

BUILDING COVENANT

This Deed is made this _____ day of _____ 20____.

Between: _____

 (“the Buyer”)

And: Roberts Bros Holdings Pty Ltd as trustee (“the Seller”)

Background: -

- A. The Seller is the owner of a land subdivision (“the Development”) of which the lot _____ on SP _____, the subject of the Contract between the Seller and the Buyer (“the Land”) forms part.
- B. The Seller intends that the Development be a modern, attractive and a well-designed residential estate. To this end has decided that it is desirable that control be exercised by the Seller in relation to the nature and type of construction to be erected within the Development. This is to help maintain the value of every residents property.
- C. The Seller has agreed to sell the Land to the Buyer on the condition that the Buyer enters into this Deed of Covenant.

The Buyer agrees and covenants with the Seller that: -

- 1. Dwelling House
 - 1.1 The Buyer will not erect on the Land any dwelling house, which has not been approved by the Seller in accordance with Clause 3 hereof.
 - 1.2 Total floor area of the dwelling house including garage, to be no less than 220_{m2}
 - 1.3 A garage can be separate from the house providing the walls are built of the same materials as the dwelling house.
 - 1.4 No external walls of a dwelling will be constructed of materials other than brick, rendered painted masonry, coloured or rendered split blocks, cladding or such other materials as may be approved in writing by the Seller. Plain block work is expressly prohibited to any external surface.
 - 1.5 No roof of a dwelling will be constructed of non-reflective roofing materials other than colourbond sheeting, decrabond material or clay, terracotta, quality concrete tiles or such other materials as may be approved in writing by the Seller. Unpainted galvanised iron, silver and zinc are expressly prohibited as roofing materials.

- 1.6 If the floor level of the dwelling house is above ground level (high set), then the area between the floor and the ground is to be enclosed.
- 1.7 No dwelling house will be erected on the Land of second hand materials or be a removal house. Re-sited on the Land after having first been built elsewhere.
- 1.8 The Buyer will ensure that construction of the residence takes place in a continuous manner and will complete in a reasonable amount of time.

2. Ancillary Structures

- 2.1 No detached or ancillary buildings are to be erected on the Land prior to the construction of the main dwelling house. Without prior written approval from the Seller.
- 2.2 Ancillary structures, such as sheds or lawn lockers, should be constructed of colourbond, brick, coloured or rendered split block, or other materials as may be approved in writing by the Seller. Unpainted galvanised iron, silver and zinc are expressly prohibited as construction materials.
- 2.3 Roofing of ancillary structures will be constructed of colourbond sheeting, decrabond material, clay, terracotta, quality concrete tiles or such other materials as may be approved in writing by the Seller. Unpainted galvanised iron, silver and zinc are expressly prohibited as roofing materials.
- 2.4 No ancillary structures will be erected on the Land of second hand materials or be re-sited on the land after having first been built or substantially built elsewhere.

3. Approvals

- 3.1 The Buyer will submit to the Seller or the Seller's nominee, a plan of any dwelling house or ancillary building for the Seller's approval, to ensure compliance with these covenants. The Seller is entitled to have such plans inspected by an architect at the cost of the Seller, and has the right of veto over the said plans.
- 3.2 The Buyer acknowledges and agrees that it must obtain the relevant approval from all government authorities. Providing however that in the event the approval from the government authority causes a variation to the prior approval of the Seller, the Buyer will not commence building works until it obtains approval for that variation from the Seller.
- 3.3 The Buyer will carry out all building works in accordance with the approval of the relevant local authority and the Seller at all times.

4. Building Works Generally

- 4.1 All building construction on the property must be carried out in a good and workmanlike manner in accordance with the building trade best practice standards.
- 4.2 All external surfaces of both the dwelling house and any ancillary structure must be of a neutral, conservative or tasteful shade of colour.

5. Fences

- 5.1 Boundary fences are not to be constructed of any second-hand or sub-standard materials or painted or unpainted corrugated iron sheeting, lapped timber, colourbond sheeting or concrete blocks.
- 5.2 Fencing cannot exceed 1.8 metres in height above the finished ground level approved under the operational works.
- 5.3 Fencing that is to be installed along or adjacent to a retaining wall must be approved pursuant to clause 6 of this Deed.
- 5.4 Notwithstanding anything to the contrary in the Neighborhood Disputes (Dividing Fences & Trees) Act 2011, the Seller will not be bound and the Buyer must not make any claim to contribute to the construction of any dividing fence between the land and adjoining land owned by the Seller.

6. Retaining Walls (where applicable)

- 6.1 Retaining walls that are to be constructed within one metre of the boundary of the Land, the Buyer should submit details, plans and specifications, of any proposed retaining wall and adjoining fence to the Seller or their nominee to ensure that the retaining wall is safe and fit for purpose.

7. Driveways

- 7.1 The driveways should be constructed of exposed aggregate, concrete, asphalt or gravel road base preferably from the curb.

8. Landscaping

- 8.1 The Buyer should turf or landscape all exposed dirt within a reasonable period of time after occupying the dwelling house. If the property is in a constant unmaintained state or is visually unattractive to other residents the Seller will act.
- 8.2 Any Street Trees damaged or removed without written permission from the Seller, must be replaced with a new tree of the same size, variety and species at the Buyer's cost.

9. Waste, Utilities and Services

- 9.1 Garbage bins and household rubbish should be screened from view from when stored.
- 9.2 Water storage tanks can be constructed below the ground or above ground, but if they are above ground, they should be located towards the rear of the dwelling house. If the water storage tanks are visible from the road the Buyer should screen them with fencing or shrubs to reduce their visibility.

10. Temporary Accommodation

- 10.1 No temporary dwelling, outbuilding, caravan, tent, shed, shipping container or other form of temporary accommodation can be placed on the Land prior to completion of a dwelling without the written consent of the Seller.
- 10.2 The Buyer must not reside in the dwelling house until it has been completed and is fit for occupation and has been handed over by the builder.

11. Temporary Structures

- 11.1 No temporary, partial or re-locatable building or structure (including a mobile home, caravan or shipping container) may be placed, parked or erected on the Land, or any temporary structure prior to building.

12. Signage

- 12.1 The Buyer must not erect nor permit to be erected on the Land any advertisement, hoarding or sign of any description without the prior written consent of the Seller.
- 12.2 A single standard size builder's sign (where the dwelling house is under construction) or a single real estate agent's sign (where the property is for sale) is exempt from this clause.

13. Property Condition

- 13.1 The Buyer will maintain the Lot in a neat and tidy condition and will not allow rubbish to accumulate or grass and weeds to grow uncontrolled.
- 13.2 If the Buyer fails to comply with this requirement the Seller may direct the Buyer to remove the same within seven (7) days of the date of such notification failing which the Seller may enter upon the land for the purpose of tidying the land and removing the rubbish and any costs incurred by the Seller pursuant to this clause shall be paid by the Buyer to the Seller. The Seller may recover this expense from the Buyer as a liquidated debt.
- 13.3 Any unserviceable or unregistered motor vehicle, trailer, caravan, boat or like items (including parts thereof) must not be stored on the land unless wholly garaged in a structure which complies with the provisions of these covenants.

13.4 Should the Buyer, its Builder, its Builder's subcontractors, its agents, and/or invitees damage in any way the infrastructure, services and land maintained by the Seller within the Development, including but not limited to electricity, water, telephone, NBN and sewerage services, street lights, roads, footpaths, street trees, curb and channeling then the Buyer shall indemnify and pay to the Seller the cost of repairing or replacing same as maybe necessary. This clause is not a representation or warranty by the Seller that such services and infrastructure are being provided.

14. Commercial Use

14.1 No business or industry or commercial undertaking of any kind is to be conducted on the Land without the consent of the Seller and the Regional Council except for home based businesses that are self-assessable.

15. Variations and Enforcement of Covenants

15.1 The Seller has the right to add, delete, relax or amend any of the Conditions set out in this Deed so far as they might apply to other land in the Estate or in any future development by the Seller. Neither the Buyer nor their assigns have any claim whatsoever against the Seller arising out of such variation.

15.2 The Seller may, in its sole discretion, elect not to enforce any of the Conditions set out in this Deed, and the Buyer nor their assigns will not have any claim whatsoever against the Seller arising out of such waiver.

16. Seller Released from Claims

16.1 The Buyer releases and discharges the Seller from any claim of any nature whatsoever against the Seller of its discretion pursuant to these covenants or pursuant to the terms of the Contract entered into between the Seller and the Buyer.

17. Default

17.1 It is agreed between the Buyer and the Seller that if and whenever the Buyer defaults under these covenants then the Seller, without prejudice to its other rights, remedies and powers, is at liberty to enter upon the land to remove any structure, article or material contravening the covenants or to perform such work as necessary or expedient for the purpose of effecting compliance with these covenants and to recover the costs thereof from the Buyer, including the cost of storage and disposal.

18. Merger

18.1 These Conditions shall not in any respect merge in, or be extinguished by the transfer of the Land to the Buyer or any subsequent transfer of the Land from and to any other party.

19. Assignment

- 19.1 The Buyer must not sell or transfer the whole or any part of their interest in the Land without having first obtained from their Buyer or transferee a covenant in favor of the Seller or the Seller's nominee, whereby such Buyer or transferee agrees to be bound by these conditions contained in this clause as if an original Buyer hereunder and when such Buyer or transferee will have delivered to the Seller the appropriate Deed of Covenant, the obligations of the Buyer hereunder will then cease.
- 19.2 Such Deed of Covenant will be prepared by and at the expense of the Buyer.
- 19.3 The Buyer agrees to indemnify and keep indemnified the Seller against any loss, damage or other consequence detrimental to the Seller resulting from the failure of such Buyer or transferee to comply with the provisions of these covenants.

20. Section 53 of the Property Law Act

- 20.1 The parties acknowledge that pursuant to the provisions of Section 53 of the Property Law Act 1974 (as amended), the Buyer has entered into the covenants of this Deed on behalf of itself, its successors in title and the persons deriving title under it and these covenants shall be effected as if those persons were specifically named as the Buyer in this deed.

21. Severance

- 21.1 Any covenant herein that is invalid or void will be severed from this Deed and the remainder of the Deed will remain enforceable.

22. Governing Law

- 22.1 This Deed is to be construed and take effect in accordance with and the rights and obligations of the parties under this Deed shall be governed by the laws of the State of Queensland. Each of the parties submit to the jurisdiction of the Courts of that State including Courts of appeal from those Courts.

23. Interpretation

- 23.1 In these covenants the following terms (in both the singular and plural forms) will have the following respective meanings assigned to them: -

“**Covenants**” means all of the clauses and covenants contained in these residential covenants;

“**Dwelling house**” means a single unit private dwelling or residence as set out herein;

“**Improvements**” means and includes a dwelling house, residence and any other structure or thing on the land and any works comprising excavations for or construction (whether by way of addition, extension or renovation) or any building, structure, dwelling house, garage, verandah, pergola, fence (including retaining walls), screen, swimming pools, spa bath (including in

respect of such pool and spa any filtration system and any other plant and equipment related thereto), landscaping or similar works.

“**Land**” means the land described in the Contract to which these covenants are attached.

“**Property**” means the land and all and any improvements thereon.

“**Residence**” means dwelling house and incorporated garage as set out herein.

24. Executed as a Deed

24.1 For the purposes of these covenants the parties agree that this Contract and these covenants have been signed and delivered as a Deed.

IN WITNESS WHEREOF the parties hereto have executed these presents the day and year first hereinbefore written.

Executed as a Deed by as Seller Roberts Bros Holdings Pty Ltd

Signature: _____
Director

Signed sealed and delivered as a Deed by _____)

_____ as Buyer in the) _____
presence of: _____)

Witness (who warrants that he is not a party to this deed or named herein)

Full name of Witness

Full address of Witness

Signed sealed and delivered as a Deed by _____)

_____ as Buyer in the) _____
presence of: _____)

Witness (who warrants that he is not a party to this deed or named herein)

Full name of Witness

Full address of Witness

Building Checklist

Allotment Details

Lot No _____
Street _____
Buyer's Name _____
Address _____
Phone number _____
Email _____

House Details

Exterior Wall Material/ Finish _____
Roof Material / Colour _____
Driveway Material/Style _____
Shed Material/Style _____

Builders Details

Name _____
Address _____
Phone No _____
Email _____

Plans Enclosed

Site Plan _____
Elevation _____
Floor Plans _____
Driveway _____

Post to:

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