

**BLANK INSTRUMENT FORM****Deed of Restrictive Covenant**

(Note 1)

THIS DEED is made the                      day of                      2016.

By:

**JARDIM HOLDINGS PTY LTD ACN 167 355 455** of care of RYA Pty Ltd, Level 2, 442 Murray Street, Perth, Western Australia ("Registered Proprietor").**RECITALS**

- A. The Registered Proprietor is the registered proprietor in fee simple of the Land.
- B. The Registered Proprietor intends to subdivide the Land into the lots shown on the Plan.
- C. Pursuant to section 136D of the *Transfer of Land Act, 1893* the Registered Proprietor requires each of the Burdened Lots to be encumbered with the Restrictive Covenant so that the Restrictive Covenant will be noted on the Plan and when separate certificates of title issue for the each Burdened Lots, the burden of the Restrictive Covenant will be noted as an encumbrance on the certificates of title for each Burdened Lots.

**OPERATIVE PART****1. DEFINITIONS AND INTERPRETATION****1.1 Definitions**

In this Deed, unless the context otherwise requires or a contrary intention appears:

**Benefited Lots** means the lots specified in item 3 of the Schedule and shown on the Plan.

**Burdened Lots** means the lots specified in item 2 of the Schedule and shown on the Plan.

**Design Guidelines** means 'The Sciano Heights' Design Guidelines published by the Registered Proprietor as amended from time to time.

**Land** means the land described in item 1 of the Schedule.

**Plan** means Deposited Plan 407332.

**Restrictive Covenant** means each of the restrictive covenants specified in clause 3 of this Deed.

**Schedule** means the Schedule to this Deed.

**1.2 Interpretation**

- (a) A reference to a person includes a reference to the person's personal representatives, executors, administrators, successors and assigns and a reference to a corporation includes a reference to the corporation's successors and assigns.

**2.1 Certificate of Title**

- (a) Each certificate of title which issues for a Burdened Lots shall be encumbered by the Restrictive Covenant.

- (b) The Restrictive Covenant of each Burdened Lots is for the benefit of the Benefited Lots.
- (c) Each certificate of title which issues for a Burdened Lots shall be encumbered by the Restrictive Covenant.
- (d) The Restrictive Covenant will bind the successors in title and the registered proprietors from time to time of each Burdened Lot and the Restrictive Covenant will benefit the successors in title and the registered proprietors from time to time of each Benefited Lots.

### **3. Restrictive Covenant**

The proprietors of each of the Burdened Lots covenants with the Registered Proprietor as follows:

#### **3.1 Land Use**

The proprietors of each of the Burdened Lots shall not use or permit the Burdened Lots to be used for any purpose other than for the construction and occupation of a single residential dwelling (**house**).

#### **3.2 Dwelling**

The proprietors of each of the Burdened Lots shall not construct or permit to be constructed on the Burdened Lots any house unless the house complies with the Design Guidelines.

#### **3.3 Building Materials**

The house must be constructed externally of masonry (brickwork, block work, stone or rammed earth) and roofed with clay or concrete roof tiles or coloured metal roofing sheets.

#### **3.4 Garages/Carports**

Not construct or permit to be constructed on the Burdened Lots any house unless the house contains a double enclosed garage incorporated under the main roof of the house.

#### **3.5 Roof Form**

- (a) Roof pitches shall be 24 degrees minimum for single storey houses and 30 degrees minimum for two-storey houses.
- (b) Roof pitch lower than 24 degrees should be limited to secondary roofs such as verandahs and awnings.
- (a) Roof verge at gables is to have a minimum 200mm overhang; and
- (b) The minimum eaves overhang is 400mm, except where limited by site setback requirements, or at areas of extended roof over such as verandahs, entry porticos and awnings, or at non-habitable areas such as garages and outbuildings.

#### **3.6 Fencing**

- (a) Laneway Fencing

Laneway fencing are to be constructed from either painted/rendered masonry, visually permeable fencing such as "wrought iron" or proprietary brand capped Colourbond metal fencing to 1.8m maximum height.

- (b) Dividing Fences

All fences dividing adjoining properties shall be 1.8m maximum height and of masonry or a proprietary brand capped metal fencing system in Colourbond "Harvest" (or equivalent) colour. Such fencing shall not project past the front building line. Dividing fencing in front of the building line shall be low or visually permeable as required for a front fence.

**3.7 Air Conditioning**

- (a) Air conditioning plants are to be visually concealed and screened from streets and other public areas.
- (b) Any roof-mounted air conditioning or evaporative cooling plant must not protrude above the highest point of the roof, and where possible, is to be located so that it is not visible from the street or any public open space.

**3.8 Solar Collectors**

Solar collectors are to be installed on the plane of the roof with water tanks ideally located within the roof space.

**3.9 Clothes Lines and Drying Areas**

These should be located so that there are not visible from the public areas and the street.

**3.10 Letter Boxes**

These are to be constructed in brick or masonry finish to match the walls of the house.

## **SCHEDULE**

### **1. Land**

The whole of the land known as Lot 3 on Diagram 21743 and the whole of the land comprised in certificate of title Volume 1256 Folio 695, and being the land known as 32 Sciano Avenue, Success in the State of Western Australia.

### **2. Burdened Lots**

All lots on the Deposited Plan 407332 except for lots 702, 703 and 9000.

### **3. Benefited Lots**

All lots on the Deposited Plan 407332 except for lots 702, 703 and 9000.