FORM B2

FORM APPROVED
NO. B4682

WESTERN AUSTRALIA
TRANSFER OF LAND ACT 1893 AS AMENDED

BLANK INSTRUMENT FORM

Restrictive Covenant

(Note 1)

Date

Parties

Cardup Investments Pty Ltd (ACN 150 081 833) of Level 1, 189 Hay Street SUBIACO WA 6008 (**Developer**)

Background

1. The Developer is the registered proprietor of the Land.

2. The Developer has subdivided the Land and lodged a plan of subdivision with the Commission which has been approved and is now known as Deposited Plan 431119 **(Plan)**.

3. In accordance with section 136D of the Act, the Developer requires the Lots to be encumbered by the Restrictive Covenants so that the Restrictive Covenants will be noted on the Plan and when separate certificates of title issue for the Lots the burden of the Restrictive Covenants will be noted on each such certificate of title.

OPERATIVE PART

1. Definitions and Interpretation

1.1 Definitions

In this deed

(a) **Act** means the Transfer of Land Act 1893 as amended;

(b) **Commission** means the Western Australian Planning Commission;

(c) **Land** means Part Lot 9050 on Deposited Plan 431092;

(d) **Lots** means all of the Lots on the Plan being 85-95 (inclusive), 100-121 (inclusive), 150- 158 (inclusive) and 160-174 (inclusive);

(e) **Project Manager** means the Project Manager for Constellar Estate being Richard Noble & Company of 189 Hay Street, SUBIACO WA 6008;

(f) **Registered Proprietor** means the registered proprietor for the time being of each of the Lots including, but not limited to, the Registered Proprietor who acquires a Lot from the Developer;

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(g) **Restrictive Covenants** means the restrictive covenants set out in the Schedule to this Deed.

1.2 Interpretation

In this deed, unless the context otherwise requires:

(a) headings and clause numbers are for convenience only and do not affect the interpretation of this deed;

(b) words importing the singular include the plural and vice versa;

(c) words importing a gender include any gender;

(d) a reference to a person includes a corporation and any entity capable of being the subject of legal proceedings;

(e) a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation of statutory instrument issued under it;

(f) if a word or phrase is defined in this deed, its other grammatical forms have a corresponding meaning;

(g) 'including', 'such as' and similar expressions are not words of limitation;

(h) a reference to a party to this deed includes the party's successors, permitted substitutes, and permitted assigns and, where applicable, the party's legal personal representatives; and

(i) a right or obligation of any two or more persons confers that right or imposes that obligation, as the case may be, on each of them severally and on any two or more of them jointly.

2. Restrictive Covenants

Pursuant to section 136D of the Act, each of the Lots is to be encumbered by the Restrictive Covenants. The burden of the Restrictive Covenant shall run with each of the Lots for the benefit of each and every other of the Lots and the Restrictive Covenants shall be enforceable against the Registered Proprietor of each of the Lots by the Developer and every subsequent Registered Proprietor of every other of the Lots. During the period that the Developer is the Registered Proprietor of any Lot the Developer accepts no responsibility, at law or at equity, for enforcement of the Restrictive Covenants.

3. Term of Restrictive Covenants

The Restrictive Covenants shall expire and cease to have an effect from and including 31 December 2035.

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SCHEDULE

The Registered Proprietor for the time being of each of the lots (Lot) covenants not to build on or develop the Lot otherwise than in accordance with the following requirements:

1. Introduction

In order to attain a superior standard and to encourage home design excellence at Constellar, these Restrictive Covenants set out the minimum standards and conditions under which a single residential development within the estate will normally be approved.
These Restrictive Covenants apply in addition to, and not in lieu of other statutory requirements. Approval from the Shire of Serpentine Jarrahdale will be required in addition to any approval issued by the Developer.

2. Building Plan Approval

One full set of plans and specifications must be submitted to the Constellar Project Compliance Officer **(Email rnoble.com.au)** prior to the plans being submitted to the Shire of Serpentine Jarrahdale. The Compliance Office will peruse the such plans for compliance with the Restrictive Covenants and if considered to comply will return an approval advice to the sender of the plans. Electronic transmittal of plans is the preferred method.

3 Development

No development is to be commenced on any lot without the plans and specifications having been approved in writing as set out in clause 2. Development must commence within 12 months of the settlement date of the lot and completed within 24 months of the Settlement date unless written consent from the Developer has first been obtained.

4. Windows

Roller Shutters, or similar equipment are prohibited from being installed to the front of the house or secondary street elevations (corner lots).

5. Garages

(a) Frontages 10.5m or greater (including truncation): residences constructed must incorporate double side-by-side garage with a door that matches the walls adjacent.
(b) Frontages 10.5m or less (including truncation): residences constructed must incorporate at a minimum, a single car garage with a door that matches the walls adjacent.

Garages doors are not a feature. Translucent doors or windows in the garage doors ARE NOT permitted. The eaves at the front of the home must be of equal height or higher than the garage door eaves.

Garage doors are to be setback at least 500mm behind the front of the dwelling (excluding verandahs, porticos, colonades or similar).

Only single or double garage doors may face the street, additional parking may be arranged in tandem format.

6. Street Elevation

6.1 All single residential homes on the lot must incorporate the following:

(a) Clearly defined articulated elevation and entry features **as set out in the Constellar**

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Design Guidelines

(b) Walls on the primary street elevation must include at least one render colour from the primary wall colours list and one material primary wall material **as set out in the Constellar Design Guidelines**

Two course high bricks are not permitted on the primary street elevation. Black and shades of dark charcoal will not be permitted as a primary wall colour, and will only be permitted for use of accents and as feature elements.

6.2 **Corner lot dwellings and Vista lots** (as identified on the sales plan) must address both streets using at least one of the design elements **set out in the Constellar Design Guidelines.**

Unless otherwise noted, the primary street wall material must continue along the secondary street elevation for at least 4m, including the second storey.

6.3 Lots backing on to a public reserve must inclusive in addition to above at least one architectural feature orientated towards the reserve. Roof features, arches, window hoods, blade walls, gables and any other feature acceptable to the Developer.

6.4 **Roofing including the second storey:** The roof material permitted is Colorbond metal roofing as well as Clay, Concrete or Slate roof tiles are permitted, as long as it is flat roof/shingle style.

Roof pitches, requirements and colours are to be compliant **as set out in the Constellar Design Guidelines**

6.5 **Driveways:** Each residence on the lot is to have a driveway and crossover which is to be provided and completed by the Registered Proprietor at the same time as the residence and before occupation.
Maximum width of crossover shall be 4 metres and the maximum width of the driveway 6 metres. All pathways, driveways and crossovers must comprise brick paving, pea gravel, exposed aggregate concrete or liquid limestone. Grey concrete and grey concrete blocks are not permitted.
Cross aprons are acceptable, but should be minimised.

7. Setbacks and Site Coverage

To be in accordance with the requirements of the current Residential Design Codes unless varied by a Local Development Plan.

8. Fencing

8.1 All side and rear boundary fencing must be fully installed on completion of construction of the residence on the lot prior to occupation. All boundary fencing shall consist of dual sided colorbond fencing **in the colour Woodland Grey.** Side fencing is to start at the build setback line, and is not permitted to extend further than this point.

8.2 The Developer is responsible for the installation of side and rear boundary fencing.

8.3 Primary street boundary fencing is not required, however where installed it may be either a masonary wall, vertical pailings or masonary piers with infills. Infills may be vertical or horizontal wood / wood look pailings, mesh or wire where the piers are higher than the infil material. This type of fencing is to be at a maximum height of 1.2m, measured from the dwelling lot level.

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8.4 Except for retaining walls constructed by the Developer prior to the lot being acquired by the Registered Proprietor, the Registered Proprietor, must at its expense, construct any retaining walls where required prior to any fence being erected.

8.5 The obligation to erect side fences will commence at the line where construction of the dwelling on the lot commences.

8.6 Fencing to boundaries and retaining walls, where provided by the Developer, must not be altered in any way unless written consent has first been obtained.

8.7 Any fencing which is either damaged or dismantled is to be reinstated by the Registered Proprietor in identical style and colour and with materials as previously placed. In the event of failure by the Registered Proprietor to repair the fencing, the Developer may do so and reclaim the cost from the Registered Proprietor.

9. Site levels

The general level of the site may not be altered and on all lots the finished site level must not be raised by more than 0.3 metres unless written consent has first been obtained.

10. Retaining Walls

Any retaining or other walls provided may not be altered in any way unless written consent from the Developer has first been obtained.

11. Air Conditioning or Cooling Unit/Solar Hot Water Units

Air conditioning or cooling units must be the same colour as the roof. Air conditioning or cooling units must be positioned to minimise noise impact to adjoining neighbours. Air conditioning or cooling units must not be visible from the primary or secondary street frontages of the residence constructed on a lot as well as not be located in positions that are visible from areas of public open space.

Solar hot water units must be integrated with and match the roof profile and pitch of the residence.

12. Solar Photo-Voltaic (PV) Panels

Solar PV panels must be integrated with and match the roof profile and pitch of the residence.

13. Landscaping

All garden areas within public view to be landscaped within three (3) months of occupation of the residence and shall be maintained thereafter by the Registered Proprietor in a neat and tidy manner.

Artificial lawn is not permitted within the primary street setback, as set out from The Shire of Serpentine Jarrahdale local laws.

The front street verge will be planted out with native waterwise plants with no lawn, and remain the property of The Shire of Serpentine Jarrahdale.

14. Garbage/Rubbish Bins

All garbage must be kept in a mobile rubbish bin and (where appropriate) a recycling bin and screened from the public (behind the fence or in an allocated space within the garage. The only

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exception to this is on allocated garbage collection days.

15. Washing Lines/Rainwater Tanks

All washing lines and rainwater tanks should be screened from the street and public places. All washing lines and rainwater tanks must be installed in accordance with the manufacturers instructions.

16. Signs

You may not erect or display any sign hoarding or advertising on the property of any description whatsoever other than a sign erected by a builder of the residence in accordance with the Builders Registration Act during the period of construction of the residence or a "FOR SALE" sign, which may be erected after the completion and occupation of a residence on the property, or after a period of one (1) year from the date of the sale and transfer of each of the lots on the deposited plan by the Seller.

17. Display Homes

The completed residence shall not be used for display purposes unless approved by the Developer and the Shire of Serpentine Jarrahdale.

18. Commercial Vehicle / Boats etc.

No commercial vehicles, caravans, buses, trailers or boats shall be parked or stored on a Lot unless they are contained within a garage or screened from public view. Prior approval from the Shire of Serpentine Jarrahdale must also be obtained for the parking of any commercial vehicles.
No repairs or restorations of any motor vehicle, boat, trailer, aircraft or any other vehicle shall be conducted on the lot other than wholly within a garage on the lot.

19. TV Antennae and other roof equipment

No television, radio antennae, flues, service vents or satellite dish shall be constructed, erected or installed on the primary and secondary street frontages of the residence constructed on a lot.
They may be permitted inside the roof structure.

Roof Antennaes are not required at Constellar as part of the estates OptiComm installation.

20. Animals

In keeping with the Shire of Serpentine Jarrahdale's local laws, only domestic pets must be kept on the lot.

21. Water Efficient Appliances and Fixtures

All appliances (dishwashers and washing machines) are to achieve a high water efficiency labelling and standard Water Efficiency Labelling and Standards (WELS) rating.
All fixtures in the dwelling are to be water efficient and at a minimum satisfy the following:

(a) Taps – minimum 5-star (WELS) rating;
(b) Toilets – minimum 5-star (WELS) rating;
(c) Showerheads – minimum 4-star (WELS) rating.

22. Swimming Pools

Where a swimming pool is installed a fixed retractable pool cover is to be installed.

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23. Statues

Statutes are not to be installed within the front setback of any lot.

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Executed as a Deed

Executed by **Cardup Investments Pty Ltd (ACN 150 081 833)** in accordance with section 127 of the Corporations Act 2001 (Cth):

_____	_____
Director's signature	Director/Secretary's signature
_____	_____
Director's name (please print)	Director/Secretary's name (please print)

INSTRUCTIONS

1. This form may be used only when a "Box Type" form is not provided or is unsuitable. It may be completed in narrative style.
2. If insufficient space hereon Additional Sheet Form B1 should be used.
3. Additional Sheets shall be numbered consecutively and bound to this document by staples along the left margin prior to execution by the parties.
4. No alteration should be made by erasure. The words rejected should be scored through and those substituted typed or written above them, the alteration being initialled by the persons signing this document and their witnesses.

NOTES

1. Insert document type.
2. A separate attestation is required for every person signing this document. Each signature should be separately witnessed by an Adult Person. The address and occupation of the witness must be stated.

EXAMINED

OFFICE USE ONLY

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Reference No.	IBM:DJH:NO/28485
Issuing Box No.	207A

INSTRUCT IF ANY DOCUMENTS ARE TO ISSUE TO OTHER THAN LODGING PARTY.

TITLES, LEASES, DECLARATIONS ETC. LODGED HEREWITH

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

Received Items

Nos.

Receiving Clerk

Registered pursuant to the provisions of the TRANSFER OF LAND ACT 1893 as amended on the day and time shown above and particulars entered in the Register.

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