

## Annexure Schedule

### TRANSFER

#### **Continuation of Estate or Interest or Easement to be created**

The Transferor when registered proprietor of the land formerly contained in Certificates of Title 8/97 and 480/79 subdivided such land into residential lots in the manner shown and defined on Deposited Plans 84875, 84876 and 84877 AND WHEREAS it is the Transferor's intention to create for the benefit of the Estate Home Lots the land covenants set out in Schedule A over the Land TO THE INTENT that the Land shall be bound by the stipulations and restrictions set out in Schedule A and that the Transferor and the owners and occupiers for the time being of the Estate Home Lots may enforce the observance of such stipulations against the owners for the time being of the Land AND AS INCIDENTAL to the transfer of the fee simple so as to bind the Land and for the benefit of the Transferor and the respective owners of the Estate Home Lots the Transferee DOES HEREBY COVENANT AND AGREE in the manner set out in Schedule A so that the covenants run with the Land for the benefit of the Transferor and the respective owners of the Estate Home Lots.

#### **SCHEDULE A**

#### **1 CONSTRUCTION AND DEFINITION SECTION**

**(a) Headings**

Headings appear as a matter of convenience and are not to affect the interpretation of this agreement;

**(b) Corresponding meanings**

where a word or expression is defined in this Transfer, other parts of speech and grammatical forms of that word or expression have corresponding meanings;

**(c) Singular and plural**

where the context so requires, words importing the singular shall include the plural and vice versa, and words importing the masculine, feminine and neuter shall include all three;

**(d) Clauses and Schedules**

references to clauses are to clauses of this Transfer;

**(e) Changes in legislation**

a reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for that enactment or those regulations;

**(f) New Zealand currency**

references to monetary amounts are to New Zealand currency;

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- (g) **Meaning of writing**  
references to "written" or "in writing" include all modes of presenting or reproducing words, figures and symbols in a tangible and permanently visible form;
- (h) **Contracts (Privity) Act**  
notwithstanding that there may be no privity of contract existing between the Transferee and the registered proprietors of the Estate Home lots nevertheless such third parties shall have the right to enforce the covenants and indemnities in this Transfer;
- (i) **"Design Team"** means those persons appointed from time to time as more particularly defined in Memorandum of Encumbrance ;
- (j) **"Estate Homes"** means the residential dwellings erected on the residential lots established on the Wharekauhau Country Estate;
- (k) **"Estate Home Lots"** means all the lots showing on Deposited Plans 84875, 84876 and 84877 excluding the Land;
- (l) **"the Land"** means all the land in Certificate of Title 52B/7Q3
- (m) **"the Manager"** means the person from time to time appointed manager of Wharekauhau Lodge or his or her nominee;
- (n) **"Wharekauhau Country Estate"** means the area designated within the existing Wharekauhau Sheep Station comprising Wharekauhau Lodge, Cottages and Estate Homes with surrounding amenities and conservation areas;
- (o) **"Wharekauhau Lodge"** means the lodge established within the Wharekauhau Country Estate and any replacement lodge so established to provide catering and other services to Estate Home Owners, guests and invitees to the Wharekauhau Country Estate.
- 2 **Land Covenants to enure:** The Transferee for itself and its successors in title covenants and agrees with the Transferor and its successors in title for the benefit of each and all of the Estate Home Lots and also separately with each and all of the registered proprietors of the Estate Home Lots to always observe and perform all of the agreements, stipulations, restrictions and covenants set out in clauses 3 to 14 inclusive below to the intent that they shall forever enure to benefit the Wharekauhau Country Estate but the Transferee shall only be liable for breaches of such agreements, stipulations, restrictions and covenants while the Transferee remains as registered proprietor of the Land.



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- 3 **Objectives:** The Transferee acknowledges and accepts the objectives of Wharekauhau Country Estate and shall raise no objection to the objectives nor do or permit anything to be done while in occupation which would derogate from the objectives. For the purposes of this clause the objectives of Wharekauhau Country Estate mean:
- The wise use and management of the Wharekauhau Country Estate including Wharekauhau Lodge;
  - Acceptance of the integrity of the Wharekauhau Country Estate development as a harmonious farming, conservation and tourist development;
  - To promote the development of Wharekauhau Lodge and high quality residential accommodation in Estate Homes;
  - To respect the farming operations and conservation values which are integral to the Wharekauhau Country Estate;
  - To respect the privacy of all residents and guests within the Wharekauhau Country Estate and to prevent or minimise noise levels;
  - To acknowledge and abide by the terms and conditions of any conservation plan and the Wharekauhau Tourist Park District Plan and conditions set out in any resource consent held for the Wharekauhau Country Estate.
- 4 **Building line restriction:** The Transferee shall not construct any building works within cliff faces, flood-prone areas or where natural drainage flows are likely to be affected or where conservation values are likely to be compromised. As a minimum requirement no building works shall be constructed within 50 metres of any cliff face or 30 metres of the Wharekauhau and Wharepapa Streams or in any other position which may interfere with natural drainage flows unless specific design is undertaken to avoid any adverse impact and such design is approved by the Design Team and the District and Regional Councils.
- 5 **One Estate Home only:** The Transferee shall be entitled to construct one Estate Home dwelling together with accessory buildings on the Land but site coverage within the Land shall not exceed 35% for such dwellings and accessory buildings.
- 6 **Floor area size of Estate Homes:** No Estate Home on the Land shall be less than 1500 sq feet in floor area size of living space excluding any accessory buildings and car parking, garage or carport areas;

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- 7 **Prior Approval of Design Team required:** The Transferee shall not erect or permit to be erected any building, fence, structure, telecommunication apparatus or other improvement nor undertake any landscaping without the written approval of the Design Team.
- 8 **No carports:** The Transferee shall not construct or be permitted to construct a carport of whatsoever kind but must construct a garage which holds at least one vehicle or ensure if there is no garage that any parked vehicle is concealed from sight.
- 9 **Design Team compliance:** Any building works shall require prior written approval from the Design Team before any construction is commenced and in any event shall at all times comply with the following minimum requirements:
  - 9.0.1 comply with guidelines issued from time to time by the Design Team on architectural design, dimensions and shape and orientation of building structures in relationship to Wharekauhau Lodge and the Design Team preferred Estate Home locations throughout the Wharekauhau Country Estate;
  - 9.0.2 utilise forms, materials and colours appropriate to the landscape and in harmony with all other building structures developed or proposed for development in accordance with design guidelines issued from time to time by the Design Team;
  - 9.0.3 only use quality products and materials first approved by the Design Team in any approved design of construction;
  - 9.0.4 adopt design features in relation to energy efficiency, privacy, shelter, raised floors and the use of tall wall stand heights promoted by the Design Team or otherwise as set out in the District Plan from time to time;
  - 9.0.5 produce to the Design Team for approval landscape plans and specifications of the home dwelling and improvements to be constructed containing adequate and proper detail not less than 60 days prior to commencement of any construction and in any event not commence construction unless written consent of the Design Team is obtained and a building consent from the territorial authority is obtained.
- 10 **Landscape plan to be approved:** The Transferee must submit to the Design Team a landscape design for the Land for prior approval of the Design Team whose written consent must be obtained before any landscape works commence and such landscape design must conform to design guidelines produced by the Design Team from time to time and in particular but without limitation:



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- 10.0.1 not permit or allow any tree, shrub or plant to exceed any specified height limit imposed by either the Design Team or through the District Plan of the South Wairarapa District Council or any successor body to such Council;
  - 10.0.2 the Transferee shall not allow or permit any existing significant tree to be cut, lopped or removed without the written approval of the Design Team;
  - 10.0.3 not permit or allow any areas of base clay or earth to be permanently exposed;
  - 10.0.4 only install paving and fencing which complies with design guidelines issued from time to time by the Design Team;
  - 10.0.5 ensure that any retaining walls and exposed banks will be planted in grass or shrubs.
- 11 **No caravans etc:** The Transferee shall not erect or permit or suffer to be erected or placed on the Land any caravan, hut, tent or shed of any kind either permanent or temporary other than temporary works sheds during construction of any building works which must be removed on practical completion of building works.
- 12 **Covenants for benefit of all owners:** The Transferee will at all times observe and perform all the covenants contained in this Transfer to the intent that each of the covenants will forever enure for the benefit of and be appurtenant to each and all of the Estate Home Lots and each and all of the registered proprietors of the Estate Home Lots provided that the Transferee will be liable only for breaches of the covenants contained in this Transfer which occur whilst the Transferee is the registered proprietor of the Land or any part of the Land.
- 13 **Breach of covenants:** Unless the Design Team has given written approval in any particular case to the contrary if there should be any breach or non-observance on the Transferee's part of any of the covenants contained in this Transfer and without prejudice to any other liability which the Transferee may have to the Transferor and any person or persons having the benefit of those covenants the Transferee will upon written demand being made by the Transferor or the Manager on behalf of the Transferor and/or any of the registered proprietors of any of the Estate Homes Lots:
- 13.1 pay to the Transferor or the Manager making such demand as liquidated damages the sum of \$100 per day; and/or

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- 13.2 upon receiving reasonable notice from the Transferor or the Manager remedy any breach if capable of remedy on terms and conditions imposed by the Transferor or the Manager which may involve being required to remove any structure or building material which breaches the terms of the covenants set out in this Transfer; and/or
- 13.3 allow the Transferor or the Manager the right to lodge a caveat against the Land to protect the sum of any unpaid debt owing to the Transferor or any registered proprietors of the Estate Home Lots claiming the benefit under this clause on the basis that any unpaid debt shall be deemed to constitute a contractual charge over the Land owing to the Transferor or any named registered proprietors of the Estate Home Lots until such time that any debt is fully discharged or otherwise satisfied.
- 14 **Indemnity:** The Transferee will at all times indemnify and keep the Transferor and the registered proprietors of the Estate Home Lots indemnified from all losses, costs, c and demands including from any fines or penalties involved as a result of any statutory breach by the Transferee in respect of any breach or non-observance by the Transferee of the covenants contained in this Transfer.
- 15 **No contribution to fencing:** The Transferee will not call upon the Transferor to pay for or contribute towards the cost of erection or maintenance of any boundary fence between the Land and any adjoining land of the Transferor and provided further that this covenant will enure for the benefit of any subsequent registered proprietor of any adjoining land.

AND in consideration of the above covenants the Transferor covenants and agrees with the Transferee to obtain from each and every transferee of each of the Home Estate Lots covenants in the same form as those set out in this Transfer.