

Form B

Easement instrument to grant easement or *profit à prendre*, or create land covenant

(Sections 90A and 90F Land Transfer Act 1952)

Grantor

TODD PROPERTY PEGASUS TOWN LIMITED

Grantee

TODD PROPERTY PEGASUS TOWN LIMITED

Grant of Easement or *Profit à prendre* or Creation of Covenant

The Grantor being the registered proprietor of the servient tenement(s) set out in Schedule A grants to the Grantee (and, if so stated, in gross) the easement(s) or *profit(s) à prendre* set out in Schedule A, or creates the covenant(s) set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s)

Schedule A

Continue in additional Annexure Schedule, if required

| Purpose (Nature and extent) of easement; <i>profit</i> or covenant | Shown (plan reference) | Servient Tenement (Computer Register) | Dominant Tenement (Computer Register) or in gross |
|--|------------------------|---------------------------------------|---|
| Land covenant | | XXXX (inclusive) | XXXX (inclusive) |

Form B - continued

Easements or *profits à prendre* rights and powers (including terms, covenants and conditions)

Delete phrases in [] and insert memorandum number as required; continue in additional Annexure Schedule, if required

~~Unless otherwise provided below, the rights and powers implied in specified classes of easement are those prescribed by the Land Transfer Regulations 2002 and/or Schedule Five of the Property Law Act 2007~~

~~The implied rights and powers are hereby **[varied]** **[negatived]** **[added to]** or **[substituted]** by:~~

~~[Memorandum number _____, registered under section 155A of the Land Transfer Act 1952]~~

~~[the provisions set out in Annexure Schedule _____]~~

Covenant provisions

Delete phrases in [] and insert Memorandum number as require; continue in additional Annexure Schedule, if required

The provisions applying to the specified covenants are those set out in:

~~[Memorandum number _____, registered under section 155A of the Land Transfer Act 1952]~~

~~[Annexure Schedule 1]~~

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Continue in additional Annexure Schedule, if required

The Grantor as registered proprietor of the land contained in Computer Freehold Registers **XXXX** and **XXXX (Land)** has subdivided the Land into residential lots in the manner shown and defined on Deposited Plan **XXXX**.

It is the Grantor's intention to create, for the benefit of the Benefiting Lots, the land covenants set out in Schedule A (**Covenants**) over the Covenanting Lots TO THE INTENT that:

- (a) the Covenanting Lots will be bound by the stipulations and restrictions set out in the Covenants; and
- (b) the Grantee and the owners and occupiers for the time being of the Benefiting Lots may enforce the observance of the Covenants against the owners for the time being of the Covenanting Lots.

So as to bind the Covenanting Lots, and for the benefit of the Grantee and the respective owners of the Benefiting Lots, the Grantor DOES HEREBY COVENANT AND AGREE in the manner set out in Schedule A so that the Covenants run with the Covenanting Lots for the benefit of the Grantee and the respective owners of the Benefiting Lots PROVIDED HOWEVER that:

- (a) the Grantee will not be required or obliged to enforce all or any of the stipulations and restrictions contained in the Covenants; and
- (b) the Grantor will not be liable to the Grantee for any breach of any of the Covenants by any of the other registered proprietors of the Covenanting Lots; and
- (c) the Grantor will as regards the stipulations and restrictions contained in the Covenants be liable only in respect of breaches which occur while the Grantor is registered proprietor of any of the Covenanting Lots in respect of which any breach occurs.

SCHEDULE A

DEFINITIONS AND INTERPRETATION

1 In this instrument, unless the context requires otherwise:

Access Way means any land in the Development which is currently or subsequently defined as a legal access way or access lot on any registered instrument, deposited plan or by the Property Law Act 2007;

Benefiting Lot(s) means any one of lots **XXXX** to **XXXX** (inclusive) on Deposited Plan **XXXX** or any of them, and any lots into which those lots are further subdivided;

Berm means the area between the boundary of the Lot and the curb of the adjacent road or Access Way;

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Continue in additional Annexure Schedule, if required

Covenantee Lot(s) means any one of lots **XXXX** to **XXXX** (inclusive) on Deposited Plan **XXXX** or any of them, and any lots into which those lots are further subdivided;

Development means Pegasus Town's residential and commercial development of all or part of the land located at Pegasus Town, Waimakariri, Canterbury, together with all improvements including services, roads, footpaths, verges, parks and reserves constructed or to be constructed as part of that development;

Erect means place, build, erect, install, attach, situate or construct or permit to be placed, built, erected, installed, attached, situated or constructed;

Finished Ground Level means the ground level of the Covenantee Lot existing at the time the section 224(c) certificate is issued in respect of the subdivision of which the Covenantee Lot forms part;

Grantee means the registered proprietor of the Benefiting Lots;

Grantor means the registered proprietor of the Covenantee Lots and includes the agents, employees, contractors, tenants, licensees and other invitees of the grantor;

Improvements means any residential dwelling and associated buildings or structures, fencing and landscaping to be Erected or incorporated on any of the Covenantee Lots and includes Landscape Features;

Minimum Floor Area means a minimum floor area of 93m² in respect of the residential dwelling (including the garage (if any)) erected thereon;

Pegasus Design Guidelines means the booklet of materials compiled by Pegasus Town, containing information to guide the design of the dwelling for each Covenantee Lot, including (but not limited to) requirements for building form, materials, colour and landscaping, as may be varied from time to time;

Pegasus Town means Todd Property Pegasus Town Limited and any successor or any party appointed by it or by any successor to evaluate applications for approvals required by Pegasus Town under any of these covenants;

Pegasus Town Construction Rules means the rules and undertakings regulating construction practices within the Development;

Relevant Authority means any corporation, including any government, local or regional territorial authority, statutory or non-statutory authority or body having jurisdiction over the Covenantee Lots or the Land or any part thereof;

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Satellite Dish means any satellite dish or other communication dish, device, antenna or aerial which is greater than 1 metre in diameter; and

Stormwater Components means the sediment collection chamber and soak pit components of the stormwater treatment system within the Development.

LAND COVENANTS TO ENURE

- 2 The Grantor for itself and its successors in title covenants and agrees with the Grantee for the benefit of each and all of the Benefiting Lots and also separately with each and all of the registered proprietors of the Benefiting Lots to always observe and perform all of the agreements, stipulations and restrictions set out in the Covenants to the intent that they shall forever enure to benefit the Benefiting Lots.

GRANTOR'S COVENANTS

Improvements to Comply

- 3 The Grantor must not Erect any Improvements on a Covenanting Lot without first obtaining all consents and permits required under any relevant legislation for such Improvements from the Relevant Authority.
- 4 The Grantor must comply and satisfy all terms and conditions in any such consents and permits.
- 5 When Erecting or altering a residential dwelling on the Covenanting Lot the Grantor must comply with the Pegasus Design Guidelines, these Land Covenants, the Pegasus Town Construction Rules and the consented design as approved by Pegasus Town.
- 6 When Erecting or altering a residential dwelling on the Covenanting Lot the Grantor must comply with the Minimum Floor Area.

Timely completion of Improvements

- 7 The Grantor must commence construction of the residential dwelling on the Covenanting Lot within two years of the date on which the original purchaser purchased the Covenanting Lot from Pegasus Town.
- 8 The Grantor must (and must procure its contractors, subcontractors, employees and/or agents (as the case may be) to) complete construction of the exterior to the Covenanting Lot's primary dwelling, the Covenanting Lot's driveway and fencing within 15 months of the commencement of construction on the Covenanting Lot.
- 9 Each Covenanting Lot shall have a maximum of one residential dwelling located on that Covenanting Lot.

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Continue in additional Annexure Schedule, if required

Building and Construction

- 10 The Grantor may only construct a new dwelling on the Covenanting Lot. The Grantor must not place a relocatable or second-hand dwelling on the Covenanting Lot.
- 11 The Grantor must (and procure its contractors, subcontractors, employees and/or agents (as the case may be) to) only use new, or recycled materials which are high quality and compliant with the New Zealand Building Code, building materials in constructing any Improvements on the Covenanting Lot.
- 12 The Grantor must ensure that the following materials are used for the exterior cladding for all Buildings on any Covenanting Lot (except for the cladding of soffits or gable ends):
 - (a) brick;
 - (b) natural stone;
 - (c) river rock;
 - (d) textured plaster over brick, or polystyrene or other suitable sub-base for plaster;
 - (e) stained or painted timber weather-board, wooden shingles, timber board & batten;
 - (f) surface coated concrete block or concrete including concrete panels;
 - (g) solid plaster or glazing; or
 - (h) such other materials as may be approved by Pegasus Town.
- 13 The Grantor must ensure that the following materials are used for roofing for all Buildings on any Covenanting Lot:
 - (a) tiles (including clay, ceramic, concrete, decramastic, pre-coated or pressed steel);
 - (b) steel (comprising pre-painted, long-run pressed or rolled steel);
 - (c) shingles;
 - (d) slate;

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- (e) membrane roofing; or
 - (f) such other roofing material as may be approved by Pegasus Town.
- 14 The Grantor must ensure that:
- (a) no reflective or visually obtrusive materials are used on the exterior of any Building (including the roof) on the Covenanting Lot;
 - (b) no unpainted and/or exposed zinc coated products are used for the exterior cladding, roofing material, guttering or down pipe on any Building on the Covenanting Lot; and
 - (c) if a Building is erected on the Covenanting Lot using concrete or treated wooden piles, a solid and durable skirting board or other enclosure around the exterior of the Building(s) from ground height to the underside of the wall cladding is provided.
- 15 The Grantor must not Erect on the Covenanting Lot any garage or subsidiary Building except in conjunction with, or following construction of, the residential dwelling and all such Buildings shall be constructed with permanent materials comprising surface coated concrete, timber, stone or other permanent materials fitting with the character of the residential dwelling constructed on the Covenanting Lot.
- 16 Prior to the commencement of construction of any Building on the Covenanting Lot the Grantor must construct a ramp across the berm and footpath adjoining the Covenanting Lot to protect these areas from damage by vehicular traffic accessing the Covenanting Lot during construction works. Such ramp must be built to the satisfaction of Pegasus Town.
- 17 The Grantor must not install or permit to be installed any open fireplace or dry wood, pellet or similar solid fuel burner (except for clean air approved fires or burners complying with relevant and current environmental standards).
- 18 The Grantor must ensure that all air conditioning units on the Covenanting Lot are be properly screened and noise proofed to ensure they are not a nuisance to neighbours.
- 19 The Grantor must ensure that no discharge from a Covenanting Lot, of a soluble or insoluble nature, that is detrimental to water quality is

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Continue in additional Annexure Schedule, if required

discharged into the waste water or storm water systems within the Development.

20 The Grantor must not use portable gas cylinders or bottles on any Covenanting Lot or in any Building for any permanent cooking, water heating or domestic heating purposes (except gas bottles for outdoor and barbecue use) unless a reticulated community gas supply is not available to the Covenanting Lot.

21 The Grantor must not place or permit to be placed on any Covenanting Lot any diesel, petrol, oil or gas tanks which have a capacity of more than 100 litres.

22 Covenanting Lots that have rear vehicular access available from a lane or right of way may not have vehicular access to the Lot from the street frontage unless approved by Pegasus Town. Parking is prohibited on any Access Way unless approved by Pegasus Town.

Pegasus Town approval of building plans

23 Prior to the Grantor making an application to the Relevant Authority for a building consent for any Building to be constructed on the Covenanting Lot, the Grantor must obtain the approval of Pegasus Town to the Grantor's design plans.

Liability for Damage

24 In the event that the Grantor or any contractor, agent, employee or invitee of the Grantor causes any damage to the road, footpath, Access Way, curb, Berm, street light or other structure within the Development, the Grantor must make good the damage at its cost.

Residential Use

25 The Grantor must not use any part of the Covenanting Lot, or permit the same to be used, for any trading or commercial purpose, unless that purpose is a permitted activity under the relevant district plan and the Grantor complies in all respects with the requirements of the Relevant Authority.

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*Continue in additional Annexure Schedule, if required***Third party possession prior to completion**

- 26 The Grantor must not transfer or give possession of all or part of a Covenantee Lot to a third party before construction of the primary dwelling on the Covenantee Lot has been completed and the driveway, fencing and landscaping in the front yard of that Covenantee Lot have been completed. In exceptional circumstances Pegasus Town may grant a dispensation to this requirement. Any dispensation must be confirmed in writing by Pegasus Town. If Pegasus Town consents to the sale or transfer of the Covenantee Lot to a third party prior to the construction of a residential dwelling on the Covenantee Lot, on-sale purchasers of the Covenantee Lot will be bound by this covenant.
- 27 The Grantor must not use, occupy or move into or permit any other person to use, occupy or move into any residential dwelling or any associated building (as the case may be) on the Covenantee Lot, until such time as complete construction of the exterior to the Covenantee Lot's primary dwelling has been completed, the Covenantee Lot's driveway, fencing and landscaping in the front yard have been completed.

Maintenance*Buildings*

- 28 The Grantor must keep and maintain the exterior appearance of any Improvement on a Covenantee Lot to a high standard of care and maintenance and in particular must:
- (a) keep and maintain the exterior of any Improvements situated on the Covenantee Lot in good and substantial tenable repair and condition; and
 - (b) regularly clean and paint the exterior of any Improvements as and when required to ensure the continued high standards of visual amenity within the Development on the Land.

Landscaping

- 29 The Grantor must keep the Covenantee Lot in a neat, tidy and well maintained condition and free of weeds and rubbish and will not permit the growth of grass or other vegetation on the Covenantee Lot to the stage where it becomes long or unsightly, with grass or weeds on the Covenantee Lot not to exceed 150mm in height. The Grantor must not

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deposit, hold, store or leave on the Covenanting Lot or the Berm any excavation material, spoil, fallen trees, rubbish, garbage, builders' waste or other similar substances whatsoever.

30 Should the Grantee notify the Grantor that rubbish removal, slashing, maintaining or clearing of the Covenanting Lot or Berm is necessary to maintain the tidy presentation of the Development on the Land, the Grantor must carry out the works within 10 working days. If the Grantor fails to comply with the request to remove rubbish, slash, maintain or clear, the Grantee may employ a contractor to carry out the rubbish removal, slashing, maintaining or clearing and the Grantor must pay the Grantee for the cost incurred within 10 working days of receipt of an invoice from the Grantee setting out the cost incurred.

31 The Grantor must ensure that no tree, shrub or other vegetation on the Covenanting Lot materially affects the outlook or view from, or the sun into, a Benefiting Lot.

Immobile vehicles and rubbish

32 The Grantor will not:

- (a) bring onto or allow to remain on the Covenanting Lot or the Development any vehicle or rubbish (inorganic or organic) which is unsightly or which is likely to become a nuisance to the registered proprietors of the other lots in the Development;
- (b) allow to remain on the Covenanting Lot or the Development for more than 7 days any equipment or machinery which is unsightly or which is likely to become a nuisance to the registered proprietors of the other lots in the Development;
- (c) place or leave at any time any immobile or broken down vehicle or any unregistered or unlicensed vehicle on any road, road reserve, Berm or Access Way in the Development; or
- (d) use any adjacent land, footpaths or recreation areas for access to the Covenanting Lot.

Services

33 The Grantor must ensure that any Stormwater Components located on the

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Covenanting Lot are not removed or modified in any way which would adversely affect the performance of the stormwater system within the Development.

34 The Grantor authorises Pegasus Town and any Relevant Authority or its agent to access the Covenanting Lot for the purposes of inspecting the Stormwater Components located on the Covenanting Lot.

35 The Grantor shall, at the Grantor's own cost, comply with any directive issued by Pegasus Town or any Relevant Authority or its agent in relation to the maintenance or repair of the Stormwater Components which is required to ensure the efficient and effective performance of the stormwater system within the Development.

36 The Grantor will ensure that any permanent vehicle crossing point to the Covenanting Lot is constructed in a manner consistent with the effective functioning of the stormwater system within the Development including ensuring that any access driveway is formed with a low point, 50mm below the adjacent road channel level, at the mid point of the street swale.

37 The Grantor must construct and maintain at its own cost a suitable onsite stormwater soak pit. The Grantor will provide to Pegasus Town reasonable details of the soak pit as part of the Building plans submitted to Pegasus Town for approval.

38 The Grantor must at the Grantor's cost maintain the low pressure sewage system installed on the Covenanting Lot.

Carparking

39 The Grantor must not:

(a) allow any Covenanting Lot, road reserve, road, Berm or Access Way to be used for the purpose of long term vehicle parking, repair or maintenance; and

(b) park or permit guests, residents, invitees or contractors to park any recreational or commercial vehicles, boats or trailers on any road reserve, road, Berm or Access Way or in the front yard of the Covenanting Lot.

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Subdivision or amalgamation

40 The Grantor must not subdivide any Covenanted Lot in order to create any additional lot or lots, whether by fee simple title, unit title, cross-lease or otherwise without the prior approval of Pegasus Town.

41 The Grantor may carry out a boundary adjustment between any two or more lots only where such boundary adjustment does not create any additional lots.

Washing Lines

42 The Grantor must ensure that any washing line Erected on the Covenanted Lot is not situated within the front yard of the Covenanted Lot.

Letter boxes

43 The Grantor must ensure that all letter boxes are constructed using high quality material and are located adjacent to the road.

Satellite dishes and solar panels

44 The Grantor must not Erect a Satellite Dish in the front yard of the Covenanted Lot unless approved by Pegasus Town.

45 The Grantor must not Erect any solar panels on the roof of the dwelling situated on the Covenanted Lot unless such solar panels are integrated with the roof design.

Landscape Features and swimming pools

46 The Grantor must not Erect any Landscape Features or swimming pools on the Covenanted Lot without the approval of Pegasus Town.

Signage

47 Subject to clause 49, the Grantor must not Erect on the Covenanted Lot:

- (a) more than one "builder's" sign at any one time (excluding signs required by Occupational Health and Safety standards); and
- (b) more than one "For Sale" or "For Rent" sign at any one time.

48 The Grantor must ensure that any signage Erected on the Covenanted Lot:

- (a) is of high quality sign writing; and

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(b) is not handwritten.

49 Nothing in clause 47 will prevent the Grantor from Erecting any sign, provided that such sign:

(a) complies with clause 48; and

(b) is either:

49.b.1. required in order to adhere to the requirements of Occupational Health and Safety Service; or

49.b.2. approved by Pegasus Town and (where necessary and subsequent to Pegasus Town's approval being given) the Relevant Authority.

Animals

50 The Grantor must not bring onto, raise, breed or keep any animal, livestock or poultry on the Covenancing Lot without the prior approval of the Relevant Authority, other than a domestic cat, bird, rabbit or dog registered with the Relevant Authority.

51 Notwithstanding clause 50, the Grantor must not bring onto, raise, breed or keep any potentially aggressive or noisy breed of animal including any dog which, in whole or in part, resembles any of the pit bull terrier, the Japanese tosa, the dogo argentino or the fila brasileiro breeds.

Finished Ground Level

52 The Grantor must not alter the Finished Ground Level on the Covenancing Lot without prior approval from Pegasus Town.

Fencing

53 The Grantor shall be bound by a Fencing Covenant within the meaning of section 2 of the Fencing Act 1978 in that neither Pegasus Town nor the Waimakariri District Council shall be liable to pay for or contribute towards the cost of the construction or maintenance of any fence between any Covenancing Lot and any adjoining land owned by Pegasus Town or the Waimakariri District Council.

54 If the Grantor takes title to a Covenancing Lot which already has a boundary fence constructed thereon and that fence has been paid for in full

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by the owner of an adjoining Benefiting Lot, the Grantor shall be liable to reimburse such owner for one half of the actual cost of that boundary fence provided that the cost of that boundary fence has not previously been reimbursed in part or in whole by any other party. The amount reimbursed from the Grantor to the owner of the adjoining Benefiting Lot shall not exceed \$100.00 (plus GST) per linear metre for the fence. The cost shall be Consumer Price Indexed annually effective from 1 January 2014.

55 The Grantor must ensure that:

- (a) all fences on the side and rear boundaries of the Covenantee Lot are constructed and maintained in accordance with the Pegasus Design Guidelines and are approved by Pegasus Town; and
- (b) all fences on the side and rear boundaries of the Covenantee Lot are Erected prior to commencing construction of any dwelling on the Covenantee Lot.

No Objection to Development

56 The Grantor irrevocably agrees and undertakes to waive all rights of complaint, submission, appeal or objection it may have under the RMA or otherwise in respect of any subdivision, use or development of any part of the Development.

57 For the avoidance of doubt, this clause shall apply to:

- (a) any application for a resource consent made by any person to the Relevant Authority under section 88 of the RMA relating to the subdivision and/or use of the Development or any matter relating to the Development for the purposes of residential or business activities (including retail and commerce);
- (b) any application for change or cancellation of consent conditions under section 127 of the RMA, or any review of consent conditions by the Relevant Authority under sections 128 and 129 of the RMA;
- (c) any request for a change to the district plan made under clause 21 of the First Schedule to the RMA to provide for the subdivision, use, and development of any part of the Development for the purposes of residential and/or business activities; and
- (d) any preparation by the Relevant Authority of a proposed district plan

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under clause 2 of the First Schedule to the RMA to provide for the subdivision, use, and development of any part of the Development for the purposes of residential and/or business activities;

(referred to in this document as an Application).

- 58 The Grantor surrenders with immediate effect its rights as a person who may be directly or indirectly affected by an Application to receive notice of the Application under section 94(1) of the RMA, and shall not request that the Relevant Authority serve on them notice of an Application.
- 59 The Grantor surrenders with immediate effect the right to make submissions or further submissions about an Application under section 96 or clauses 6 and 8 of the First Schedule of the RMA, and shall not make a submission about an Application.
- 60 The Grantor surrenders with immediate effect the right to appeal to the Environment Court against the whole or any part of a decision by the Relevant Authority on an Application under sections 120 or clause 14 of the First Schedule of the RMA (including any rights of further appeal on a question of law or to the Court of Appeal under sections 299, 305, and 308 of the RMA), and shall not exercise any right of appeal against the decision of the Relevant Authority on an Application.
- 61 The Grantor surrenders with immediate effect the right to become a party to proceedings under section 274 of the RMA, and the right to appear and be heard on appeal under sections 301 or 308 of the RMA, and shall not exercise any such rights in relation to an appeal against the decision of the Relevant Authority on an Application.
- 62 The Grantor surrenders with immediate effect its right to make a claim against Pegasus Town in nuisance or any other action in law in relation to any adverse effect on the environment arising out of, or in relation to, the subdivision or development of any part of the Development and any actual or potential effects of such activities (including, without limitation, dust, noise and vibration) (referred to in this document as an Adverse Effect) on the Lots. The Grantor further agrees not to seek an enforcement order or abatement notice under the RMA from any Relevant Authority in respect to any Adverse Effect.
- 63 In addition:

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- (a) this clause shall also apply to any right of complaint or application under sections 17, 35, 311, 316, 322, 338, and 343A of the RMA relating to the subdivision, use, and development of any part of the Development for the purposes of residential and/or business activities;
- (b) for the avoidance of doubt, the Grantor also covenants and agrees that it shall not at any time after the date of these land covenants aid, abet, counsel, or procure any other person to exercise any of the rights under the RMA referred to in these land covenants (either on behalf of the Grantor or otherwise) in relation to the subdivision, use, or development of any part of the Development and any actual or potential effects of such activities on the Covenanting Lot.

BREACH OF COVENANTS

64 If the Grantee considers that there is any breach or non-observance by the Grantor of any one or more of the Covenants, the Grantee will give written notice of such breach to the Grantor. Without prejudice to any other liability which the Grantor may have to the Grantee and any persons having the benefit of the Covenants, the Grantor will upon written demand being made by the Grantee:

- (a) within 7 working days (or such shorter period as is provided elsewhere in this Covenant or by the Relevant Authority) of receipt of notice in writing from the Grantee, pay to the Grantee as liquidated damages the sum of \$100 for each day that the breach continues; and/or
- (b) within 7 working days (or such shorter period as is provided elsewhere in this Covenant or by the Relevant Authority) of receipt of notice in writing from the Grantee, remedy any breach if capable of remedy on terms and conditions imposed by the Grantee, which may involve being required to remove any structure or building material which breaches the terms of the Covenants; and/or
- (c) allow the Grantee the right to lodge a caveat against the certificate of title to the Covenanting Lot in breach, to protect the sum of any unpaid debt owing to the Grantee on the basis that any unpaid debt shall be deemed to constitute a contractual charge over the Covenanting Lot owing to the Grantee until such time that any debt is fully discharged or otherwise satisfied.

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- 65 If the Grantor and/or the tenant of the Grantor fails to remedy the breach within a reasonable time of receipt of such notice, the Grantee may take whatever legal action it or they consider necessary to remedy the breach.
- 66 All expenses and costs incurred in enforcing the Covenants will constitute a debt due that shall be a charge against the Covenanting Lot of the Grantor who is in breach of the covenants(s) and shall be recoverable as liquidated damages.
- Dispute Resolution**
- 67 If a dispute arises in connection with these Covenants, the parties will endeavour to settle the dispute by mediation before resorting to arbitration. Either party may initiate mediation by giving written notice to the other party. The mediator will be agreed on by the parties, but if the parties cannot agree on a mediator within 7 working days after the mediation has been initiated, then the mediator will be appointed by the President for the time being of the Auckland branch of the New Zealand Law Society whose decision as to the appointment of the mediator will be final and binding on the parties.
- 68 If the dispute has not been settled within 14 working days after the appointment of the mediator, or within any longer period agreed on in writing by the parties, then the parties agree that resolution of the dispute will be determined by arbitration under the Arbitration Act 1996. Either party may commence the arbitration by giving a written notice to the other party stating the subject matter and details of the dispute and the party's requirement to have the dispute determined by arbitration.
- 69 The arbitration will be conducted by a single arbitrator. If the parties cannot agree upon a single arbitrator within 14 working days of a party receiving a notice under this clause, then the arbitrator will be appointed by the President for the time being of the Auckland branch of the New Zealand Law Society and his/her decision will be final and binding on the parties as to the appointment of the arbitrator.
- 70 The parties agree that the arbitrator's award will be final and binding on them.
- Severability**
- 71 If any part of this instrument is held by any court or administrative body of competent jurisdiction to be illegal, void or unenforceable, such determination shall not impair the enforceability of the remaining parts of this instrument.

