

2009/5043EF
APPROVED
Registrar-General of Land

Insert instrument type

Easement Instrument

Continue in additional Annexure Schedule, if required

Land Covenants

1. DEFINITIONS AND INTERPRETATION

1.1 In this instrument:

"Building Line" means a line parallel to a right of way and/or road frontage boundary at a width of 1.5 metres from such right of way and/or road frontage.

"Grantee" means Greenstone Land Developments Limited.

"Grantor" means Greenstone Land Developments Limited.

"Instrument" means this easement instrument creating land covenants.

"Land" means all the land contained in CFR's 844542 and 830066

"Local Authority" means the Hastings District Council or any successor.

"Lot" means each of the lots described in Schedule A as dominant or servient tenement.

"Plan" means Deposited Plan No [] (Hawke's Bay Registry).

"Side Boundary" means all Lot boundaries not fronting a road, right of way or access lot.

"Single Storey Residential House" means a residential dwelling (and all accessory buildings) restricted to and consisting of a single storey building(s) of no more than 6.1 metres above the ground level of the Lot at its highest point immediately prior to commencement of preparation for Works.

"Subdivision" means the subdivision and development to be undertaken by the Grantee on the Land (or any successor title) and pursuant to Resource Management Consent RMA20180218 or any variation or new resource consent for further stages of the development.

"Works" means the undertaking of any work in relation to any dwelling, ancillary buildings and structures (including the erection and any alteration), all fencing (boundary and internal) and any site works or earthworks (including landscaping) of any nature whatsoever.

Interpretation

- 1.2 a. In this instrument words and expressions denoting the singular will include the plural.
- b. The Grantor and the Grantee includes the successors, executors, administrators and permitted assigns (as the case may be) of the Grantor and the Grantee.

Insert instrument type

Easement Instrument

Continue in additional Annexure Schedule, if required

2. **INTRODUCTION**

- 2.1 The Grantee is the registered proprietor of the Land.
- 2.2 The Grantee is intending to develop the Land into residential sections in a number of stages. Stage 7 & 9 of the development is a subdivision in accordance with the Resource Consent for the creation of residential sections and a road to vest to the Local Authority.
- 2.3 It is the Grantor's and Grantee's intention that the Lots will be subject to a general scheme applicable to and for the benefit of each of the Lots, to the intent that a high standard subdivision will be enjoyed by the registered proprietors of the Lots, and that the owner/occupier for the time being of each of the Lots will be bound by the covenants set out in this instrument as far as they affect each Lot, and that the owner/occupier for the time being of any Lot will be able to enforce the observance of such covenants by the owners or occupiers for the time being of any of the other Lots and the Grantor and Grantee will ensure each of the servient Lots are subject to like covenants.

3. **OPERATIVE CLAUSE**

- 3.1 The Grantor for itself so as to bind each of the Lots, covenants and agrees with the Grantee for the benefit of each of the Lots and each registered proprietor of the Lots from time to time that the Grantor will always observe and perform all of the covenants set out in this instrument to the end that each of the covenants will forever enure for the benefit of the Lots.
- 3.2 For the purposes of clause 4 (Design & Consent) the Grantee appoints and authorises Greenstone Land Developments Limited ("GLDL") or any successor to GLDL to be its agent for the purposes of consultation, examination and consideration for approval the matters specified in clause 4 for the fee referred to in clause 4. The Grantee at its sole discretion may appoint a successor to GLDL. For the purposes of this clause "Grantee" means GLDL.
- 3.3 The Grantee appoints and authorises GLDL or any successor to GLDL to be its agent for granting any consents or approvals, enforcing compliance with these covenants and receiving any consequent payments (including by way of interest or penalty), requiring remedy of any breach of these covenants or waiving any requirements contained in these covenants. In consideration of GLDL accepting the agency it shall be entitled to retain any consequent payments specified in these covenants (including by way of interest or penalty). The Grantee at its sole discretion may appoint a successor to GLDL or assume GLDL's responsibilities under this clause 3.3 for itself. For the purposes of this clause "Grantee" means GLDL. If GLDL ceases to exist and has not appointed a successor or is unable or unwilling to act in the matters contemplated by this clause then those rights shall fall to the owners from time to time of the dominant tenements.
- 3.4 In the event of the Grantee being unable or unwilling to complete the consultation, examination and consideration for approval of the matters specified in clause 4, the Grantor may submit its plans to the relevant local territorial authority or any other body having jurisdiction as part of an application for a building consent. The approval of the Grantor's plans will then be deemed to be the issue of the building consent by the relevant body for

2009/5043EF
APPROVED
Registrar-General of Land

Insert instrument type

Easement Instrument

Continue in additional Annexure Schedule, if required

construction of the relevant Works in accordance with the plans and otherwise in compliance with these covenants.

- 3.3 Notwithstanding any other provisions of this instrument, the Grantor and the Grantee acknowledge and agree that any existing dwelling, ancillary buildings or structures, fencing (boundary and internal) and landscaping of any nature whatsoever situated on Lot 64 on the Plan, at the date these covenants are created, shall be deemed to comply with the covenants set out in this instrument but that any new Works undertaken on Lot 64 on the Plan will be subject to the covenants set out in this instrument.

4. **BUILDING COVENANTS**

Design & Consent

- 4.1 The Grantor will not undertake any Works without first obtaining from the Local Authority all necessary consents and permits for such work.

- 4.2 The Grantor when undertaking any Works will:

- a. comply with any applicable consents, permits, Local Authority requirements, conditions of the Subdivision resource consent or any variation and any consent notice registered on the title to the Lot pursuant to section 221 of the Resource Management Act 1991;
- b. comply with good industry building and engineering standards and with the covenants contained in this instrument.

- 4.3 The Grantor must provide concept plans to and consult with the Grantee before commissioning any final plans or specifications for any Works to be undertaken on the Lot or any part thereof and not commence to do, erect or place or permit to be done, erected or placed on the Lot or any part thereof any Works without first obtaining the Grantee's approval (such approval not to be unreasonably withheld or delayed):

- a. to the final plans and/or specifications for the Works and, if in respect to any building, to be prepared by a registered architect or member of Architectural Designers New Zealand (Inc) or the Design Association of New Zealand who must be suitably experienced in the design of the proposed works provided that within the land no two or more residential dwellings will be of the same or significantly similar design (in the reasonable opinion of the Grantee) for which the Grantee will be entitled, at its sole discretion, to withhold its approval required in accordance with this clause;
- b. to the materials, finishes and exterior colours to be used in the construction of the Works.

The Grantor will pay a \$400.00 (including GST) fee for the Grantee's approval of plans and specifications for the Works and a further fee of \$75.00 (including GST) for any subsequent variation to or further submissions in respect of such plans or specifications.

- 4.4 The Grantor acknowledges that approval by the Grantee of the plans and specifications under clause 4.3 does not imply any warranty by the Grantee that:

2009/5043EF
APPROVED
Registrar-General of Land

Insert instrument type

Easement Instrument

Continue in additional Annexure Schedule, if required

- a. the proposed residential dwelling may utilise existing services;
- b. the proposed residential dwelling will comply with Local Authority requirements;
- c. the proposed siting of the residential dwelling is not affected by the location of existing services;
- d. the proposed siting of the residential dwelling complies with the Local Authority's bulk and location requirements;
- e. the location of the egress on the plans and specifications as in accordance with the Local Authority's requirements as to public roads.
- 4.5 The Grantor must not allow or permit any deviation from the plans and specifications approved under clause 4.3 without prior written consent of the Grantee.
- 4.6 The Grantor will not erect or permit to remain on the Lot any building other than a new Single Storey Residential House designed for and occupied exclusively as one household unit for residential purposes only with the residential dwelling having a floor area of not less than 155m² (including garaging) but excluding accessory buildings, carport, decking, cloisters or roof overhang, provided however:
- a. The minimum average cost per square metre (materials and construction) for the residential dwelling, garaging and decking will not be less than \$2,000.00 including GST, provided that this rate will be adjusted over time by reference to the increase in the Consumer Price Index from the date of this instrument and the date that the plans are submitted for approval.
- b. The Grantor may subject to this clause 4.6 also erect garage(s) and other accessory buildings or structures ancillary to the residential dwelling provided that they are designed to be in keeping with the residential dwelling.
- c. No dwelling, accessory building or other structure shall be built between the Building Line and any road or right of way.
- d. Notwithstanding clause 4.6.c, Lots 81, 143 & 91 shall have the following restrictions:
- i. Within 0.5m from the western future road boundary for lot 91 and the eastern future road boundary for lots 81 & 143 (the "Road Boundary") no fencing or vegetation (other than grass or small shrubs less than 0.25m in height) shall be erected or planted;
- ii. Within 0.5-1.0m from the Road Boundary no fencing or vegetation greater than 1.8m in height shall be permitted.
- 4.7 A Single Storey Residential Dwelling to be constructed on any Lot:
- a. Will not have less than 75% of the exterior cladding consisting of any of the following materials:
- i. Kiln fired brick;
- ii. Solid plaster or a textured plaster finish;
- iii. Block stone or natural timber;
- iv. Pre-primed fibre cement weatherboards with a maximum finished width not more than 180mm; or

2009/5043EF
APPROVED
Registrar-General of Land

Insert instrument type

Easement Instrument

Continue in additional Annexure Schedule, if required

- v. Any other exterior cladding material for which the Grantor has first obtained the Grantee's consent in writing.
- b. Will not use any metal clad roof that has not been factory pre-painted.
- c. Will not have flat panel fibre cladding or metal cladding on more than 10% of the exterior wall cladding surface area.
- 4.8 The Grantor will not relocate onto the Lot any transportable building or structures whether new, used or recycled.
- 4.9 Builders sheds or such other buildings or structures that are required during the course of the construction and erection of any building may be placed on the Lot but must be removed on completion of construction or relocation.
- 4.10 The Grantor will not use any second hand or recycled materials in the construction or exterior finish of any building without the prior written consent of the Grantee.
- 4.11 The Grantor must not:
- a. erect any flats or other dwelling units which may be subject to a cross lease or registration under the Unit Titles Act 1972;
 - b. erect any secondary dwelling e.g. granny flat or sleepout.
- 4.12 The Grantor must construct a fully enclosed garage that is attached to the dwelling. The garage must be completed at the same time as the dwelling and be in the same of similar type of materials.
- 4.13 The Grantor will complete at its cost all service connections (including power supply and telecommunications) required in the Lot from the point of supply to any building. The connections will be laid underground.
- 4.14 All driveways, paths or hardstand parking areas are to be constructed of dust free permanent materials and placed where shown in accordance with the Grantor's accepted plans.
- 4.15 The Grantor will not erect any boundary fence of quality not less than that equal to a specimen type of fence 1-5 (inclusive) described in the Second Schedule to the Fencing Act 1978 provided that:
- a. Any Side Boundary fence shall not be greater than 1.8 metres in height or within the 1.5 metre building line then 1.0 metres in height.
 - b. Subject to (a) above no fence shall be erected within the 1.5 metre building line unless the fence is architecturally designed but in any event such fence shall not be greater in height than 1.0 metre and constructed of similar materials to that of the exterior cladding of the residence shown at the time the purchaser obtains the Grantee's plan acceptance in terms of sub-clause (a).
 - c. All fencing shall have a concrete footing on both sides of the fence that is within the ground and not above the existing natural ground level (as determined by reference

2009/5043EF
APPROVED
Registrar-General of Land

Insert instrument type

Easement Instrument

Continue in additional Annexure Schedule, if required

to the original ground level on the neighbouring Lot adjacent to fencing) as defined by the as built contour data.

- d. Concrete footings above ground will not be accepted, particularly within the area between the Building Line and any road or right of way. .
- e. If a fence is erected on top of a retaining wall then the height of that retaining wall shall be deemed to be included in the height of the fence for the purposes of the restrictions contained in these covenants.

4.16 All exterior lighting will be designed and erected in order to minimise light spill that affects the night sky and otherwise minimise any interference or a nuisance to the land owners of the other Lots.

Construction Works Requirements

4.17 In order to minimise damage to Local Authority assets and the developments (roads, kerb and channel, footpaths, berms and street trees) the following will be undertaken by the Grantor in relation to the Lot

- a. At the issue of building consent and prior undertaking building works or Works on the Lot the Grantor will undertake the following in order:
 - i. Prior to the commencement of excavation on the Lot a temporary all-weather compacted metal road crossing will be established in the position of the final road crossing/driveway. First all topsoil in the crossing area shall be removed offsite. The crossing will be constructed of not less than 200mm thick M4 compacted metal 4m in width extending between the footpath or kerb and channel to the edge of the final building platform. The thickness of the temporary hardstand crossing area shall be determined by the thickness of the topsoil that has been removed.
 - ii. When and only after this temporary crossing has been established can trucks then park on the temporary crossing for the balance loading in and out of excavated material for the house pad excavation. Also all trucks are to use this temporary road crossing for the loading in and out of building materials during construction.
 - iii. Prior to construction on the Lot the Grantor shall also erect a temporary red netting construction fence around the perimeter of the Lot so as to clearly identify the boundaries of their work safe site area. This fence shall remain in place until a permanent fence is constructed on the Lot boundaries.
 - iv. During construction the Grantor shall only occupy the Lot it owns and shall not drive across other neighbouring road berms, kerb and channel and footpaths.
- b. At the completion of building works on the Lot the Grantor will be responsible for fixing at its cost all damage that has occurred to the kerb and channel, footpath, berms and street trees along the frontage of the Lot. The Grantor will not be responsible for the cost of any damage to Council assets along the frontages of any Lot. The Grantor must not damage neighbouring property road frontages. The Grantor cannot occupy the Lot until the damaged frontages have been repaired.

2009/5043EF
APPROVED
Registrar-General of Land

Insert instrument type

Easement Instrument

Continue in additional Annexure Schedule, if required

- c. The Grantor acknowledges that provisions of clause 10 will be applied if the above covenants are not adhered to.

4.18 Prior to commencing any Works on the Lot the Grantor will construct:

- a. An all weather crossing for the purpose of avoiding unsightly mud and rubbish being deposited onto any road. The access crossing will consist of not less than 200 millimetres thick river metal where it crosses the berms (if any) and will be not less than 3.5 metres wide and will be laid from the kerb of the road to the Building Site. Except where the access is not to be used as part of the driveway to the Lot the access crossing will, on completion of the construction of the Residential Dwelling on the Lot, be removed by the Grantor and the surface of the ground will be restored to its condition immediately prior to the laying of the access crossing.
- b. A mud free hardstand loading pad for a distance of 5 metres from the boundary of the Lot into the Lot and with a minimum width of 3.5 metres.

In constructing the access crossing and loading pad the Grantor will ensure that no damage is caused to any existing berms or footpaths.

4.19 During construction the Grantor (its employees, contractors) shall only occupy the Lot the Grantor owns and shall not use any adjoining Lot or land for storage, access, car parking, or earthworks. Prior to construction the Grantor (its employees, contractors) shall erect a temporary red netting construction fence around the perimeter of the Lot as part of its health & safety plan for the construction.

4.20 When undertaking any Works or subsequent improvements on the Lot, the Grantor will ensure that all construction materials and where possible all vehicles involved in the Works are contained within the Lot and will use its best endeavours not to impede the enjoyment of any other owner within the Subdivision or the aesthetic quality of the Subdivision.

4.21 The Grantor must ensure:

- a. that no concrete truck servicing any construction activities on the Lot dumps concrete slurry on the Land;
- b. that concrete slurry from exposed aggregate concrete is to be contained on the Lot and not allowed to enter the stormwater system,

The Grantor will be responsible for all costs of remediation required as a result of a breach of this covenant.

4.22 The Grantor must commence the construction of the residential dwelling within three years of the date of possession as specified in the agreement for sale and purchase between the Grantee and the first owner of the Lot and must complete the construction of the residential dwelling and any accessory buildings (including the exterior and where appropriate paint or stain the exterior) within one year of commencement of laying down the foundations.

4.23 The Grantor shall ensure that all storm water run-off shall be properly channelled in accordance with Local Authority and engineering standards.

Insert instrument type

Easement Instrument

Continue in additional Annexure Schedule, if required

Building Material Supply

4.24 For the purposes of this covenant, the term "Grantee" means GLDL or its successor or nominee. The Grantor after obtaining the Grantee's consent pursuant to clause 4.3 will prior to approaching any other supplier provide the Grantee with the final plans and specifications for any Works to be undertaken on the Lot and grants to the Grantee the first option to provide a quote to the Grantor for the building materials and supplies for such Works and the Grantee will have ten working days to provide the Grantor with the quote. If the Grantor subsequently obtains a bona fide quote for the building materials and supplies for such Works from another supplier that it wishes to accept, then the Grantor must provide the Grantee a copy of the bona fide quote and the Grantee will have an option for ten working days to agree to supply the building materials and supplies at the same price as the competing quote.

5. **LANDSCAPE COVENANTS**

5.1 The Grantor will not:

- a. Plant pinus radiata or macrocarpa trees on the Lot.
- b. Permit trees to grow on the Lot to a height exceeding 8.5 metres above the highest point of the natural level of the respective Lot. However if such tree unreasonably obstructs the view of any other Lot within the Subdivision then at the request of the affected Lot the Grantor will trim the tree to a height of five metres.
- c. Grow a hedge line along any boundary of more than 1.8 metres in height above the ground level or grow a hedge line of more than 0.5 metres in height within the Building Line, road, right of way/access frontage area.
- d. Allow the road frontage of the Lot to become untidy.

Top Soil

5.2 For the purposes of the covenants, contained in clauses 5.3 to 5.6 the term "Grantee" means GLDL

5.3 Background – during the construction of a dwelling on a lot, the creation of the building platform usually requires the excavation and then removal of anywhere between 40 to 100 m² of top soil from the site. The removal and disposal of the top soil is a cost to the Grantor. The Grantee has need of top soil for its further development.

5.4 When the Grantor or its contractor intends to commence the excavation of the building platform on the Lot, the Grantor will immediately give notice to the Grantee. The Grantee will then have the option to take the top soil excavated from the building platform but must exercise this option in a reasonable timeframe by giving notice to the Grantor.

5.5 If the Grantee does exercise the option in clause 5.4 then the Grantor shall at its cost excavate the building platform in a manner so that the top soil excavated is clean top soil (being top soil which is reasonably free of other materials and debris including concrete,

2009/5043EF
APPROVED
Registrar-General of Land

Insert instrument type

Easement Instrument

Continue in additional Annexure Schedule, if required

vegetation, wood, trees, roots etc. The Grantee will not have any obligation to take top soil that is not clean top soil.

5.6 Provided that the top soil is clean top soil, then the Grantor will arrange to transport the top soil to a location in the Subdivision specified by the Grantee. The top soil will otherwise be free of charge to the Grantee.

5.7 If the Grantee does exercise the option in clause 5.4, the Grantee if required by the Grantor, after the obligations of clause 5.6 are completed, will supply the Grantor with top soil if more top soil is required to complete the final landscaping of the Property.

5.8 The covenants contained in clauses 5.2 to 5.7 shall expire on the 30th January 2022.

6. **MAINTENANCE COVENANTS**

6.1 The Grantor will be responsible for all costs of repairing any damage caused to the landscape, roading, kerbs or other parts of the Subdivision arising from its use of the Lot directly or indirectly including any damage caused by any visitor or invitee of the Grantor.

6.2 The Grantor shall pay the Grantee by automatic payment from the date of possession until commencement of construction of the residential dwelling (being a date accepted by the Grantee) the sum of \$20.00 per week (including GST) contribution for the mowing of the Grantor's section by servants, agents or contractors employed by the Grantee. This automatic payment will be set up at settlement and will continue until the plans are approved and building commenced. The parties acknowledge that this weekly payment has been calculated to average out lawn mowing of a Lot that will be required weekly during grass growth periods or fortnightly/monthly during winter months.

6.3 At all times from possession date, the Grantor will keep the Lot and adjacent road or access way frontage in a good tidy order and condition and free from any rubbish or debris, with the residential curtilage maintained and lawns mown. The Grantor will ensure that any trees planted by the Grantee on the any road or access way frontage are regularly watered by the Grantor. The Grantor will also keep any terrace banks on the lot maintained in a good tidy order and condition.

6.4 The Grantor:

- a. must repair any damage to the Lot within a reasonable timeframe.
- b. maintain the residential dwelling, accessory buildings and other improvements on the Lot and not allow them to become dilapidated or to fall into disrepair and must undertake maintenance or repairs within a reasonable timeframe.

2009/5043EF
APPROVED
Registrar-General of Land

Insert instrument type

Easement Instrument

Continue in additional Annexure Schedule, if required

7. RESTRICTIVE COVENANTS

- 7.1 Once construction of the Single Storey Residential House has been substantially completed, any caravan (including campervan) owned for recreational purposes may be kept on the property provided it is stored at the rear of the dwelling concealed from view from the rest of the Subdivision by a fence or enclosure. Any such caravan will not be used for residential use on the Lot. The Grantor will not bring onto or allow to remain on the Lot or any internal road of the Subdivision any caravan, vehicle, boat or other equipment or materials or machinery that in the opinion of the Grantee detrimentally affects the aesthetics or amenities of the Subdivision.
- 7.2 No building or dwelling on the Lot will be occupied until it has been substantially completed, all Local Authority completion certificates obtained, the exterior completed including where appropriate painted or stained and all ancillary work such as fencing, landscaping, lawns sowing, letter box have been completed or installed and all driveways or vehicle access have been completed in a permanent continuous surfacing of concrete, concrete block brick paving or sealing to the reasonable satisfaction of the Grantee.
- 7.3 No more than one advertising sign will be displayed on the Lot or on the road frontage of the Lot at any time.
- 7.4 The Lot will not be used in any way (other than for residential purposes) which in the opinion of the Grantee (whose decision will be final) would detrimentally affect the amenities of the Subdivision and neighbourhood.
- 7.5 The Grantor shall not keep any poultry or farm animals and not breed for commercial purposes any animals or birds on the Lot.
- 7.6 The Grantor will not allow to remain on any wall, fence, structure or building on the Lot any graffiti or similar disfiguring for more than five working days, from the date that it occurred or was brought to the notice of the Grantor.
- 7.7 The Grantor will not further subdivide the Lot without the prior written consent of the Grantee.
- 7.8 The Grantor shall not install a satellite dish on any side of the residence or building fronting a street.
- 7.9 The Grantor must not allow any nuisance or disturbance to be caused to the owner or occupier of any neighbouring Lots.
- 7.10 For the purpose of this covenant the term "Grantee" means GLDL or its successor. In order to prevent competition with GLDL and speculation by way of the on-sale of the residential sections, the Grantor covenants in favour of the Grantee:
- a. that it shall not, within five years of purchasing the Lot, sell, gift, transfer, assign or otherwise part possession of the Grantor's rights, title and interest as registered proprietor of the Lot prior to the completion of the construction of the Single Storey Residential House on the Lot and the issue of the code of compliance by the Local

2009/5043EF APPROVED Registrar-General of Land
--

Insert instrument type

Easement Instrument

Continue in additional Annexure Schedule, if required

Authority ("Sale") without the prior written consent of the Grantee (which the Grantee shall have the unfettered right to refuse; and

- b. that in consideration of the Grantee giving such consent to the Sale, the Grantor shall on the completion of the Sale of the Lot (being the settlement date for the Sale) pay to the Grantee a sum being the higher of the amount equivalent to 10 % of the gross Sale price of the Lot and any other consideration given by the purchaser for the Lot (plus GST) or 10% of the market value of the Lot at the time of the Sale (plus GST) as assessed by a registered valuer appointed by the Grantee if the Grantee decides to appoint a valuer.
- c. notwithstanding clauses 7.10 a & b, the Grantee will not unreasonably refuse to provide its written consent under clause 7.10 a in the situation where the Sale is made with an unconditional building contract between the Grantor or the Grantor's related party and the purchaser for the construction of a Single Storey Residential House on the applicable Lot and the building contract is on terms and conditions satisfactory to the Grantee in all respects) and if the Grantee provides such written consent pursuant to this clause then the payment specified in clause 7.10 b shall not apply.

8. **NO COMPLAINTS COVENANTS**

- 8.1 For the purposes of the covenants contained in clauses 8.2 to 8.4, the term "Grantee" means GLDL or its successor.
- 8.2 The Grantor acknowledges that the Grantee, is intending to develop the balance of the Land once stages 7 & 9 of the development described in clause 2.2 is completed ("Balance of the Land") and other land that the Grantee owns or will own within 5 kilometres of the Lot ("Other Land"), into residential sections and houses in a number of stages and that the Balance of the Land (or successor title(s)) and Other Land will be the subject of the further stages of the development into residential sections and houses, and which may include some "comprehensive Intensive Housing" as is defined in the relevant district plan, and the Grantor acknowledges that that the Grantee's resource consent for stages 7 & 9 also includes a scheme plan for stages 11 & 12 of the development and that the Grantee intends to apply for a new resource consent for those stages in order to increase the density (the "Further Development"). The Grantor will where required by the Grantee provide its written support and written consent (including any signed "Affected Party Consent Form" that may be required by the Grantee or the Local Authority) to support any application for the Further Development and provide a reasonable degree of cooperation and support to the Grantee for the Further Development.
- 8.3 The Grantor covenants in favour of the Grantee that it will not take any action under the Resource Management Act 1991 or any other legislation or regulations to oppose or otherwise hinder the Further Development and nor will the Grantor procure any such action by any third party (including any local authority or governmental body). Without limiting the above, the Grantor will not::
 - a. Lodge a submission opposing any resource consent application for the Further Development by the Grantee;
 - b. Request or procure any plan change or variation in respect of the Land (or any part of it);

2009/5043EF
APPROVED
Registrar-General of Land

Insert instrument type

Easement Instrument

Continue in additional Annexure Schedule, if required

- c. Lodge any submission or any further submission on any district or regional plan which may affect the Further Development;
- d. take or initiate any enforcement action pursuant to the Resource Management Act 1991 against any acts or omissions of the Grantee; or
- e. take any other steps which would or may hinder or interfere with the Further Development.
- 8.4 The Grantor covenants with the Grantee not to direct, allow or permit any person to do anything which would amount to a breach of clauses 8.2 or 8.3 if undertaken by the Grantor.
- 8.5 The Grantor covenants in favour of the Grantee that it shall not object to any construction, noise, dust or activity required to complete the Further Development.
- 8.6 The Grantor acknowledges that the penalties contained in clause 10.1 of this instrument will apply in respect of any breach of the covenants by the Grantor under this clause 8.
9. **GENERAL COVENANTS**
- 9.1 All entry onto any adjacent land is entirely at the risk of the person entering. All persons accessing adjacent land will comply with all health and safety requirements.
- 9.2 The Grantor will not require any contribution from the Grantee nor the Local Authority towards the cost of fencing any common boundary between the Lot and land owned by these parties and every transfer from the Grantee will include a fencing covenant in accordance with the Fencing Act 1978 in favour of the Grantee and the Local Authority.
10. **BREACH OF COVENANTS**
- 10.1 Without prejudice to any other legal remedy, the Grantee may serve written notice to the Grantor requiring it to remedy a breach of these covenants within seven (7) days of receipt of the notice in writing and upon the expiry of seven (7) days a sum of \$1,000.00 per day (including GST) will be payable by the Grantor until such time as the breach is remedied and the Grantee or other party serving the notice will in addition be entitled to recover all costs incurred including all professional and legal costs calculated on a solicitor/client basis and to exercise any other remedies available.
- 10.2 The Grantor will remove or cause to be removed from the Lot any building or structure or cease to carry out the activity that offends the covenants in this instrument or places the Lot in breach for non-observance of the stipulations and restrictions.
- 10.3 The Grantor will replace any building materials used in breach of the stipulations and restrictions contained in these covenants in this instrument so that the building or structure complies with these covenants.
- 10.4 The Grantee reserves the right to enter onto the Lot upon giving reasonable notice in order to take whatever action it deems necessary to rectify any breach of these covenants. Where the Grantee or its agent or any other party to these covenants is required to expend money to rectify or make good any damage or loss caused by a breach of these covenants by the Grantor (or the guests, servants, employees, agents, invitees, tenants or licensee of the

2009/5043EF
APPROVED
Registrar-General of Land

Insert instrument type

Easement Instrument

Continue in additional Annexure Schedule, if required

Grantor) the Grantee or its agent will be entitled to recover the amounts (which will be payable 7 days after the date of Invoice) they expended as a debt in any action in any Court of competent jurisdiction and such sum may include all costs howsoever incurred including the professional and legal costs calculated on a solicitor/client basis and interest on any monies from the date due until paid at an interest rate of 7% per annum plus the 90-day bill rate (current on the due date for payment).

10.5 The Grantor will at all times indemnify and keep indemnified the Grantee against all proceedings, costs, claims and damages in respect of any breaches of any of the covenants in this instrument by the Grantor.

11. **DISPUTE RESOLUTION**

11.1 If any dispute arises between the parties in connection with this Instrument the matter will be referred to mediation. Mediation may be initiated by either party giving notice in writing to the other and identifying the dispute whereupon the parties will agree on a mediator. If they cannot agree upon a mediator within 10 working days of such notice, then a mediator will be appointed by the President of the Arbitrators and Mediators Institute of New Zealand to act in accordance with the Mediation Protocol of the Institute;

11.2 Any dispute in respect of matters arising from this Instrument which is not resolved by mediation will be referred to arbitration under the Arbitration Act 1996. The arbitration will be by one arbitrator if the parties can agree upon one but failing agreement, an arbitrator will be appointed by the President of the Arbitrators & Mediators Institute of New Zealand.

12. **WAIVER OF COVENANTS**

12.1 Notwithstanding these covenants the Grantee will be entitled to waive strict compliance with these covenants provided that if the Grantee decides in its sole discretion that the proposed amendments are generally in accordance with the aims expressed in clause 2.3 and in accordance with the continued harmony of the property within the Subdivision generally and for avoidance of doubt the decision as to this waiver by the Grantee will be final and not subject to any review whatsoever. The Grantor shall be responsible for the Grantee's reasonable fees in relation to the waiver of any covenants pursuant to this clause or the provision of any other consent.