**TERM SHEET FOR**

**SALE AND DEVELOPMENT AGREEMENT –**

**[NAME] DEVELOPMENT – [STAGE #] SUPER LOTS**

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 202[x]

*The purpose of this Term Sheet is to set out a summary of the key commercial terms that will form the basis of a Sale and Development Agreement for the Super Lot(s) described in this Term Sheet.*

*The parties agree and understand:*

* *that in consideration of the time and expense required to negotiate this document, the Confidentiality and Development Agreement Negotiation provisions of this Term Sheet will be binding;*
* *no other legally binding obligations will be created until a Sale and Development Agreement is executed by all parties;*
* *this Term Sheet should be read, understood and entered into with consideration given to the underlying terms of the Agreement Template, noting not all terms are summarised below.*
* *clause references in this Term Sheet correspond to the clauses in the Agreement Template. If required, please refer to those clauses to ensure you set out a fully considered proposal;*
* *capitalised terms used in this Term Sheet have the meaning given to them in the Agreement Template unless otherwise specified; and*
* *in this Term Sheet “Agreement Template” means the Sale and Development Agreement Template prepared by Kāinga Ora for this development opportunity and “Agreement” means a Sale and Development Agreement to be entered into by the parties prepared in accordance with the terms of this Term Sheet and the Agreement Template.*

*Please note, the use of [square brackets] around text means that:*

* *the requested details need to be inserted;*
* *there are different options for you to consider within a clause; or*
* *the whole clause/wording is optional and you need to consider whether to include it or amend it, based on the circumstances.*

*Before finalising this Term Sheet, please check for all square brackets to ensure you have considered the relevant option and ensure that all square brackets have been deleted.*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Parties** | | | | |
| **Housing New Zealand Build Limited**  **(“HNZ Build”):** | HNZ Build is a wholly owned subsidiary of Kāinga Ora-Homes and Communities (established under the Kāinga Ora-Homes and Communities Act 2019) and, as a result, is a Crown entity for the purposes of the Crown Entities Act 2004. | | | |
| **Developer:** | Name: [ ]  Company number: [ ] | | | |
| **Developer’s GST number:** | [ ] | | | |
| **Land** | | | | |
| **[Land:]** | [insert if Super Lot Subdivision still required].  Address: [insert address of the land to be subdivided into super lots]  Legal Description: [insert the legal description of the land that is to be subdivided into super lots i.e. Lot, DP, and title] | | | |
| **Super Lot[s]:** | Legal Description: [UDD reference] [area]m2 more or less described [as Lot [lot no.] DP [DP reference]] [OR] [in the table below] [being part of the Land] and being part of the Development [as marked on the Master Plan].   |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | | UDD Ref | Area | Lot | DP | Title | Address | |  | m2 more or less |  |  | to issue |  | |  | m2 more or less |  |  |  |  | |  | m2 more or less |  |  |  |  | | | | |
| **Payments** | | | | |
| **Purchase Price:**  ***(Refer clause 13)*** | [insert] plus GST (if any) (calculated at $[ ] per square metre plus GST (if any))  Date[s] for payment of balance of purchase price: [In accordance with ADLS general terms 3.8] [Option 1 (Standard)][   ] day of [     ] with part payments made on the earlier sale of any Homes (calculated based on the number of Homes sales settled as a proportion of the total number of Homes), to be paid to HNZ Build in line with clause 13.2] [Option 2 (Bespoke)] [*insert bespoke regime for staggered payment*]; | | | |
| **Deposit:**  ***(Refer clause 12.8)*** | An amount equal to 10% of the Purchase Price  Date[s] for payment: [insert] | | | |
| **Marketing Contribution:**  ***(Refer clause 26.3)*** | $30,000 plus GST per annum [per Super Lot]. | | | |
| **Traffic and Community Engagement Management Contribution:**  ***(Refer clause 16.4)*** | [$50,000 plus GST]  [$50,000 plus GST per annum]. | | | |
| **Milestones** | | | | |
| **Milestones and Milestone Dates:**  ***(Refer clause 17)*** | **Milestones** | | | **Milestone Dates** |
| **Milestone 1:** The floor slab of the first Home on [the Super Lot / a Super Lot / Super Lot X etc] has been laid. | | | 60 days after the Occupation Date for a Super Lot |
| **Milestone 2:** Practical Completion of all of the Homes on [the Super Lot] [each of the Super Lots]OR[[Super Lot 1] [Super Lot 2] [Super Lot 3]]. | | | [insert] [  ] months after the date of this Agreement] |
| [insert and other (if any)] | | | [insert] |
| **Conditions** | | | | |
| **Conditions:**  *(Refer clause2)* | **Condition** | | | **Date for Satisfaction** |
| Kāinga Ora Approval Condition | | | [ [20] Working Days after the date of the Agreement]. |
| Developer Board Approval Condition | | | [20 Working Days after the date of the Agreement.] |
| Developer Suitability Condition | | | [20 Working Days after the date of the Agreement] |
| Due Diligence Condition | | | [20 Working Days after the date of the Agreement] |
| Resource Consent Condition  [for Super Lot [    ]] | | | [insert]  **Look Forward Date:** [[insert][N/A]] |
| Land Use Consent Condition  [for Super Lot [ ]] | | | [insert]  Look Forward Date  [[insert][N/A]] |
| Construction Start Condition | | | The relevant Milestone Date  **Look Forward Date:** [[insert][N/A]] |
| KiwiBuild Agreement Condition | | | [60 Working Days after the date of the Agreement] |
| Finance Condition | | | [20] Working Days after the date of the Agreement. |
| OIO Condition | | | [insert] |
| [insert] | | | [insert] |
| **Settlement Date[s]:** | ***[Option 1 – To be used when the purchase price is paid in full on the settlement date and no early access has been given so no licence is required]***  [In respect of each Super Lot, the][The] date 10 Working Days after the later of:   * the date that HNZ Build advises the Developer that a record of title for the [relevant] Super Lot has issued from LINZ; * all Conditions have been satisfied or (if applicable) waived; and * the works described in clause 8.1 [and relating to the relevant Super Lot] have reached practical completion (as certified by HNZ Build’s project manager).]   ***[Option 2 – To be used when the purchase price is paid in full on the settlement date and early access is given]***  [In respect of each Super Lot the][The] later of:   * 10 Working Days after the later of:   + the date that HNZ Build advises the Developer that a record of title for the [relevant] Super Lot has issued from LINZ;   + all Conditions have been satisfied or (if applicable) waived; and   + the works described in clause 8.1 [and relating to the relevant Super Lot] have reached practical completion (as certified by HNZ Build’s project manager); and * [X] months after the Occupation Date [of the relevant Super Lot].]   ***[Option 3 –To be used when the purchase price is not being paid on the settlement date but the Developer gets possession from settlement date.***  *If you use this option, you will need to select which of these clauses also go into the agreement:*   * *Clause 13 which sets out when the purchase price is to be paid by reference to a specific long-stop date and a requirement to part pay the purchase price as sales to the End Purchaser are completed* * *Clause11 which requires a performance bond to be put in place to secure payment of the balance of the purchase price]*   [In respect of each Super Lot,] 10 Working Days after the later of:   * the date that HNZ Build advises the Developer that a record of title for the [relevant] Super Lot has issued from LINZ; * the Design Documents and the Project Plan have been approved by the Design Review Panel; * all Conditions have been satisfied or (if applicable) waived; and * the works described in clause 8.1 [and relating to the relevant Super Lot] have reached practical completion (as certified by HNZ Build’s project manager). | | | |
| **Licence Commencement Date** | 10 Working Days after the later of:   * satisfaction of the following Conditions [identify the conditions] * the date the works described in clause 8.1 [and relating to the relevant Super Lot] have reached practical completion (as certified by HNZ Build’s project manager) * the parties have executed and delivered a licence in the form set out in this Agreement. | | | |
| **Homes to be built by Developer** | | | | |
| **Total number of Homes on [the/each] Super Lot** | [[Super Lot 1] insert]  [[Super Lot 2] insert]  (Note: this includes the [Affordable Homes], [KiwiBuild Homes] and [Market Homes]) | | | |
| **Typologies** | | | | |
| **[Insert Typology subheadings]** | [Super Lot] description. | | | |
| **[Affordable Homes**  ***(Refer clause 19)]*** | | | | |
| **Applicable Affordable Home deliverables** | [Build-to-Rent]  [Shared Equity]  *[Rather than having a separate box, each of these "affordable deliverables" is to be an option that may be chosen. More than one might be chosen. If an option is chosen the document should generate a table like the one created for KiwiBuild but instead headed "Build to Rent" etc. It should also populate a schedule to the agreement for each of the options chosen and a definition. The provisions to go in the schedule won't be in this document but imported from a library.]* | | | |
| **[KiwiBuild**  ***(Refer clause 20)]*** | | | | |
| **[KiwiBuild Homes:]** | **[Type]** | **[Quantity]** | | **[Price Cap]** |
| [One (including studio and one + study)] | [insert] | | [insert] (including GST (if any) |
| [Two] | [insert] | | [insert] (including GST (if any) |
| [Three (or more)] | [insert] | | [insert] (including GST (if any) |
| **Revenue Share**  ***(Refer clause 12.11)]*** | | | | |
| **Revenue Share:** | [insert]% | | | |
| **Agreed Prices:** | **Type of [Market] Home** | | **Market Price** | |
| [One (including studio and one + study)] | | [insert] | |
| [Two] | | [insert] | |
| [Three] | | [insert] | |
| [Four or more] | | [insert] | |
| **Other Details** | | | | |
| **HNZ Build Address for Notices:** | [Floor 5, 7 Waterloo Quay, Pipitea, Wellington, 6011]  [insert HNZ Build email] | | | |
| **HNZ Build’s GST No.:** | 125-981-623 | | | |
| **Developer's Address for Notices:** | [insertDeveloper's address]  [insertDeveloper's email] | | | |
| **Developer's GST No.:** | [insertDeveloper's GST No.] | | | |
| **Insurances:** | * **[Public Liability:** [$insert] for any one claim and [$insert] in aggregate] * **[Contract Works:** Full replacement value] * **[Professional Indemnity:** [$insert] for any one claim and [$insert] in aggregate]] * **[Motor Vehicle:** [$insert]] * **[Plant and machinery insurance:** [$insert]] | | | |
| **Developer's initial DPM Representatives:**  ***(Refer clause 1.1)*** | [insert the names occupations and contact details of up to 2 representatives] | | | |
| **HNZ Build initial DPM Representatives:**  ***(Refer clause 1.1)*** | [insert the names occupations and contact details of up to 2 representatives] | | | |
| **Developer's Senior Manager:**  ***(Refer clause 36.5)*** | [insert name, role/title and contact details] | | | |
| **HNZ Build Senior Manager:**  ***(Refer clause 36.5)*** | [insert name, role/title and contact details] | | | |
| Development Agreement Negotiation: | The parties agree to act in good faith towards one another and to use reasonable endeavours to enter into a Sale and Development Agreement within [30] working days of the date of this Term Sheet (“Drop Dead Date”). The Sale and Development Agreement will be prepared on the Agreement Template and amended in accordance with the terms of this Term Sheet. | | | |
| Drop Dead Date: | Notwithstanding any other right or remedy that the parties may have under this Term Sheet or at law, if for any reason a Sale and Development Agreement has not been entered into by both parties on or before the Drop Dead Date, then either party discontinue negotiations by giving written notice to the other. | | | |
| Costs: | Each party will bear its own costs and expenses in connection with their due diligence enquiries and the negotiation, preparation and implementation of this Term Sheet. | | | |
| Confidentiality: | This Term Sheet and all information and documentation exchanged by the parties in respect of this proposed transaction, both before and after signing this Term Sheet, will be confidential to the parties and their professional advisers (“Confidential information”). The Confidential Information will not be disclosed to any other person without the prior written agreement of the other party subject always to HNZ Build’s obligations to provide information to Ministers of Government, its parent entity and pursuant to any relevant legislation. | | | |
| Further Terms of Sale: | [insert (if any)] | | | |

**EXECUTION**

|  |  |  |
| --- | --- | --- |
| **SIGNED** on behalf of **HOUSING NEW ZEALAND BUILD LIMITED** by: |  | Signature of authorised signatory    Name of authorised signatory |

|  |  |  |
| --- | --- | --- |
| **SIGNED** on behalf of **[INSERT nAme]** as Developer by: |  | Signature of director/authorised signatory    Name of director/authorised signatory |