

**Easement instrument to grant easement or *profit a prendre*, or create land covenant**  
(Sections 90A and 90F Land Transfer Act 1952)

200916229EF

APPROVED

Registrar-General of Land

**Grantor**

WFH PROPERTIES LIMITED

**Grantee**

WFH PROPERTIES LIMITED

**Grant of Easement or *Profit a 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) a 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
<b>Land Covenant</b>	<b>See attached Annexure Schedule</b>	<b>See attached Annexure Schedule</b>	<b>See attached Annexure Schedule</b>

REF: 7203 - AUCKLAND DISTRICT LAW SOCIETY INC.

**Easements or profits a 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 **[substituted]** \_\_\_\_\_ by:

~~[Memorandum number \_\_\_\_\_, register 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 15-5A of the Land Transfer Act 1952]~~

~~[Annexure Schedule 2]~~

REF: 7203 - A UCKLAND DISTRICT LAW SOCIETY INC.

## **ANNEXURE SCHEDULE 2**

The Grantee when registered proprietor of the land formerly contained in Unique Identifier 784343 subdivided the land into lots in the manner shown and defined on Deposited Plan 509953 (hereinafter referred to as the “the Plan”).

**WHEREAS** it is the Grantee’s intention to create a high quality subdivision. To enable this to occur it is the Grantors intention to create for the benefit of the land set out in Schedule 2C (hereinafter referred to as the “Dominant Lots”) the land covenant set out in Schedule 2B over the land set out in Schedule 2A (hereinafter referred to as the “Servient Lots”)

**AND** so as to bind the Servient Lots and for the benefit of the respective Dominant Lots the Grantor **DOTH HEREBY COVENANT AND AGREE** in the manner set out in the Schedule 2B hereto so that the covenant runs with the Servient Lots set out in Schedule 2A for the benefit of each of the respective Dominant Lots as described in Schedule 2C.

### **SCHEDULE “2A”**

<b>Lot No.</b>	<b>Certificate of Title</b>	<b>Lot No</b>	<b>Certificate of Title</b>
446	784980	447	784981
489	784982	490	784983
491	784984	492	784985
493	784986	494	784987
495	784988	496	784989
497	784990	498	784991
499	784993	500	784994
501	784995	502	784996
503	784997	504	784998
505	784999	506	785000
507	785001	508	785002
509	785003	510	785004
511	785005	512	785006
513	785007	514	785008
515	785009	516	785010
517	785011	518	785012
519	785013		

### **SCHEDULE “2B”**

1. The Grantor shall not erect on the land:
  - 1.1. any dwelling, building, structure or fence or landscaping:
    - (i) that has not had the sketch plans for same approved by WFH Properties Limited or its appointed agent prior to submission of final plans, specifications and finish.
    - (ii) that has the same plan, building shape and materials as any other dwelling within 250 metres of the land.
    - (iii) unless the final plans, specifications and finish have been approved by WFH Properties Limited or its appointed agent provided approval to such plans and specifications shall be deemed to have been given in respect of any building which has been erected and occupied for a period of five (5) years or more without the Grantee objecting to same.

- 1.2. anything other than a single private dwelling house (including a double garage) with ancillary buildings/structures having a gross floor area, exclusive of verandahs, patios, and outbuildings, of at least 191 m<sup>2</sup>.
  - 1.3. any dwelling or other building which does not satisfy the construction and material requirements set out in Clause 2;
  - 1.4. on any lot being 450m<sup>2</sup> or greater, any building or structure within 3 metres of any boundary adjoining a road except for a side fence or a retaining wall permitted pursuant to clauses 5.6(a) or 5.6(d)(i);
  - 1.5. any building that does not comply with the District Plan side yard set back rules unless a resource consent permitting the non-compliance with the District Plan side yard set back rules as been granted by Auckland Council.
2. Unless WFH Properties Limited or its appointed agent in its full and unfettered written discretion permits a variation or waiver of this Clause 2, the Grantor shall not erect or place on the land any building, dwelling, carport, garage or other structure:
- 2.1. unless all roofs are sheathed in either pre-coated metal tiles, chip-coated metal tiles, concrete tiles, clay tiles, asphalt shingles or glass fibre shingles, or Colorsteel® long run roofing products, provided that if concrete tiles are used they may not be red or orange in colour;
  - 2.2. unless exterior walls are sheathed in brick or textured plaster or stone or glass or timber weatherboards or Linea Board or any combination of those materials;
  - 2.3. having fibrous cement products used for exterior finish other than for soffit lining or backing for textured plaster finish.
3. The Grantor shall not erect on the land any temporary building or structure whether purpose built or previously erected on other land except as may be necessary during the construction of the permanent buildings provided that all temporary buildings or structures will be removed from the land upon completion of the permanent buildings.
4. The Grantor shall not subdivide the land. Subdivide shall have the meaning "subdivide land" set out in Section 218 of the Resource Management Act 1991.
5. The Grantor shall not permit or suffer on the land;
- 5.1. unpainted sheds or unpainted garages;
  - 5.2. any garden shed that is visible from any road, jointly owned accessway lot or Reserve;
  - 5.3. any buildings in the course of construction to be left without substantial work being carried out on them for a period of two or more months;
  - 5.4. any rubbish including garden or household waste to accumulate or be placed upon the land or permit any excessive growth of grass so that it exceeds 100 mm in height or otherwise becomes unsightly;
  - 5.5. any removal of soil from the land except as shall be necessary for the construction of the dwelling and ancillary buildings;
  - 5.6. the erection of any fence and/or wall on the land:
    - (a) on or within 5 metres of a road boundary if that wall is a timber retaining wall unless WFH Properties Limited or its appointed agent has, in its sole

discretion, approved the erection of a timber retaining wall within 5 metres of a road boundary;

- (b) on any boundary which bounds on a Reserve unless that fence is a black pool fence style MF1013 with fence detail by Auckland Fencing and Auto Gates, such detail as at the date of the registration of this Easement or such other fence which WFH Properties Limited or its appointed agent, in its sole discretion, shall approve ("Approved Fence");
  - (c) in areas B to Z and AA to AM unless that fence is an Approved Fence;
  - (d)
    - (i) On or within 3 metres of a road boundary, unless that fence is an Approved Fence of no more than 1 metre high on a side boundary or is a retaining wall that is not made from timber;
    - (ii) On the balance of the land a fence which exceeds 1.8 metres measured from the original ground level of the land.
  - (e) with the exception of an Approved Fence, any fence or wall using second hand materials and/or using corrugated or metal products.
  - (f) any fence or wall visible from any road, jointly owned accessway lot or Reserve unless it complies with this Clause 5.6 in all respects.
- 5.7. any bus, caravan, trailer or similar that is parked on anything other than a hardstand area;
- 5.8. any sign larger than 900mm by 600mm where such sign is visible from any road or jointly owned accessway lot or Reserve unless WFH Properties Limited or its appointed agent, in its sole and unfettered discretion, shall permit a larger sign. Such permission must be in writing and must be obtained before a larger sign is erected;
- 5.9. any satellite dish over 1 metre in diameter that is visible from any road or jointly owned accessway lot or Reserve.
- 5.10. any damage or alteration of the finished slope or works within the reinforced earth batter wall in areas T to Z and AA to AM (including any works below the ground of the finished slope) unless that alteration and/or works have first been approved by the relevant local authority. Should any damage be caused the Grantor shall promptly at its own expense rectify such damage. Should WFH Properties Limited grant consent for any works within areas T to Z and AA to AM, it shall at no time have any responsibility for the works and or any outcome of the works whether foreseen or unforeseen or requirement to provide either uphill or downhill support, that being the sole responsibility of the Grantor.
- 5.11. any damage or alteration of the finished slope or works (including but not limited to the timber retaining wall) in areas B to J (including any works below the ground) unless that alteration and/or works have first been approved by the relevant local authority. Should any damage be caused the Grantor shall promptly at its own expense rectify such damage. Should WFH Properties Limited grant consent for any works within areas B to J, it shall at no time have any responsibility for the works and or any outcome of the works whether foreseen or unforeseen or requirement to provide either uphill or downhill support, that being the sole responsibility of the Grantor.

6. The Grantor shall:

- 6.1. only use any buildings on the land as a residence or other permitted activity

authorised under the Auckland Council District Plan after buildings have been substantially completed in accordance with the terms of this covenant and the requirements of the local authority;

- 6.2. complete the landscaping of the land in accordance with plans pre-approved by WFH Properties Limited or its appointed agent prior to using any buildings on the land as a residence or other permitted activity by providing lawns and/or paving, trees, shrubs and flowers;
- 6.3. ensure that upon completion of any building on the land and prior to use of any building as a residence or other permitted activity:

- (a) any concrete on the footpath, kerb or driveway is reinstated to the following specifications (all per cubic metre);

13mm C/Agg Hunua W/Agg	940kg
Pap7 Hunua W/Agg	588kg
Helensville sand – Winstones	375kg
General purpose G/Bay cement	245kg
Water	167 litres
Micro Air 940-MBT	100ml
Pozzoloth 370-MBT	0.74litres
Air Content	5.0%
Density	2297kg/m <sup>3</sup>
Yield	1.008
W/C Ratio	0.68

- (b) ensure that any kerb entrance crossing shall be reinstated to the original saw cuts and kerb detail as per Auckland Council specifications;

- 6.4. at all times comply with any plans, conditions, consents or similar imposed on it by any local or regional authority.
7. WFH Properties Limited or its appointed agent reserves the right at any time to waive or vary any of these covenants and if called upon to do so the Grantor will sign any documentation required to give effect to this waiver and/or variation.
8. The Grantor shall not oppose, frustrate, object to, nor take any action or encourage others to oppose, frustrate, object or take any action that might, in any way, prevent or hinder WFH Properties Limited and/or the Local Authority from progressing or completing the Millwater subdivision. This covenant extends to and includes (but is not limited to) development planning, zone changes, resource consents, Consent Authority or Environment Court Applications, Building Consent matters, any other consents, earthworks, developments and general works. The benefit of this covenant applies to any adjoining or neighbouring properties now or hereafter owned by WFH Properties Limited.
9. WFH Properties Limited shall not be liable to pay for or contribute towards the expense of construction or maintenance of any fence between the land and any contiguous land of WFH Properties Limited but this provision shall not enure for the benefit of any subsequent purchaser or proprietor of the contiguous land.
10. If there be any breach or non-observance of any of these covenants:
  - (a) there shall be no obligation on WFH Properties Limited to take any steps to enforce these covenants.
  - (b) if there is more than one Grantor for any Servient Lot the liability of the Grantors for the Servient Lot shall be joint and several.

(c) the Grantor in breach shall rectify any breach.

11. In the event of any dispute which cannot be resolved by agreement between the Grantor and the Grantee as to any matter relating to the abovementioned restrictive covenants, the same shall be resolved by arbitration under the provisions of the Arbitration Act 1996 or any Act passed in substitution or amendment thereof by a single arbitrator appointed for that purpose by the nominee of the President of the New Zealand Law Society and the decision of that arbitrator shall be final and binding on the Parties.
12. The covenants in this instrument will cease to apply to any land that is intended to vest in the Crown or any territorial authority as a road or reserve, upon any survey plan relating to such vesting being approved as to survey and being accepted for deposit by Land Information New Zealand.

### **SCHEDULE "2C"**

<b>Lot No.</b>	<b>Certificate of Title</b>	<b>Lot No</b>	<b>Certificate of Title</b>
446	784980	447	784981
489	784982	490	784983
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519	785013		

## Instrument to grant easement ("easement")

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

### Grantor

WFH Properties Limited

### Grantee

Vector Limited

### Grant of Easement

**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) set out in Schedule A, with the rights and powers or provisions set out in the Annex (s)

### Schedule A

*Continue in additional Annex, if required*

Purpose (Nature and extent) of easement	Shown (plan reference)	Servient Tenement (Computer Register)	Dominant Tenement (Computer Register) or in gross
<b>Right to Convey Electricity</b>	<b>A on DP 509953</b>	<b>Lot 706 DP 509953 Part CFR 784989, 784990, 785002, 785003</b>	<b>In Gross</b>

### Easements rights and powers (including terms, covenants and conditions)

The rights and powers implied in specified classes of easement under the Land Transfer Regulations 2002 shall not apply and are substituted by the provisions set out in the Annex.

### Presence of Accommodation (select as applicable):

**There is no Accommodation**     ~~The Accommodation is owned by the Landowner~~     ~~The Accommodation is owned by the Network Operator~~



*Insert instrument type*

**Easement Instrument to grant easement**

*(Continue in additional Annex, if required)*

**1. DEFINITIONS**

In this easement unless the context otherwise requires:

- (a) "Accommodation" means that building or other structure (if any) enclosing, supporting and/or surrounding the Substation (if any) from time to time including the foundation, floor, pole, walls or enclosure, canopy, ceiling, lighting, plug socket outlets, cable ducts, access doors or other provision for entry and exit of the Substation.
- (b) "Building" means the building or other improvements situated on the Land.
- (c) "Easement Land" means those parts of the Land specifically marked on the Plan and referred to in Schedule A of this easement.
- (d) "Emergency Situation" means a situation in which there is a probable danger to life or property or immediate risk to the continuity or safety of supply or distribution of electricity, gas or telecommunications and computer media.
- (e) "Equipment" includes the Substation and all pipes, ducting, cables (including fibre optic cables), meters and load management devices and conducting media, transformers, gas measurement systems, distribution systems and fittings (as defined in the Gas Act 1992) and all other equipment (owned by the Network Operator) which is situated on, in, over or under the Easement Land or which the Network Operator requires to place on, in, over or under the Easement Land to carry out the Permitted Uses.
- (f) "HSW Act" means the Health and Safety at Work Act 2015, any regulations under that Act, and any other approved codes of practice, standards or rules relating to health and safety.
- (g) "Land" means the servient tenement referred to in Schedule A of this easement.
- (h) "Landowner" means the Grantor under this easement, being initially the party specified as the Grantor on the first page of this easement of this easement.
- (i) "Network Operator" means the Grantee under this easement, being initially the party specified as the Grantee on the first page of this easement.
- (j) "Permitted Uses" means the purpose specified in Schedule A, being either the conveyance of electricity and/or gas and/or the conveyance of telecommunications and computer media in each case, for the benefit of the Land and any other land, and for any other purpose reasonably required by the Network Operator.
- (k) "Plan" is the deposited plan referred to in Schedule A of this easement.
- (l) "Rights" are the full, free, uninterrupted and unrestricted ability and licence (as reasonably required by the Network Operator) at all times to go on, over and under the Land and have access to and through the Building (if any) to enter the Easement Land with or without vehicles, tools or machinery to undertake Works and use the Equipment.
- (m) "Substation" means the distribution substation and/or transformer and/or switching equipment (if any) installed from time to time on the Easement Land.
- (n) "Working Day" means any day other than a Saturday, Sunday or statutory public holiday at the place where the Land is situated.
- (o) "Works" means any works (including but not limited to excavating trenches in which the Equipment will be placed and any other construction, maintenance, inspection, repair, upgrading and replacement works), required to be undertaken by the Network Operator in order that it may use the Easement Land for the Permitted Uses.
- (p) Headings are included for convenience only and do not affect the interpretation of this easement.
- (q) Words importing the singular shall include the plural, the masculine gender shall include the feminine and persons shall include companies and vice versa.

*Insert instrument type*

**Easement Instrument to grant easement**

*(Continue in additional Annex, if required)*

- (r) Reference to the Network Operator and Landowner is deemed to be a reference also to the Network Operator's and Landowner's employees, workmen, engineers and agents unless the context requires otherwise and, in the case of the Network Operator, to any person nominated by the Network Operator in accordance with clause 9.
- (s) Reference to legislation includes reference to all legislation amending or replacing that legislation or to any legislation passed pursuant to that legislation.
- (t) References to a party includes reference to that party's executors, administrators, successors in title and assigns.

**2. GRANT**

- 2.1 The Landowner grants and the Network Operator accepts the grant of this easement in gross to use the Easement Land for the Permitted Uses together with the right to exercise the Rights for all time.
- 2.2 The Landowner agrees that no power is implied for the Landowner to terminate this easement for any breach of its provisions (expressed or implied) or for any other cause, the intention being that this easement shall continue until surrendered.

**3. NETWORK OPERATOR'S OBLIGATIONS**

- 3.1 The Network Operator shall:
  - (a) in undertaking any Works cause as little damage as possible to the Land and Building and as little inconvenience as possible to the Landowner and/or the Landowner's tenants, licensees and other persons who have the right to use the Land and the Building; and
  - (b) following it undertaking any Works, in a good and workmanlike manner fill in any opening in the surface of the Land as soon as possible after the Works have been completed and restore the surface of the Land as nearly as possible to its former condition (unless otherwise agreed) and make good any damage to the Building caused through the undertaking of the Works.
- 3.2 The Network Operator shall provide the Landowner and/or the occupier for the time being of the Land, at least five (5) Working Days' notice prior to exercising the Rights except:
  - (a) in an Emergency Situation; or
  - (b) when operating or inspecting the Equipment or carrying out Works of a minor nature (that have come to the attention of the Network Operator in the course of such inspection or operation).

**4. LANDOWNER'S OBLIGATIONS**

- 4.1 The Landowner shall not (and shall not allow any other person to), without the prior written consent of the Network Operator:
  - (a) place or allow to be placed any further improvements or fencing or other erections, or allow any further trees or shrubs to grow on the Easement Land other than improvements, fences, erections, trees or shrubs in place as at the date of this easement or replacements for those improvements, fences, erections, trees or shrubs;
  - (b) carry out any act on the Land that interferes with or affects the Permitted Uses or the exercise by the Network Operator of the Rights. In particular, the Landowner shall, at its own cost, at all times keep an access route over the Land to the Easement Land clear and in good condition and promptly carry out any reinstatement works which become necessary from time to time;
  - (c) interfere with or cause any damage to be done to the Equipment;
  - (d) grant any rights over the Easement Land to any party other than the Network Operator except the easements referred to in the Memorandum and/or Schedule of Easements submitted to Land Information New Zealand with the Plan; or
  - (e) permit to be done any act on the Land that interferes with the Network Operator's:
    - (i) access to the Substation (if any) including personnel and Equipment access;
    - (ii) ventilation of the Substation and/or Accommodation (if any);
    - (iii) fire-rating of the Substation and/or Accommodation (if any); or
- 4.2 If the Landowner breaches any of its obligations contained in this clause 4 the Network Operator may remedy any such breach and the Landowner shall reimburse the Network Operator (on demand) for the cost of any such remedy.

*Insert instrument type*

**Easement Instrument to grant easement**

*(Continue in additional Annex, if required)*

**5. MAINTENANCE**

The Network Operator shall, at its cost, keep the Equipment in good and substantial repair and shall be liable to the Landowner for any loss, cost or damage caused to or suffered by the Landowner as a result of any failure to repair the Equipment to the extent (but not greater than) specified in:

- (a) the Network Operator's then standard terms and conditions for the supply of distribution services as published and publicly notified on the Network Operator's official website from time to time (if applicable);
- (b) the direct agreement for the supply of distribution services between the Network Operator and the Landowner (if applicable); or
- (c) the Landowner's energy supply agreement with its retailer (to the extent the terms of such agreement are enforceable against the Landowner by the Network Operator).

**6. HEALTH AND SAFETY**

6.1 The Network Operator shall, while undertaking any Works, do so in accordance with its health and safety obligations and all applicable health and safety legislation and regulations. In particular, the Network Operator shall:

- (a) comply with the HSW Act;
- (b) ensure, so far as is reasonably practicable, the health and safety of its workers and those who are influenced or directed by it while carrying out work for it;
- (c) ensure the health and safety of other persons is not put at risk from work carried out by the Network Operator; and
- (d) ensure, so far as is reasonably practicable, that the way in which any Equipment is installed is without risks to the health and safety of any persons who:
  - (i) use or install such Equipment; or
  - (ii) are at or in the vicinity of the Landowner's workplace and may be affected by that use or activity.

6.2 Where the Landowner conducts a business or undertaking, the Landowner shall:

- (a) comply with the HSW Act;
- (b) in relation to any workplace under the Landowner's management or control:
  - (i) notify the Network Operator of any known hazards to which a worker or any person may be exposed;
  - (ii) ensure the workplace is without risks to the health and safety of any person.

6.3 The Landowner must notify the Network Operator of any known hazards or special health and safety requirements for the Land and the Network Operator shall use reasonable endeavours to comply with those.

6.4 The parties agree to work together to consult, co-operate and co-ordinate activities in order to meet each other's respective health and safety obligations under applicable legislation, regulations and this easement.

**7. OWNERSHIP**

The Network Operator retains ownership of the Equipment and the Landowner acknowledges that such Equipment does not form part of the Land.

**8. IMPLIED RIGHTS AND POWERS**

The rights and powers implied in certain easements pursuant to section 90D of the Land Transfer Act 1952 (and currently set out in Schedule 4 of the Land Transfer Regulations 2002) are, as between the Landowner and Network Operator, substituted and replaced by the terms set out in this easement.

**9. NOMINATION OF NETWORK OPERATOR**

The Network Operator may, by serving written notice on the Landowner (and without limiting the rights of the Network Operator pursuant to section 291 Property Law Act 2007) nominate any person to exercise (either together with the Network Operator or otherwise) any of the rights granted to the Network Operator.

*Insert instrument type*

**Easement Instrument to grant easement**

*(Continue in additional Annex, if required)*

**10. LANDOWNER TO NOTIFY OCCUPIER**

The Landowner shall notify every occupier of the Land of the terms of this easement and shall make sure that any such occupier complies with the terms of this easement in order that the Network Operator can have the full use and benefit of the rights granted under this easement.

**11. DISPUTES**

11.1 If any dispute arises between the Landowner and the Network Operator concerning the rights created by this instrument and the parties are unable to resolve that dispute through good faith negotiations within 20 Working Days of beginning such negotiations:

- (a) to the extent that the dispute falls within the categories of dispute dealt with pursuant to the Electricity and Gas Complaints Commissioner Scheme (the "Scheme"), the Landowner may refer the dispute to the Scheme; and
- (b) to the extent that the dispute does not come within the provisions of clause 11.1(a) either party may refer the matter to the arbitration of a single arbitrator pursuant to the Arbitration Act 1996, such arbitrator to be agreed by the parties (within 10 Working Days), or failing that, appointed by the President for the time being of the Arbitrators' and Mediators' Institute of New Zealand Inc. The arbitration will be held in Auckland, New Zealand.

**12. ACCOMMODATION OWNED BY LANDOWNER**

12.1 Where Accommodation is owned by the Landowner (as indicated on the front page of this easement), the following provisions of this clause 12 shall apply:

- (a) the Landowner shall not enter that part of the Easement Land on which the Accommodation is situated except for the purposes of carrying out inspection of and maintenance of the Accommodation pursuant to clause 12(b) and 12(c).
- (b) the Landowner shall at its cost keep the Accommodation in good and substantial repair. If the Landowner fails to comply with this obligation then the Network Operator may remedy any such failure and the Landowner shall reimburse the Network Operator (on demand) for the cost of any such remedy.
- (c) the Landowner acknowledges that the Accommodation is locked at all times by the Network Operator. If the Accommodation requires repair or the Network Operator reasonably suspects that the Accommodation requires repair, upon receiving notification from the Landowner the Network Operator agrees to, on reasonable notice (except in an Emergency Situation), accompany the Landowner to enter the Accommodation for the purpose of inspecting the Accommodation or carrying out repair, provided that the Landowner shall have the right to inspect the Accommodation without charge by the Network Operator no more than twice a year (other than in an Emergency Situation). The Landowner shall at all times ensure that:
  - (i) the ventilation to and from the Accommodation is not restricted; and
  - (ii) the fire resistance rating and fire protection measures of the Accommodation are maintained at the same levels as at the date of this easement.
- (d) if the Network Operator becomes aware of any want of repair or maintenance, the Network Operator shall notify the Landowner, provided that the Network Operator has no responsibility to carry out inspections of the Accommodation when it enters the Accommodation or otherwise.

**13. ACCOMMODATION OWNED BY NETWORK OPERATOR**

13.1 Where this easement states that there exists Accommodation owned by the Network Operator (as indicated on the front page of this easement) the following provisions of this clause 13 shall apply:

- (a) the Landowner shall not enter the Accommodation.
- (b) the Network Operator shall at its cost keep the Accommodation in good and substantial repair and shall be liable for any loss, cost or damage caused to or suffered by the Landowner as a result of any failure to repair the Accommodation to the extent set out in clause 5.
- (c) the Landowner acknowledges that the Accommodation does not form part of the Land.

## Instrument to grant easement ("easement")

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

### Grantor

WFH Properties Limited

### Grantee

Vector Limited

### Grant of Easement

**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) set out in Schedule A, with the rights and powers or provisions set out in the Annex (s)

### Schedule A

*Continue in additional Annex, if required*

Purpose (Nature and extent) of easement	Shown (plan reference)	Servient Tenement (Computer Register)	Dominant Tenement (Computer Register) or in gross
Right to Convey Gas	A on DP 509953	Lot 706 DP 509953 Part CFR 784989, 784990, 785002, 785003	In Gross

### Easements rights and powers (including terms, covenants and conditions)

The rights and powers implied in specified classes of easement under the Land Transfer Regulations 2002 shall not apply and are substituted by the provisions set out in the Annex.

### Presence of Accommodation (select as applicable):

There is no Accommodation     The Accommodation is owned by the Landowner     The Accommodation is owned by the Network Operator

*Insert instrument type*

**Easement Instrument to grant easement**

*(Continue in additional Annex, if required)*

**1. DEFINITIONS**

In this easement unless the context otherwise requires:

- (a) "Accommodation" means that building or other structure (if any) enclosing, supporting and/or surrounding the Substation (if any) from time to time including the foundation, floor, pole, walls or enclosure, canopy, ceiling, lighting, plug socket outlets, cable ducts, access doors or other provision for entry and exit of the Substation.
- (b) "Building" means the building or other improvements situated on the Land.
- (c) "Easement Land" means those parts of the Land specifically marked on the Plan and referred to in Schedule A of this easement.
- (d) "Emergency Situation" means a situation in which there is a probable danger to life or property or immediate risk to the continuity or safety of supply or distribution of electricity, gas or telecommunications and computer media.
- (e) "Equipment" includes the Substation and all pipes, ducting, cables (including fibre optic cables), meters and load management devices and conducting media, transformers, gas measurement systems, distribution systems and fittings (as defined in the Gas Act 1992) and all other equipment (owned by the Network Operator) which is situated on, in, over or under the Easement Land or which the Network Operator requires to place on, in, over or under the Easement Land to carry out the Permitted Uses.
- (f) "HSW Act" means the Health and Safety at Work Act 2015, any regulations under that Act, and any other approved codes of practice, standards or rules relating to health and safety.
- (g) "Land" means the servient tenement referred to in Schedule A of this easement.
- (h) "Landowner" means the Grantor under this easement, being initially the party specified as the Grantor on the first page of this easement of this easement.
- (i) "Network Operator" means the Grantee under this easement, being initially the party specified as the Grantee on the first page of this easement.
- (j) "Permitted Uses" means the purpose specified in Schedule A, being either the conveyance of electricity and/or gas and/or the conveyance of telecommunications and computer media in each case, for the benefit of the Land and any other land, and for any other purpose reasonably required by the Network Operator.
- (k) "Plan" is the deposited plan referred to in Schedule A of this easement.
- (l) "Rights" are the full, free, uninterrupted and unrestricted ability and licence (as reasonably required by the Network Operator) at all times to go on, over and under the Land and have access to and through the Building (if any) to enter the Easement Land with or without vehicles, tools or machinery to undertake Works and use the Equipment.
- (m) "Substation" means the distribution substation and/or transformer and/or switching equipment (if any) installed from time to time on the Easement Land.
- (n) "Working Day" means any day other than a Saturday, Sunday or statutory public holiday at the place where the Land is situated.
- (o) "Works" means any works (including but not limited to excavating trenches in which the Equipment will be placed and any other construction, maintenance, inspection, repair, upgrading and replacement works), required to be undertaken by the Network Operator in order that it may use the Easement Land for the Permitted Uses.
- (p) Headings are included for convenience only and do not affect the interpretation of this easement.
- (q) Words importing the singular shall include the plural, the masculine gender shall include the feminine and persons shall include companies and vice versa.

*Insert instrument type*

**Easement Instrument to grant easement**

*(Continue in additional Annex, if required)*

- (r) Reference to the Network Operator and Landowner is deemed to be a reference also to the Network Operator's and Landowner's employees, workmen, engineers and agents unless the context requires otherwise and, in the case of the Network Operator, to any person nominated by the Network Operator in accordance with clause 9.
- (s) Reference to legislation includes reference to all legislation amending or replacing that legislation or to any legislation passed pursuant to that legislation.
- (t) References to a party includes reference to that party's executors, administrators, successors in title and assigns.

**2. GRANT**

- 2.1 The Landowner grants and the Network Operator accepts the grant of this easement in gross to use the Easement Land for the Permitted Uses together with the right to exercise the Rights for all time.
- 2.2 The Landowner agrees that no power is implied for the Landowner to terminate this easement for any breach of its provisions (expressed or implied) or for any other cause, the intention being that this easement shall continue until surrendered.

**3. NETWORK OPERATOR'S OBLIGATIONS**

- 3.1 The Network Operator shall:
  - (a) in undertaking any Works cause as little damage as possible to the Land and Building and as little inconvenience as possible to the Landowner and/or the Landowner's tenants, licensees and other persons who have the right to use the Land and the Building; and
  - (b) following it undertaking any Works, in a good and workmanlike manner fill in any opening in the surface of the Land as soon as possible after the Works have been completed and restore the surface of the Land as nearly as possible to its former condition (unless otherwise agreed) and make good any damage to the Building caused through the undertaking of the Works.
- 3.2 The Network Operator shall provide the Landowner and/or the occupier for the time being of the Land, at least five (5) Working Days' notice prior to exercising the Rights except:
  - (a) in an Emergency Situation; or
  - (b) when operating or inspecting the Equipment or carrying out Works of a minor nature (that have come to the attention of the Network Operator in the course of such inspection or operation).

**4. LANDOWNER'S OBLIGATIONS**

- 4.1 The Landowner shall not (and shall not allow any other person to), without the prior written consent of the Network Operator:
  - (a) place or allow to be placed any further improvements or fencing or other erections, or allow any further trees or shrubs to grow on the Easement Land other than improvements, fences, erections, trees or shrubs in place as at the date of this easement or replacements for those improvements, fences, erections, trees or shrubs;
  - (b) carry out any act on the Land that interferes with or affects the Permitted Uses or the exercise by the Network Operator of the Rights. In particular, the Landowner shall, at its own cost, at all times keep an access route over the Land to the Easement Land clear and in good condition and promptly carry out any reinstatement works which become necessary from time to time;
  - (c) interfere with or cause any damage to be done to the Equipment;
  - (d) grant any rights over the Easement Land to any party other than the Network Operator except the easements referred to in the Memorandum and/or Schedule of Easements submitted to Land Information New Zealand with the Plan; or
  - (e) permit to be done any act on the Land that interferes with the Network Operator's:
    - (i) access to the Substation (if any) including personnel and Equipment access;
    - (ii) ventilation of the Substation and/or Accommodation (if any);
    - (iii) fire-rating of the Substation and/or Accommodation (if any); or
- 4.2 If the Landowner breaches any of its obligations contained in this clause 4 the Network Operator may remedy any such breach and the Landowner shall reimburse the Network Operator (on demand) for the cost of any such remedy.

*Insert instrument type*

**Easement Instrument to grant easement**

*(Continue in additional Annex, if required)*

**5. MAINTENANCE**

The Network Operator shall, at its cost, keep the Equipment in good and substantial repair and shall be liable to the Landowner for any loss, cost or damage caused to or suffered by the Landowner as a result of any failure to repair the Equipment to the extent (but not greater than) specified in:

- (a) the Network Operator's then standard terms and conditions for the supply of distribution services as published and publicly notified on the Network Operator's official website from time to time (if applicable);
- (b) the direct agreement for the supply of distribution services between the Network Operator and the Landowner (if applicable); or
- (c) the Landowner's energy supply agreement with its retailer (to the extent the terms of such agreement are enforceable against the Landowner by the Network Operator).

**6. HEALTH AND SAFETY**

6.1 The Network Operator shall, while undertaking any Works, do so in accordance with its health and safety obligations and all applicable health and safety legislation and regulations. In particular, the Network Operator shall:

- (a) comply with the HSW Act;
- (b) ensure, so far as is reasonably practicable, the health and safety of its workers and those who are influenced or directed by it while carrying out work for it;
- (c) ensure the health and safety of other persons is not put at risk from work carried out by the Network Operator; and
- (d) ensure, so far as is reasonably practicable, that the way in which any Equipment is installed is without risks to the health and safety of any persons who:
  - (i) use or install such Equipment; or
  - (ii) are at or in the vicinity of the Landowner's workplace and may be affected by that use or activity.

6.2 Where the Landowner conducts a business or undertaking, the Landowner shall:

- (a) comply with the HSW Act;
- (b) in relation to any workplace under the Landowner's management or control:
  - (i) notify the Network Operator of any known hazards to which a worker or any person may be exposed;
  - (ii) ensure the workplace is without risks to the health and safety of any person.

6.3 The Landowner must notify the Network Operator of any known hazards or special health and safety requirements for the Land and the Network Operator shall use reasonable endeavours to comply with those.

6.4 The parties agree to work together to consult, co-operate and co-ordinate activities in order to meet each other's respective health and safety obligations under applicable legislation, regulations and this easement.

**7. OWNERSHIP**

The Network Operator retains ownership of the Equipment and the Landowner acknowledges that such Equipment does not form part of the Land.

**8. IMPLIED RIGHTS AND POWERS**

The rights and powers implied in certain easements pursuant to section 90D of the Land Transfer Act 1952 (and currently set out in Schedule 4 of the Land Transfer Regulations 2002) are, as between the Landowner and Network Operator, substituted and replaced by the terms set out in this easement.

**9. NOMINATION OF NETWORK OPERATOR**

The Network Operator may, by serving written notice on the Landowner (and without limiting the rights of the Network Operator pursuant to section 291 Property Law Act 2007) nominate any person to exercise (either together with the Network Operator or otherwise) any of the rights granted to the Network Operator.



*Insert instrument type*

**Easement Instrument to grant easement**

*(Continue in additional Annex, if required)*

**10. LANDOWNER TO NOTIFY OCCUPIER**

The Landowner shall notify every occupier of the Land of the terms of this easement and shall make sure that any such occupier complies with the terms of this easement in order that the Network Operator can have the full use and benefit of the rights granted under this easement.

**11. DISPUTES**

11.1 If any dispute arises between the Landowner and the Network Operator concerning the rights created by this instrument and the parties are unable to resolve that dispute through good faith negotiations within 20 Working Days of beginning such negotiations:

- (a) to the extent that the dispute falls within the categories of dispute dealt with pursuant to the Electricity and Gas Complaints Commissioner Scheme (the "Scheme"), the Landowner may refer the dispute to the Scheme; and
- (b) to the extent that the dispute does not come within the provisions of clause 11.1(a) either party may refer the matter to the arbitration of a single arbitrator pursuant to the Arbitration Act 1996, such arbitrator to be agreed by the parties (within 10 Working Days), or failing that, appointed by the President for the time being of the Arbitrators' and Mediators' Institute of New Zealand Inc. The arbitration will be held in Auckland, New Zealand.

**12. ACCOMMODATION OWNED BY LANDOWNER**

12.1 Where Accommodation is owned by the Landowner (as indicated on the front page of this easement), the following provisions of this clause 12 shall apply:

- (a) the Landowner shall not enter that part of the Easement Land on which the Accommodation is situated except for the purposes of carrying out inspection of and maintenance of the Accommodation pursuant to clause 12(b) and 12(c).
- (b) the Landowner shall at its cost keep the Accommodation in good and substantial repair. If the Landowner fails to comply with this obligation then the Network Operator may remedy any such failure and the Landowner shall reimburse the Network Operator (on demand) for the cost of any such remedy.
- (c) the Landowner acknowledges that the Accommodation is locked at all times by the Network Operator. If the Accommodation requires repair or the Network Operator reasonably suspects that the Accommodation requires repair, upon receiving notification from the Landowner the Network Operator agrees to, on reasonable notice (except in an Emergency Situation), accompany the Landowner to enter the Accommodation for the purpose of inspecting the Accommodation or carrying out repair, provided that the Landowner shall have the right to inspect the Accommodation without charge by the Network Operator no more than twice a year (other than in an Emergency Situation). The Landowner shall at all times ensure that:
  - (i) the ventilation to and from the Accommodation is not restricted; and
  - (ii) the fire resistance rating and fire protection measures of the Accommodation are maintained at the same levels as at the date of this easement.
- (d) if the Network Operator becomes aware of any want of repair or maintenance, the Network Operator shall notify the Landowner, provided that the Network Operator has no responsibility to carry out inspections of the Accommodation when it enters the Accommodation or otherwise.

**13. ACCOMMODATION OWNED BY NETWORK OPERATOR**

13.1 Where this easement states that there exists Accommodation owned by the Network Operator (as indicated on the front page of this easement) the following provisions of this clause 13 shall apply:

- (a) the Landowner shall not enter the Accommodation.
- (b) the Network Operator shall at its cost keep the Accommodation in good and substantial repair and shall be liable for any loss, cost or damage caused to or suffered by the Landowner as a result of any failure to repair the Accommodation to the extent set out in clause 5.
- (c) the Landowner acknowledges that the Accommodation does not form part of the Land.

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

Sections 90A and 90F, Land Transfer Act 1952

**Grantor** *Surname(s) must be underlined.*

**WFH PROPERTIES LIMITED**

**Grantee** *Surname(s) must be underlined.*

**CHORUS NEW ZEALAND 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(s) à prendre</i> , or covenant	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant tenement (Identifier/CT or in gross)
<b>Right to convey telecommunications and computer media</b>	A on DP 509953	Lot 706 DP 509953 Computer Freehold Registers 784989 784990 785002 785003	<b>Chorus New Zealand Limited (in gross)</b>

**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 specific classes of easement are those prescribed by the Land Transfer Regulations 2002 and/or the Fifth Schedule of the Property Law Act 2007.

The implied rights and powers are ~~varied/negated/added to~~ or ~~substituted~~ by:  
 Memorandum number \_\_\_\_\_, registered under section 155A of the Land Transfer Act 1952.  
 The provisions set out in the Annexure Schedule.

**Covenant provisions** *Delete phrases in [ ] and insert memorandum number as required.  
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 2.

## Annexure Schedule

### Insert type of instrument

Easement Dated  Page  of  Pages

*Continue in additional Annexure Schedule, if required.*

### Continuation of "Easement rights and powers":

1 The rights and powers in this easement are in addition to those rights and powers contained in Schedule 4 to the Land Transfer Regulations 2002 ("the Fourth Schedule") and where the terms of this easement are in conflict with either the Fourth Schedule or any of the statutory rights and authorities which the Grantee may have in respect of the Servient Tenement, the terms of this easement shall prevail.

### 2 Grant of Easement

2.1 In addition to the above rights and powers the Grantor grants to the Grantee as an easement in gross the following rights and powers at all times and in any quantity:

- (a) to lay, install (including construct), locate, upgrade, add to, inspect, maintain, replace, repair, renew, enlarge, alter, retain, remove any Lines and Works on, in, over and under the Easement Land;
- (b) subject to clauses 4.1 and 4.2, to enter with all necessary equipment and remain upon the Servient Tenement for the purposes of laying, installing (including constructing), locating, upgrading, adding to, inspecting, maintaining, replacing, repairing, renewing, enlarging, altering, retaining or removing Lines or Works and make any accessways, cuttings, fillings, grades, batters and to re-open the same and generally to do and perform such acts or things upon the Servient Tenement as may be necessary or desirable (or incidental thereto) to enable the Grantee to receive, enjoy and give effect to the full free use and enjoyment of the rights and powers granted under this easement; and
- (c) to use and operate Lines and Works (such use and operation may include the granting of such use to third party telecommunications service providers) for the purpose of conveying telecommunications and computer media without interruption or impediment,

provided however that nothing shall compel the Grantee to exercise the above rights at any time or in a particular way.

### 3 Grantee's Covenants

3.1 The Grantee shall be responsible for:

- (a) the installation of and maintenance of the Lines and Works located on the Easement Land; and
- (b) using its best endeavors to prevent the Lines and Works located on the Easement Land becoming a danger to any user or occupier of the Servient Tenement.

3.2 The Grantee will, in exercising the rights granted to the Grantee under this easement cause as little damage as reasonably possible to the Servient Tenement and to any building or building improvement (including, without limitation, any interior fitout) located on the Servient Tenement.

3.3 The Grantee will at the Grantee's own cost repair and make good any damage to the Servient Tenement (including without limitation any damage to any building(s), fences or other improvements) caused by the Grantee in exercising the Grantee's rights and powers under this

## Annexure Schedule

### Insert type of instrument

Easement Dated  Page  of  Pages

*Continue in additional Annexure Schedule, if required.*

easement as reasonably close as possible to the original condition of the Servient Tenement prior to such damage and to the reasonable satisfaction of the Grantor.

#### 4 **Access**

4.1 The Grantee may, at any time (but subject to clause 4.2) from time to time enter the Servient Tenement (including, for the avoidance of doubt, any areas of Common Property on the Servient Tenement) using such routes as prescribed by the Grantor (acting reasonably) and with or without its employees, contractors and agents and with or without vehicles, machinery and implements of any kind for purposes associated with the creation and exercise of its rights and powers under this easement. If relevant, the Grantor shall invoke its rights pursuant to section 80 of the Unit Titles Act 2010 (or procure that such rights are invoked) as may be necessary to allow the Grantee access to its Lines and Works as agent of the body corporate.

4.2 In exercising the rights granted to the Grantee under this easement, the Grantee shall use reasonable efforts to give the Grantor prior notice that the Grantee intends to enter upon the Servient Tenement (except in the case of an Emergency, when notice will not be required). Without limitation to the preceding provisions, the Grantor shall not at any time restrict or impede access to the Easement Land (including by way of subdivision of the Land) by the Grantee and, upon request by Grantee, will provide the Grantee with all necessary keys and / or access cards required from time to time to gain access to the Servient Tenement and the Easement Land.

#### 5 **Grantor's Covenants**

- 5.1 The Grantor will not without the written permission of the Grantee (not to be unreasonably withheld or delayed):
- (a) grow or permit to be grown any natural or cultivated vegetation (including trees and shrubs) on or in the near vicinity, or encroaching on the Easement Land. The Grantee may at all times at the Grantor's cost remove any natural or cultivated vegetation or improvement on the Easement Land which may interfere with the rights granted by this easement; or
  - (b) erect or permit to be erected any improvement (including but not limited to buildings, sheds, fences, roads, walls or driveways) on the Easement Land; or
  - (c) do anything on the Easement Land that may damage or endanger the Grantee's Lines or Works; or
  - (d) do any act which will interfere with the rights granted by this easement and will not at any time do permit or suffer any act whereby the full and free use and enjoyment by the Grantee of the rights and privileges granted by this are interfered with.

#### 6 **Removal**

6.1 The Lines and Works are and shall remain the sole property of the Grantee and the Grantee shall not be required to remove the Lines and/or Works at any time. No person shall have any interest in such Lines and Works by reason only of having an interest or estate in the Servient Tenement.

## Annexure Schedule

### Insert type of instrument

Easement Dated  Page  of  Pages

*Continue in additional Annexure Schedule, if required.*

6.2 No power is implied for the Grantor to determine this easement for any breach of covenant or for any other cause whatsoever. The parties intend this easement to subsist forever or until it is duly surrendered or extinguished at the election of the Grantee.

### 7 Further Assurances

7.1 Each party shall make all applications, including executing and delivering any documents, and doing all acts and things, as may reasonably be required by the other party to obtain the full benefit of this easement according to its true intent.

### 8 Telecommunications Act 2001 and End User Terms

8.1 Notwithstanding anything to the contrary in this easement, the terms contained in this easement shall be without prejudice to, and do not reduce or limit, the rights and powers of the Grantee under the Telecommunications Act 2001 or any other document or arrangement conferring rights or powers on the Grantee in relation to Lines and Works at the Servient Tenement, and the Grantee may, in its discretion, rely on or exercise any of its rights and powers, whether in addition to or instead of the rights and powers granted by this easement.

### 9 Definitions and interpretation

9.1 In this easement:

- (a) "**Common Property**" has the same meaning ascribed to that term under the Unit Titles Act 2010.
- (b) "**Easement Land**" means that part of the Servient Tenement identified in Schedule A in this easement as Easement Land and those other parts of the Servient Tenement (including buildings) on which the Grantee has installed and located its Lines and Works.
- (c) "**Emergency**" means a situation in which there is a probable danger to life or property or immediate risk to the continuity or safety of supply of telecommunications.
- (d) "**Grantee**" means Chorus New Zealand Limited and includes all its subsidiaries (within the meaning of Sections 5 and 6 of the Companies Act 1993) and its successors, assigns, personal representatives, employees, contractors, agents, licensees and invitees.
- (e) "**Grantor**" includes the successors in title, assigns, tenants, transferees and personal representatives of the Grantor.
- (f) "**Line**" and "**Works**" shall have the meanings ascribed to those terms under the Telecommunications Act 2001;

**Easement instrument to grant easement or *profit a prendre*, or create land covenant**  
(Sections 90A and 90F Land Transfer Act 1952)

200916229EF

APPROVED

Registrar-General of Land

**Grantor**

WFH PROPERTIES LIMITED

**Grantee**

WFH PROPERTIES LIMITED

**Grant of Easement or *Profit a 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) a 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
<b>Land Covenant</b>	<b>See attached Annexure Schedule</b>	<b>See attached Annexure Schedule</b>	<b>See attached Annexure Schedule</b>

**Easements or *profits a 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 **[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 15-5A of the Land Transfer Act 1952]~~

~~[Annexure Schedule 2 ]~~

**ANNEXURE SCHEDULE 2**

**Continuation of "Estate or Interest or Easement to be created"**

- A. The Grantor is the Registered Proprietor of an estate in fee simple more particularly defined in schedule "A" hereto (the "Servient Lot").
- B. The Grantee is the Registered Proprietor of those estates in fee simple more particularly defined in schedule "B" hereto (the "Dominant Lots").
- C. The Servient Lot is to be held as a joint accessway for the purpose of access to the Dominant Lots.
- D. As part of the development of the land (formally contained in Unique Identifier 784343) and the creation of all the lots described, the Servient Lot is to be held in four undivided one fourth shares by the Registered Proprietors of each of the Dominant Lots.
- E. The Grantor in respect of its interest in the Servient Lot has agreed to be bound by and to adhere to the provision set out herein to create for the benefit of the Dominant Lots the land covenant set out in Schedule C over the land set out in Schedule A.

**TO THE INTENT** that the Servient Lot shall be bound by the stipulations and restrictions set out in Schedule C hereto and that the owners and occupiers for the time being of the Dominant Lots may enforce the observance of such stipulations against the owners for the time being of the Servient Lot

**AND AS INCIDENTAL** to the transfer of the fee simple so as to bind the Servient Lot for the benefit of each of the Dominant Lots the Grantor **DOTH HEREBY COVENANT AND AGREE** in the manner set out in the Schedule C hereto so that the covenants run with the Servient Lot for the benefit of the Dominant Lots.

**SCHEDULE A**

Lot 706 DP 509953

**SCHEDULE B**

Lot 496 DP 509953

Lot 508 DP 509953

Lot 497 DP 509953

Lot 509 DP 509953

**SCHEDULE C**

**INTERPRETATION**

- 1. In this document unless the context dictates otherwise:
  - 1.1. Definitions:
    - "Council" means the Auckland Council incorporated under the Local Government (Auckland Council) Act 2009 including its successors in title;
  - 1.2. "**Lot Owners**" means the owners of the Servient Lots from time to time both jointly and severally, as applicable;



- 1.3. **“Vehicle”** has the same meaning as defined by motor vehicle in the Motor Vehicle Security Act 1989.
  - 1.4. **Headings:** Clause and other headings are for ease of reference only and shall not be deemed to form any part of the context or to effect the interpretation of this document;
  - 1.5. **Plural and singular:** Words importing the singular number will include the plural and vice versa;
  - 1.6. **Schedules:** The schedules to this document and the provisions and conditions contained in the schedules have the same effect as if set out in the body of this document;
  - 1.7. **Parties:** Reference to parties are reference to parties of this document;
  - 1.8. **Sections, clauses and schedules:** Reference to sections, clauses and schedules are references to this document’s sections, clauses and schedules;
  - 1.9. **Persons:** Reference to persons include references to individuals, companies, corporations, partnerships, firms, joint ventures, associations, organisations, governmental or other regulatory bodies or authorities or other entities in each case whether or not having separate legal personality;
  - 1.10. **Defined Expressions:** Expressions defined in the main body of this document bear the defining meaning in the whole of this document including the background;
  - 1.11. **Negative Obligations:** Any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;
  - 1.12. **Gender:** words importing one gender shall include the other gender; and
  - 1.13. **Statutes and Regulations:** References to a statute include reference to regulations, orders or notices made under or pursuant to such statute and references to a statute or regulation include references to all amendments to that statute or regulation whether by subsequent statute or otherwise and a statute or regulation passed in substitution for the statute or regulation referred to or incorporating any of its provisions.
2. The Lot Owners shall not:
- 2.1. Erect or permit to be erected on the Servient Lot any building, structure, work or earthworks of any kind (except to the extent that the same are permitted for the purpose of providing services as hereinafter allowed) or grow a tree, hedge, bush or other vegetation thereon.
  - 2.2. Use or permit to be used the Servient Lot for anything other than an access or service area for the purpose of going, passing or re-passing with or without vehicles, machinery and implements of any kind from time to time and at all times by day and night from the road over the formed carriage way and/or the Servient Lot to the Dominant Lots;
  - 2.3. Park any vehicle or vehicles on any part of the Servient Lot or permit visitors or guests of the Lot Owners to park on any part of the Servient Lot.
  - 2.4. Do anything or commit any act or omission or default whereby the use of the Servient Lot is in any way impeded or obstructed

- 2.5. Do anything or commit any act omission or default whereby any permitted improvements erected within the Servient Lot will be or may be damaged or destroyed; or
  - 2.6. Do anything or commit any act omission or default whereby any electricity supply lines, cables and conducts, water supply pipelines, storm water drains and foul water drains (together called 'Utility Services') installed on or under the surface of the Servient Lot will or may be damaged or destroyed, or their proper function interfered with.
3. Maintenance and Repair of Access Way
    - 3.1. The Lot Owners shall at all times keep the access way formed on the Servient Lot and the Utility Services in good order and repair and condition and, in particular, maintain good access and services as required by the Council under its Resource Consent to the Subdivision, the effect of which has lead to the creation of the Servient Lot.
    - 3.2. A decision that the Lot Owners are required to carry out works on the Servient Lot to meet the standards imposed under clause 3.1 shall be binding if half or more of the Lot Owners serves notice in writing on the other Lot Owner/s.
    - 3.3. Subject to clause 4.1 the costs of meeting the obligations of the Lot Owners as set out in clauses 3.1 and 3.2 shall be borne by the Lot Owners in the same shares as their interest in the Servient Lot provided however, that where the need for maintenance and/or reinstatement is attributable to the act, neglect or default of one of the Lot Owners, the cost attributable to those acts, neglect or defaults shall, in such cases, be borne by the Lot Owner responsible.
  4. Maintenance of Utility Services
    - 4.1. The cost of maintaining any Utility Services installed on and under the Servient Lot shall be borne equally by the Lot Owner/s who benefit from those Utility Services.
    - 4.2. Where the need for maintenance or reinstatement of Utility Services has been necessary by the act, neglect or default of one or more of the Lot Owner/s then the costs of maintenance and reinstatement shall be borne by the Lot Owner/s responsible for the act, neglect or default.
  5. Default
    - 5.1. If a Lot Owner/s neglects or refuses to carry out or pay for or neglects to join with the other Lot Owner/s in carrying out or paying for any work required in respect of any foregoing work provided for herein then the Lot Owner/s willing to proceed may serve on the other Lot Owner/s a notice in writing:
      - (a) requiring the Lot Owner/s to join in, carry out and/or pay for that work; and
      - (b) stating the cost to be met by each Lot Owner/s;
      - (c) stating that after the expiry of 14 days from the date of service of the notice that the party/ies willing to proceed may carry out or pay for the work itself.
    - 5.2. If, at the expiry of such notice, the Lot Owner/s in default still neglects or refuses to carry out or pay for the work, then the Lot Owner/s willing to proceed may carry out or pay for the work and for that purpose may enter into and upon the Servient

Lot and carry out the necessary work and the Lot Owner/s in default shall be immediately liable to pay to the Lot Owner/s who carries out or pay for the work:

- (a) the Lot Owner/s appropriate proportion of the costs of carrying out or paying for the work; and
- (b) the cost of the notice;

and the same may be recoverable by action at law or as a liquidated debt

- 5.3. Any notice required to be given by a party hereunder shall be in writing and shall be deemed to be duly given if given or served in accordance with Section 354 of the Property Law Act 2007.

#### 6. Statutory Provision

The powers, rights and duties of Lot Owner/s that are implied in vehicular rights of way under the provisions of Section 298 of the Property Law Act 2007 and Schedule 5 of that Act shall apply except to the extent that the provisions of this instrument vary the same.

#### 7. Dispute Resolution

In the event of any dispute as to the interpretation or application of this instrument, the need for maintenance or reinstatement and/or the apportionment of costs between Lot Owners or otherwise howsoever, then any Lot Owner may give to the other Lot Owner/s 14 days written notice requiring the matter in dispute to be referred to arbitration. Such written notice shall state the subject matter and details of the dispute to be referred to arbitration. Failing agreement within the said 14 day period for the appointment of an arbitrator, the arbitrator shall be appointed at the request of a Lot Owner by the nominee of the President of the New Zealand Law Society. In all other respects the provisions of the Arbitration Act 1996 shall thereafter be applicable.

#### 8. Land to Vest

The covenants in this instrument will cease to apply to any land that is intended to vest in the Crown or any territorial authority as a road or reserve, upon any survey plan relating to such vesting being approved as to survey and being accepted for deposit by Land Information New Zealand.

**Easement instrument to grant easement or *profit a prendre*, or create land covenant**  
(Sections 90A and 90F Land Transfer Act 1952)

200916229EF  
APPROVED  
Registrar-General of Land

**Grantor**

**WFH PROPERTIES LIMITED**

**Grantee**

**WFH PROPERTIES LIMITED**

**Grant of Easement or *Profit a 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) a 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
<b>RIGHT TO MAINTAIN GARDEN</b>	<b>K</b> DP 509953	LOT 516 DP 509953 (CT 785010)	LOT 1019 DP 507389 (CT 774634)
	<b>L</b> DP 509953	LOT 516 DP 509953 (CT 785010)	LOT 705 DP 507389 (CT 774632, 774633, 774634)
	<b>M</b> DP 509953	LOT 515 DP 509953 (CT 785009)	LOT 705 DP 507389 (CT 774632, 774633, 774634)
	<b>N</b> DP 509953	LOT 514 DP 509953 (CT 785008)	LOT 705 DP 507389 (CT 774632, 774633, 774634)
	<b>O</b> DP 509953	LOT 513 DP 509953 (CT 785007)	LOT 705 DP 507389 (CT 774632, 774633, 774634)
	<b>P</b> DP 509953	LOT 512 DP 509953 (CT 785006)	LOT 705 DP 507389 (CT 774632, 774633, 774634)
	<b>Q</b> DP 509953	LOT 511 DP 509953 (CT 785005)	LOT 705 DP 507389 (CT 774632, 774633, 774634)

**Form L**

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**Annexure Schedule A**

*Insert instrument type*

**Easement**

*Continue in additional Annexure Schedule, if required*

Purpose (Nature and extent) of easement; <i>profit or covenant</i>	Shown (plan reference)	Servient Tenement (Computer Register)	Dominant Tenement (Computer Register) or in gross
<b>RIGHT TO MAINTAIN GARDEN</b>	<b>R DP 509953</b>	<b>LOT 510 DP 509953 (CT 785004)</b>	<b>LOT 705 DP 507389 (CT 774632, 774633, 774634)</b>
	<b>S DP 509953</b>	<b>LOT 510 DP 509953 (CT 785004)</b>	<b>LOT 1017 DP 507389 (CT 774632)</b>

**Easements or *profits a 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*

The implied rights and powers are hereby added to:

~~[Memorandum number \_\_\_\_\_, register \_\_\_\_\_ under section 155A of the Land Transfer Act 1952]~~

~~[by the provisions set out in Annexure Schedule B]~~

**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 15-5A of the Land Transfer Act 1952]~~

~~[Annexure Schedule \_\_\_\_\_]~~

## **ANNEXURE SCHEDULE "B"**

1. The Grantee shall have the right, liberty and privilege from time to time and at all times to use, occupy and enjoy the Easement Area (as shown as Areas K to S (as appropriate) on DP 509953) on the terms set out herein.
2. Subject to clause 5 herein, the Grantee shall have the sole responsibility for maintenance of the Easement Area in accordance with the terms set out herein.
3. The Grantee shall have the right, liberty and privilege to fence the Easement Area provided that it shall not erect any fence and/or wall on the Easement Area:
  - (a) on or within 5 metres of a road boundary if that wall is a timber retaining wall unless WFH Properties Limited or its appointed agent has, in its sole discretion, approved the erection of a timber retaining wall within 5 metres of a road boundary;
  - (b) which bounds on a Reserve unless that fence is a black pool fence style MF1013 with fence detail by Auckland Fencing and Auto Gates, such detail as at the date of the registration of this Easement or such other fence which WFH Properties Limited or its appointed agent, in its sole discretion, shall approve (an approved fence);
  - (c) on or within 3 metres of a road boundary, unless that fence is an approved fence of no more than 1 metre high on a side boundary or is a retaining wall that is not made from timber;
  - (d) with the exception of an approved fence any fence or wall using second hand materials and/or using corrugated or metal products.
  - (e) any fence or wall visible from any road, jointly owned accessway lot or Reserve unless it complies with this Clause 3 in all respects.
4. The Grantee shall not allow any planting or erections on the Easement Area to exceed a height of 1.8m from the original ground level of the Grantee's land unless the Grantor, in its sole discretion shall consent.
5. The Grantor shall have the right to enter onto the Easement Area and the dominant tenement as and when it requires for the purposes of repair, maintenance and upgrade of the timber retaining wall forming part of the Grantor's land provided that:
  - (a) Such repair, maintenance or upgrade has obtained all necessary Council and other consents;
  - (b) The Grantor remains on the Easement Area and the dominant tenement for as short a time as is reasonably possible in order to undertake that repair, maintenance or upgrade;
  - (c) The Grantor reinstates the garden, planting and other permitted erections that the Grantee has installed on the Easement Area by restoring the surface of the land and any planting and other permitted erections as nearly as possible to their former condition;
  - (d) The Grantor must ensure that as little damage or disturbance as possible is caused to the dominant tenement and to the Grantee;
  - (e) The Grantor must ensure that all work is performed in a proper and workmanlike manner;

- (f) The Grantor must compensate the Grantee for all damage caused by the work to any buildings, erections, fences or planting on the dominant tenement.
6. The Grantee shall not be entitled to call upon the Grantor to pay for or contribute towards the expense of construction or maintenance of any fence between the Grantee's land and the Grantor's land that it would otherwise be able to do so in accordance with the Fencing Act 1978 or any Act passed in substitution thereof.
  7. Whilst WFH Properties Limited is either the Grantor or the Grantee, it shall have no obligations to contribute towards any of the costs and/or expenses that may be incurred pursuant to this Right to Maintain Garden.
  8. If the Grantee shall subdivide the dominant tenement at any time, the rights and obligations of the Grantee pursuant to this easement instrument shall be read as if the Grantee shall only mean the registered proprietor(s) of that computer register that is, or those computer registers which are, immediately adjacent to the Easement Area and/or any part of the Easement Area, and the rights and obligations of each Grantee shall only be in respect of the portion of the Easement Area that is immediately adjacent to a respective Grantee's computer register at any given time.
  9. If WFH Properties Limited wishes to surrender this easement in respect of any part of the Easement Area which has become redundant or the benefit is no longer required, then the Grantor and Grantee each appoint WFH Properties Limited as their Attorney or Delegate (as appropriate), including but not limited to requesting consent from any mortgagee or chargeholder, for the purpose of completing and registering a surrender of this easement in respect of any part of the dominant tenement for which the registered proprietor is WFH Properties Limited, and for which the easement has either become redundant or the benefit is no longer required by WFH Properties Limited. The Grantor and Grantee acknowledge there is no obligation on WFH Properties Limited to exercise its right pursuant to this clause.
  10. If there be any breach or non-observance of any of these covenants:
    - (a) there shall be no obligation on WFH Properties Limited to take any steps to enforce these covenants.
    - (b) if there is more than one Grantor for any Servient Lot the liability of the Grantors for the Servient Lot shall be joint and several.
    - (c) the Grantor in breach shall rectify any breach.
  11. In the event of any dispute which cannot be resolved by agreement between the Grantor and the Grantee as to any matter relating to the abovementioned restrictive covenants, the same shall be resolved by arbitration under the provisions of the Arbitration Act 1996 or any Act passed in substitution or amendment thereof by a single arbitrator appointed for that purpose by the nominee of the President of the New Zealand Law Society and the decision of that arbitrator shall be final and binding on the Parties.
  12. The covenants in this instrument will cease to apply to any land that is intended to vest in the Crown or any territorial authority as a road or reserve, upon any survey plan relating to such vesting being approved as to survey and being accepted for deposit by Land Information New Zealand.