

BUILDING COVENANT

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

And South Pacific Bio Fuels Limited (“the Seller”) (“the Buyer”)

1. Background

- 1.1 The Seller is the owner of a land subdivision (“the Development”) of which the lot _____ on SP 0047, the subject of the Contract between the Seller and the Buyer (“the Land”), forms part.
- 1.2. The Seller intends that the Development be a modern, attractive and a well designed residential estate with a tropical vacation feeling. To this end the Seller 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.
- 1.3 The Seller has agreed to sell the Land to the Buyer on the condition that the Buyer enters into this Deed of Covenant.
- 1.4 The Malekula Palms Estate component of the strata plan lease, a Residential development, is subject to a building covenant that all materials used must be new and plans and specifications must be provided to the project manager for approval before application to Malampa Council Town Planning department. Building plans which include sea shipping containers will not be approved.

2. The Buyer agrees and covenants with the Seller

- 2.1 The Seller has agreed to sell the Land to the Buyer on the condition that the Buyer enters into this Deed of Covenant.

3. Dwelling House

- 3.1 The Buyer will not erect on the Land any dwelling house, which has not been approved by the Seller in accordance with Clause 4 hereof.
- 3.2 Total floor area of the dwelling house to be a minimum of 50 square metres so as to accommodate a holiday rental bungalow
- 3.3 No application to build using sea containers as the main part or part of the building or a separate free-standing accommodation is allowed on the land development portion.
- 5.4 Unpainted or uncovered galvanised iron, silver and zinc are expressly prohibited as roofing materials.

3.5 This covenant is to be included in the on-sale contract with any resale of the land lot

4. Approvals

4.1 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.

4.2 The Buyer acknowledges and agrees that it must obtain the relevant approval from all government authorities. 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.

4.3 The Buyer will carry out all building works in accordance with the approval of the relevant local authority and the Seller at all times.

4.4 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 and inhabited elsewhere.

4.5 The Buyer will ensure that construction of the residence takes place in a continuous manner and will complete in a reasonable amount of time.

5. Ancillary Structures

5.1 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.

5.2 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.

5.3 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.

6. Building Works Generally

6.1 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.

7. Fences

7.1 Boundary fences are not to be constructed of any second-hand or sub-standard materials or painted or unpainted corrugated iron sheeting, lapped timber, or colourbond sheeting.

7.2 Fencing cannot exceed 1.8 metres in height above the finished ground level approved under the operational works.

7.3 Fencing that is to be installed along or adjacent to a retaining wall must be approved pursuant to clause 6 of this Deed.

7.4 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.

8. Retaining Walls (where applicable)

8.1 Where retaining walls 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.

9. Waste, Utilities and Services

9.1 Garbage bins and household rubbish should be screened from view from when stored.

10. Property Condition

10.1 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.

10.2 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.

11. Variations and Enforcement of Covenants

11.1 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.

11.2 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.

12. Merger

12.1 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.

13. Assignment

13.1 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 favour 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.

13.2 Such Deed of Covenant will be prepared by and at the expense of the Buyer.

14. Governing Law

14.1 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 Republic of Vanuatu. Each of the parties submit to the jurisdiction of the Courts of that Country including Courts of appeal from those Courts.

15. Interpretation

15.1 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 this residential covenant;

“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 this covenant is attached.

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

“Residence” means dwelling house as set out herein.

16. As a Deed

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

Executed as a Deed by South Pacific BioFuels Ltd as Seller

Signature: _____
Director

Signed sealed and delivered as a Deed by Buyer 1

Signature: _____
(Buyer 1)

in the presence of _____
(Full name of Witness)

Full address of Witness _____

Witness signature: _____
who warrants that he is not a party to this deed or named herein.

Signed sealed and delivered as a Deed by Buyer 2

Signature: _____
(Buyer 2)

in the presence of _____
Full name of Witness

Full address of Witness _____

Witness signature: _____
who warrants that he is not a party to this deed or named herein.