

Agreement between Residential Property Developer and Purchaser

Section 364 (2), Building Act 2004

Information for purchasers

- (1) Signing this form is optional.
- (2) You should take independent legal advice before signing this form.
- (3) Before signing this form, you should consider—
 - (a) the effect that the absence of a code compliance certificate for the household unit may have on you; for example,—
 - (i) will you be able to insure the household unit?
 - (ii) will you be able to draw down mortgage finance for the purchase of the household unit?
 - (iii) will you be able to sell the household unit?
 - (b) whether you (instead of the developer) will have to pay a development contribution to obtain the code compliance certificate; and
 - (c) the extent of the work required to obtain the code compliance certificate.
- (4) If you sign this form, then you must apply for a code compliance certificate for the household unit as soon as practicable after all building work to be carried out under the building consent for the household has been completed

This agreement is made on _____ *[insert date]*

This agreement is made between _____

_____ as the residential property developer
[insert full name and address]

And _____

_____ as the purchaser
[insert full name and address]

(together the **parties**)

The residential property developer and the purchaser have entered or intend to enter into a contract for the sale and purchase of _____

[insert street address of household unit] (**household unit**)

Dated _____

[insert date of contract, if any] (**contract**).

Background

As at the date of this agreement, a building consent has been granted in relation to the household unit but a code compliance certificate has not been issued.

[Section 364\(1\)](#) of the Building Act 2004 (**Act**) provides that a residential property developer commits an offence if that developer completes a sale of the household unit or allows the purchaser into possession of the household unit before a code compliance certificate has been issued for the household unit, unless the parties enter into an agreement in accordance with section 364(2) of the Act.

The parties wish to enter into this agreement under [section 364\(2\)](#) of the Act to enable the residential property developer to complete a sale of the household unit or to allow the purchaser of the household unit to enter into possession of the household unit before a code compliance certificate has been issued in relation to the household unit.

Agreement

- (1) In consideration of entering into the contract, the parties agree that the residential property developer may, before a code compliance certificate has been issued in relation to the household unit,—
 - *(a) complete the sale of the household unit:
 - *(b) allow the purchaser to enter into possession of the household unit.
- (2) If there is any conflict between this agreement and the contract, the provisions of this agreement prevail.

Signed by the residential property developer
In the presence of

Signature of residential property developer

Witness signature

Full name

Address

Occupation

Signed by the purchaser
In the presence of

Signature of residential property developer

Witness signature

Full name

Address

Occupation

*Delete if inapplicable