminate the Contract by providing written notice of the same to the other Party.

2.3 Settlement of the Property constitutes a full waiver of any right, action or claim whatsoever to compensation that either Party may have in relation to any variation in or of the Property.

2.4 The Seller makes no warranty in relation to the accurate location of any survey pegs which may be on the Property and is not obliged to maintain those survey pegs

2.5 The Buyer shall not make any claim against the Seller pursuant to the *Dividing Fences Act 1961*. Further, Clause 9.1(c) of the Joint Form is deleted and substituted with the following clause:

*"The Parties acknowledge that all dividing fences erected by the Seller on the Land are not necessarily on the boundaries of the Land."*

#### 3. BUYER NOT ENTITLED TO CAVEAT LAND

The Buyer hereby agrees to not, lodge a caveat the Land or the Property, prior to settlement.

#### 4. **VARIATION OF GENERAL CONDITIONS TO ALLOW FOR PLANNING APPROVAL**

4.1 Clause 4.2 of the Joint Form is hereby deleted.

4.2 Clause 13.2(b) of the Joint Form is amended by substituting the expression "6 months" with "10 months".

4.3 Clause 13.3(a)(1) of the Joint Form is amended by substituting the expression "6 months ... from the Planning Commission" with "15 months after the Contract Date"

4.4 Clause 13.3(a)(2) of the Joint Form is amended by substituting the expression "within 3 months, accordance with subclause (1)" with "within 18 months after the Contract Date".

4.5 Clause 13.9 (b)(1)(2) of the Joint Form is deleted and substituted with the clause:

***"Settlement shall be effected on or before 14 days after the service of a notice by the Seller to the Buyer that the titles have been issued by Landgate."***

4.6 Clause 15 of the Joint Form is deleted and substituted with the clause:

*"The Property is believed and will be taken to be accurately described. No error, omission or mis-description of the Property will annul the sale or entitle the Buyer to any compensation or abatement of the purchase price."*

4.7 Clause 18.2 of the Joint Form is deleted and substituted with the following clause:

***"The Purchase Price is inclusive of GST, any GST payable by the Seller will be calculated using the "Margin Scheme" as per the New Tax System (Goods and Services Tax) Act 1999."***

4.8 Clause 24.7 of the Joint Form is hereby deleted.

4.9 Clause 15.3 of the Joint Form is hereby deleted.

#### 5. **WAPC CONDITIONS OF SUBDIVISION**

If the WAPC grants approval for the subdivision of the Property from the Land, or part of that Land, subject to a condition, or if any other matter arises, on the subdivision that makes the subdivision of the Land or the Property un-viable in the sole opinion of the Seller; or that the Seller is unwilling, in its complete discretion, to comply with: the Seller may terminate this Contract at any time thereafter by refunding the Deposit and giving notice to the Buyer, after which time the Buyer shall have no claim or right of action against the Seller arising from such termination.

#### 6. **NO WARRANTIES OR REPRESENTATIONS**

Each Party acknowledges that in entering this Contract, it has not relied on any representations or warranties about its subject matter except as previously provided by the written terms of this Contract. Further, the Buyer shall be taken to have satisfied itself in respect of all conditions relating to the Land.

#### 7. **ENCUMBRANCES**

7.1 The Property is sold subject to all easements, restrictive covenants, rights, reservations and conditions, Title Notifications and Crown Reservations which are or will be contained in the Certificate of Title or Crown Grant of the Property as at the settlement date. Further, the Property is sold subject to all claims, demands, conditions (including building conditions) or restrictions whatsoever imposed or made on the Property by any local or public authority. In addition, should the Property become subject to a "maintenance of public open space levy", they shall be liable for such levy and hereby acknowledge that, should this levy be imposed, that they have no right to terminate the Contract, or seek compensation from the Seller or its agents.

- 7.2 The Buyer hereby acknowledges that, should any Encumbrance contained within this clause 7, be place over the Land, the Buyer shall have no right whatsoever to terminate the Contract, or claim compensation whatsoever, and nor shall he have any claim, right or legal action against the Seller at law.

## ANNEXURE C

### **Restrictive Covenants**

*"The registered proprietor hereby covenants:*

- (1) *Not to construct, erect or install or permit to be constructed, erected or installed on the Lot without the prior written approval of the Seller:*
  - (a) *Any dwelling having a roof pitch of less than 20 degrees, or any dwelling with a roof constructed of zincalume or any other significantly reflective material;*
  - (b) *Any dwelling house without, at the same time providing a carport or enclosed garage for not less than one motor vehicles, parked side by side, which:*
    - (i) *Includes a driveway and cross-over constructed of brick paving or coloured concrete and extending to the road kerb in the same material;*
  - (c) *Any fence forward of the front building line of the dwelling house or any fence to the front boundary facing the street;*
  - (d) *Any hot water heater, clothes line, satellite or cable dish, or rainwater tank except in accordance with the manufacturer's instructions and which is hidden from public view; and*
  - (e) *Any air conditioner or evaporative cooler except in accordance with the manufacturer's instructions and which is of a similar colour to the roof.*
- (2) *Not to park or allow to be parked on the Lot or on the road reserve next to or adjacent to the Lot any commercial vehicles including trucks, utilities, caravans, boats, trailers, or any other mobile machinery ("**Commercial Vehicles**") unless such Commercial Vehicles are housed or contained wholly within the Lot and are hidden from public view.*
- (3) *Not to conduct or permit to be conducted any repairs or restorations of any motor vehicle, boat, trailer or any other vehicle, on the Lot or any part other than wholly within a garage on the Lot or any part thereof;*
- (4) *Not to allow the front yard and verge abutting the Lot to become overgrown or invaded by weeds or to fall into a state of disrepair or damage any trees planted on the verge abutting the Lot;*
- (5) *Not to erect or display on the Lot any sign hoarding or advertising of any description whatsoever, except for professional signage advertising the sale or lease of a fully completed dwelling house constructed on the Lot or advertising a business operating from the Lot, provided such sign does not exceed 500mm by 500mm in its dimensions. Any sign or advertising material erected or displayed on the Lot in breach of this covenant may be removed without notice by the Seller.*
- (6) *Not to permit or authorise any part of a residence constructed on the Lot to be used in any way directly or indirectly for any retail, business, commercial or non-residential purpose other than a business purpose which is quiet and unobtrusive and which does not in any way detract from the general amenity of the Lot;*
- (7) *Not to subdivide the Lot to create two or more lots.*

The above covenants shall endure for the benefit of and run at law and in equity with every allotment on the plan of subdivision of which the Lot forms part until **31 December 2012** to the extent that the same shall bind the registered proprietor, its transferees, executors, administrators, successors in title and assigns for the benefit of the registered proprietor or proprietors of the remainder of the lots comprised in the said plan of subdivision or any part or parts thereof."

**Acknowledgements**

Where a registered builder or his representative has referred the Buyer to the land, then following settlement, a fee may be paid by the Seller to the referee and the Buyer, by his execution hereof, assents to that fee being paid.

**INCENTIVES**

**FENCING**

7.3 Should the Buyer complete the construction of the residence on the Property within 18 months of the Settlement Date, to the Seller's satisfaction, the Seller shall procure for the Buyer the provision and erection, by a contractor or contractors nominated by the Seller, of boundary fencing at the Property at a nominal height of 1.8 metres provided that the Buyer contacts the Seller's fencing contractor by post or fax 3 weeks prior to the completion of their residence.

**LANDSCAPING ALLOWANCE**

**A rebate of \$1,500** shall be paid to the Buyer/s upon successful settlement to assist with Landscaping to the front garden of the afore mentioned property

**BUYER..... BUYER.....**

**WITNESS..... DATE ...../...../2009**

**SELLER/S.....**

**WITNESS ..... DATE ...../...../ 2009**