

Approved by Registrar-General of Land under No. 2007/6225

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

Land registration district

OTAGO



**EI 7745242.5 Easement 1**

Cpy - 01/01, Pgs - 027, 27/03/08, 13:07



DocID: 313077274

Grantor

Surname(s) must

QUEENSTOWN CARPARKING LIMITED

Grantee

Surname(s) must be underlined or in CAPITALS.

QUEENSTOWN CARPARKING LIMITED

Grant\* of easement or profit à prendre or creation or 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).

Dated this 16th day of January 2008

Attestation

 GREGORY CHARLES KENWARD Director  RODNEY JAMES HODGE Director	<b>Signed in my presence by the Grantor</b>
	Signature of witness Witness to complete in BLOCK letters (unless legibly printed) Witness name Occupation Address
Signature [common seal] of Grantor	
 GREGORY CHARLES KENWARD Director  RODNEY JAMES HODGE Director	<b>Signed in my presence by the Grantee</b>
	Signature of witness Witness to complete in BLOCK letters (unless legibly printed) Witness name Occupation Address
Signature [common seal] of Grantee	

Certified correct for the purposes of the Land Transfer Act 1952.

[Solicitor for] the Grantee

\*If the consent of any person is required for the grant, the specified consent form must be used.

REF: 7003 - AUCKLAND DISTRICT LAW SOCIETY

**Annexure Schedule 1**

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**Schedule A**

(Continue in additional Annexure Schedule if required.)

Purpose (nature and extent) of easement, profit, or covenant	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant tenement (Identifier/CT or in gross)
(See attached annexure page)			

**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 Annexure Schedule 2].

**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].

All signing parties and either their witnesses or solicitors must sign or initial in this box

**Annexure Schedule**

Insert type of instrument

"Mortgage", "Transfer", "Lease" etc



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(Continue in additional Annexure Schedule, if required.)

**SCHEDULE A**

Proposed (nature and extent) of easement, profit, or covenant	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant tenement (Identifier/CT or in gross)
Ventilation	Q & T on DP 399240	395926	395927
Pedestrian R.O.W	R, S, U & V on DP 399240	395926	395927
	WA, WB, WC, G, X & Y on DP 399240	395927	395926
Right of Way	L on DP 399240	395927	395926
Fire fighting system and water supply	K on DP 399240	395927	395926
Right to drain water	SA, SB, SC, SD, SE, SF, SG & Z on DP 399240	395927	395926
Right to drain sewage	A, B & Z on DP 399240	395927	395926
Right to drain water and sewage and right to convey electricity, telecommunications, gas and water	Q & T on DP 399240	395926	395927
	E on DP 399240	395927	395926
Structural support and integrity	Q, R, S, F, T, U & V on DP on DP 399240	395926	395927
	Lot 2 on DP on DP 399240	395927	395926
Waste Management	M & N on DP 399240	395927	395926
Loading Bay	P on DP 399240	395927	395926
Storage	J on DP 399240	395927	395926

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**Annexure Schedule**



Insert type of instrument  
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(Continue in additional Annexure Schedule, if required.)

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions:** Unless the context otherwise requires, in this Instrument the following words have the following meanings:

"Access Request Notice" means a written notice issued by or on behalf of any person for the purposes of exercising a right specified in this Instrument or performing a positive covenant or other obligation under this Instrument and:

- (a) specifying the purpose or purposes for which access is required, and the nature of the activities intended to be undertaken;
- (b) specifying the relevant right intended to be exercised, or the obligation intended to be performed;
- (c) specifying the type and nature of materials and equipment required for the relevant purpose or purposes, and the relevant activities intended to be undertaken;
- (d) specifying the days and times, and the period or periods of time, during which it is intended that the relevant activities be undertaken;
- (e) specifying the names, qualifications and other personal details as are reasonably necessary to identify the persons who it is proposed will be undertaking the relevant activities, and to verify that such persons are responsible, of good repute and suitably qualified to undertake the relevant activities; and
- (f) agreeing to be bound by and to comply with and perform the obligations specified in clause 2.8.

"Arbitration" means the reference of the relevant matter or issue in dispute to arbitration in accordance with and subject to the Arbitration Act 1996.

"Building" means the buildings erected on the Land comprising building structures and structural components incorporated into or associated with such buildings as extended, developed, renovated or rebuilt from time to time.

"Building Code" means the building code as prescribed pursuant to the Building Act 2004.

"Building Support Components" means all structural support columns and all other structural components of whatsoever nature (including but not limited to beams, walls and floor diaphragms) incorporated into or associated with the Building which provide mutual integrated support for each part of the Building and afford stability and durability for the Building as a whole.

"Business Hours" means the period from 8.00 am to 6.00 pm on a Business Day.

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"Business Day" means any day of the year other than Saturdays, Sundays and public holidays as observed in Queenstown.

"Default Notice" means a notice issued in the circumstances referred to in clause 2.9:

- (a) specifying reasonable details of the relevant default and remedial action required to remedy that default; and
- (b) notifying the covenantor that the covenantee will undertake the relevant remedial action if the covenantor fails to do so within such period as is reasonable in the circumstances having regard to the nature and effects (including potential effects) of the relevant default.

"Dispute Notice" means a notice in writing issued by a person wishing to resolve a dispute or difference concerning rights or obligations under this Instrument or to have any matter or issue concerning rights or obligations under this Instrument determined, resolved or remedied and:

- (a) specifying reasonable details of the nature of the dispute, difference or issue to be resolved;
- (b) designating the person with authority to negotiate and settle the matters specified in the notice given by or on behalf of the issuer of the notice; and
- (c) requiring the recipient of the notice to review the relevant matters specified in the issuer's notice in accordance with the dispute resolution procedures specified in subclause 2.10.3 with a view to resolving the relevant difference or dispute and for that purpose to appoint a representative with authority to negotiate a resolution of that dispute or difference.

"Dominant Land" in relation to any Easement means the land described as such in Schedule A of Annexure Schedule 1 and being the land for which the relevant Easement is appurtenant.

"Easement" means an easement recorded by this Instrument.

"Electricity Supply Area" means that part of the Land described in Schedule A of Annexure Schedule 1 as being subject to an Electricity Supply Easement.

"Electricity Supply Easement" means the rights recorded by this Instrument in relation to each Electricity Supply Area.

"Facilities" means and includes all equipment, machinery, apparatus and systems, and all piping, pipework, conduits, cabling, wiring, ducting and connections (in each case whether original or in addition to or in substitution for, in whole or in part, the original), performing a function in connection with or incidental to a building system, facility or service, or which provides or facilitates or is incidental to the effective operation or performance of a building system, facility or service.

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"Fire Fighting System and Water Supply Area" means that part of the land described in Schedule A of Annexure Schedule 1 as being subject to a Fire Fighting System and Water Supply Easement.

"Fire Fighting System and Water Supply Easement" means the rights recorded by this Instrument in relation to each Fire Fighting System and Water Supply Area.

"Gas Supply Area" means that part of the land described in Schedule A of Annexure Schedule 1 as being subject to a Gas Supply Easement.

"Gas Supply Easement" means the rights recorded by this Instrument in relation to each Gas Supply Area.

"Grantee" in relation to each Easement means the relevant Owner for the time being of the Dominant Land to which the relevant Easement is appurtenant.

"Grantee and other authorised persons" in relation to each Easement means the Grantee and the agents, employees, contractors, tenants, licensees and invitees of the Grantee and all other persons authorised or invited by the Grantee to enjoy the relevant Easement and, where the context so admits, means any of such persons.

"Grantor" in relation to each Easement means the relevant Owner for the time being of the Servient Land to which the relevant Easement is subject.

"Grantor and other authorised persons" in relation to each Easement means the Grantor and the agents, employees, contractors, tenants, licensees and invitees of the Grantor and all other persons authorised or invited by the Grantor to enjoy the relevant Easement and, where the context so admits, means any of such persons.

"Instrument" means this easement instrument (including these provisions as they may be varied from time to time).

"Land" means the land comprised and described in Certificates of Title 395926 and 395927 (Otago Registry).

"Land Covenant" means the instrument referred to in clause 2.14.

"Loading Bay Area" means that part of the Land described in Schedule A of Annexure Schedule 1 as being subject to Loading Bay Easement.

"Loading Bay Easement" means the rights recorded by this Instrument in relation to each Loading Bay Area.

"Lot 1" means Lot 1 as shown on the Plan.

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"Lot 2" means Lot 2 as shown on the Plan.

"Lot 1 Occupants" means the person or persons having the right to occupy all or any part of Lot 1 as the owner thereof or pursuant to a lease granting rights to occupy and use the relevant part or part of Lot 1, and includes their respective employees and invitees.

"Lot 2 Occupants" means the person or persons having the right to occupy all or any part of Lot 2 as the owner thereof or pursuant to a lease granting rights to occupy and use the relevant part or parts of Lot 2, and includes their respective employees and invitees.

"Lot 1 Owner" means the person or persons who is or are for the time being registered as the proprietor or the proprietors of the freehold estate in Lot 1 or, if Lot 1 is subdivided, any part of Lot 1 or, if Lot 1 is subdivided under the Unit Titles Act 1972, the persons who are for the time being registered as proprietors of stratum estates in freehold in each of the principal units defined by the unit plan subdividing Lot 1 and, in respect of that part of Lot 1 defined as common property on the unit plan deposited under the Unit Titles Act 1972, means the body corporate created on the deposit of such unit plan.

"Lot 2 Owner" means the person or persons who is or are for the time being registered as the proprietor or the proprietors of the freehold estate in Lot 2 or, if Lot 2 is further subdivided, any part of Lot 2 or, if Lot 2 is subdivided under the Unit Titles Act 1972, the persons who are for the time being registered as proprietors of stratum estates in freehold in each of the principal units defined by the unit plan subdividing Lot 2 and, in respect of that part of Lot 2 defined as common property on the unit plan deposited under the Unit Titles Act 1972, means the body corporate created on the deposit of such unit plan.

"Occupants" means the persons who are for the time being the Lot 1 Occupants and the Lot 2 Occupants.

"Occupied Area" means any part of the Building which is occupied for day to day use and enjoyment by the owner for the time being of that part of the Building or by that owner's tenant for the time being and not itself subject to a relevant easement right.

"Owner" means the Lot 1 Owner or the Lot 2 Owner, as the case may be.

"Pedestrian Right of Way Area" means that part of the Land described in Schedule A of Annexure Schedule 1 as being subject to a Pedestrian Right of Way Easement.

"Pedestrian Right of Way Easement" means the rights recorded by this Instrument in relation to each Pedestrian Right of Way Area.

"Plan" means Deposited Plan 399240 (Otago Registry) as amended or substituted from time to time.

"Right of Way Area" means that part of the Land described in Schedule A of Annexure Schedule 1 as being subject to a Right of Way Easement.

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"Right of Way Easement" means the rights recorded by this Instrument in relation to each Right of Way Area.

"Sewage Drainage Area" means that part of the Land described in Schedule A of Annexure Schedule 1 as being subject to a Sewage Drainage Easement.

"Sewage Drainage Easement" means the rights recorded by this Instrument in relation to each Sewage Drainage Area.

"Servient Land" in relation to any Easement means the land described as such in Schedule A of Annexure Schedule 1 and being the land to which the relevant Easement is subject.

"Storage Area" means that part of the Land described in Schedule A of Annexure Schedule 1 as being subject to a Storage Easement.

"Storage Easement" means the rights recorded by this Instrument in relation to each Storage Area.

"Structural Support and Integrity Area" means that part of the Land described in Schedule A of Annexure Schedule 1 as being subject to a Structural Support and Integrity Easement.

"Structural Support and Integrity Easement" means the rights recorded by this Instrument in relation to each Structural Support and Integrity Area.

"Telecommunications Area" means that part of the Land described in Schedule A of Annexure Schedule 1 as being subject to a Telecommunications Easement.

"Telecommunications Easement" means the rights recorded by this Instrument in relation to each Telecommunications Area.

"Ventilation Systems Area" means that part of the Land described in Schedule A of Annexure Schedule 1 as being subject to a Ventilation Systems Easement.

"Ventilation Systems Easement" means the rights recorded in this Instrument in relation to each Ventilation Systems Area.

"Waste Management Area" means that part of the Land described in Schedule A of Annexure Schedule 1 as being subject to a Waste Management Easement.

"Waste Management Easement" means the rights recorded in this Instrument in relation to each Waste Management Area.

"Water Drainage Area" means that part of the Land described in Schedule A of Annexure Schedule 1 as being subject to a Water Drainage Easement.

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"Water Drainage Easement" means the rights recorded by this Instrument in relation to each Water Drainage Area.

"Water Supply Area" means that part of the Land described in Schedule A of Annexure Schedule 1 as being subject to a Water Supply Easement.

"Water Supply Easement" means the rights recorded by this Instrument in relation to each Water Supply Area.

1.2 **Interpretation:** Unless the context otherwise requires the following provisions are applicable to the construction and interpretation of this Instrument.

(a) **General**

- (i) words denoting the singular shall include the plural and vice versa;
- (ii) one gender shall include the other gender;
- (iii) references to sections, clauses and schedules are references to sections, clauses and schedules in this Instrument;
- (iv) section headings and clause headings used in this Instrument have been inserted for convenience and a quick guide to the provisions of this Instrument, and are not to be used in interpreting the provisions of this Instrument;
- (v) words denoting person shall include any individual, company, corporation, firm, corporation sole, trust, partnership, joint venture, syndicate or other entity or association of persons either incorporated or unincorporated being or purporting to be a legal entity and any body corporate coming into existence on the deposit of a unit plan subdividing any part of the Building, and, if the context permits also includes the Lot 1 Owner and the Lot 2 Owner and any person acting as agent for either the Lot 1 Owner or the Lot 2 Owner, or having a lawful right to occupy any part of Lot 1 granted by the Lot 1 Owner or any part of Lot 2 granted by the Lot 2 Owner.
- (vi) references to "covenantor" refer to the person or persons who is or are obliged to perform a positive covenant or to comply with a restrictive covenant or other obligation specified in this Instrument, and "covenantee" refers to the person or persons benefiting or intended to benefit from such positive covenant, restrictive covenant or other obligation, and for the purposes of sections 126C to 126F of the Property Law Act 1952 includes each "occupier" as defined in section 126 of the Property Law Act 1952.
- (vii) a reference to this Instrument includes all modifications and amendments to this Instrument from time to time;

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(viii) references to enactments, statutes, statutory requirements and regulatory controls include regulations made under any applicable statutes, and also notices under applicable statutes and regulations having an effect in law, and any amendments to such statutes and regulations, and shall be deemed to include and also refer to any statutes and regulations (and any amendments to statutes and regulations) passed in substitution; and

(ix) where pursuant to any provision of this Instrument a written notice or notice in writing (including a Default Notice) is given by one person to another person which is to take effect from a specified date, or which requires any action to be performed by, or any breach, default or failure to be remedied within, a specified period (being, where a minimum period is specified in this Instrument, not shorter than the relevant specified period), such period is to be calculated from but exclusive of the date the notice is given.

(b) **Obligations:** A covenant specified in this Instrument whereby:

(i) a covenantor undertakes to do something includes obligations to ensure that the relevant obligation is properly performed by suitably qualified, competent and responsible persons with the requisite skills, qualifications and experience necessary and appropriate in the circumstances, and not to suffer, permit or cause a breach of that obligation to occur; and

(ii) a covenantor undertakes not to do something includes obligations not to authorise, permit or suffer a breach of that obligation, and to take all reasonable steps to prevent, restrain and, if necessary, to remedy the consequences of a breach of that obligation.

**2. GENERAL PROVISIONS**

2.1 **Application:** Unless otherwise specified in this Instrument, the provisions of this clause 2 apply to all easement rights and to all positive covenants and the performance of all obligations specified in or arising under this Instrument.

2.2 **Memorandum of Easements and Proposed Easements:** The rights, powers, terms, conditions, covenants and restrictions applicable to each category of easement specified in the Memorandum of Easements and Proposed Easements on the Plan are as specified in this Instrument.

2.3 **Effect of Instrument:** This Instrument is intended to be and to have effect as an instrument attaching to the land defined by the Plan and running with title for the purposes of the Land Transfer Act 1952 and the Property Law Act 1952 relating, in particular, to easements and covenants, with such easements and covenants taking effect from the date of registration of this Instrument, and binding every person who is for the time being bound by the provisions of this Instrument in accordance with the Land Transfer Act 1952 or the Property Law Act 1952 (as applicable in the circumstances) including the persons who are for the time being the Lot 1 Owner, the Lot 2 Owner and the Occupants.

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- 2.4 **Term:** This Instrument is for a term of 999 years from the date of registration of this Instrument, and each of the rights granted by, and each of the covenants and obligations specified in, this Instrument shall take effect from such date and apply for such period.
- 2.5 **Breach of easements:** No power is implied in this Instrument to determine any easement for breach of any provision in this Instrument, it being the intention that each easement right shall subsist for the term specified in clause 2.4 unless it is surrendered, but without derogating from any other right or remedy available in the event of any such breach.
- 2.6 **Terms implied by statute:** The provisions of this Instrument, including the rights, powers, terms, conditions, covenants and restrictions specified in this Instrument are in substitution for those implied by statute including the Fourth Schedule of the Land Transfer Regulations 2002 and the Ninth Schedule of the Property law Act 1952, and unless any statute expressly or by necessary implication prohibits exclusion of provisions implied by statute, no provisions implied by statute will apply to the easements specified in this Instrument.
- 2.7 **Powers incidental to rights and obligations:** Unless otherwise specified, the easement rights and the obligations to undertake performance of positive covenants and other obligations specified in this Instrument include all rights and powers reasonably required in the circumstances for the reasonable and proper exercise of the relevant easement rights and performance of the relevant positive covenants and other obligations including a right of access (but subject, in any case where access can only be obtained by passing through an Occupied Area, to compliance with the provisions of subclause 2.8.3) to the relevant easement areas for the purposes of carrying out appropriate inspections, testing, upkeep, maintenance and repairs of or to the relevant Facilities, but are subject to such of the provisions of this clause 2 specifying terms, conditions, covenants and restrictions applying generally as may be applicable in the circumstances.
- 2.8 **Exercise of rights and performance of obligations:** The following provisions shall apply on each occasion an easement right is exercised and also to each covenant or obligation specified in this Instrument:
- 2.8.1 **Entry:** Entry upon any part of the Building or Land, including the relevant part of any Servient Land, in the exercise of an easement right or in the performance of a positive covenant or other obligation specified in this Instrument shall be made only for proper purposes in the reasonable and proper exercise of a right or in the performance of an obligation specified in this Instrument, and in a manner which protects the security of Occupants and the property of Occupants.
- 2.8.2 **No interference:** Persons entering upon any part of the Building or Land, or undertaking any inspections, testing, maintenance, repairs or other work, shall not interfere with, alter, modify, remove, or replace any equipment, machinery, materials, cables, pipes, conduits, ducting, connections or other items which:
- (a) in any case where entry is made, or inspection, testing, maintenance, repairs, or other work is undertaken by or on behalf of the Lot 1 Owner, is situated in any part of Lot 2 or

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which is situated in any part of Lot 1 but is protected by easement rights granted by the Lot 1 Owner in favour of the Lot 2 Owner pursuant to this Instrument; and

- (b) in any case where entry is made, or inspection, testing, maintenance, repairs, or other work is undertaken by or on behalf of the Lot 2 Owner, is situated in any part of Lot 1 or which is situated in any part of Lot 2 but is protected by easement rights granted by the Lot 2 Owner in favour of the Lot 1 Owner pursuant to this Instrument;

except for a proper, authorised purpose.

2.8.3 **Access to occupied areas:** If, in order to gain access to any area over which an easement right has been granted for the purposes of the proper exercise of an enforceable right or in the performance of a positive covenant or other obligation specified in this Instrument, it is necessary to pass or repass through or, for any period or periods of time, to remain on any part of an Occupied Area, the following provisions shall apply:

- (a) **Notice:** Any person wishing to enter upon or remain on the relevant part of the Occupied Area may not do so without first serving an Access Request Notice on the relevant Occupant and obtaining the prior written consent of that Occupant to do so.
- (b) **Consents:** The Occupant receiving an Access Request Notice may not, so long as the access requested is reasonably required for the proper and reasonable exercise of a right or performance of an obligation specified in this Instrument, unreasonably or arbitrarily refuse consent to allow access to the relevant part of the Occupied Area and must respond promptly following receipt of an Access Request Notice, but shall be entitled to specify such terms, conditions and restrictions, and to require such covenants and assurances to be entered into or given, as that Occupant reasonably determines having regard to the circumstances.
- (c) **Relevant considerations:** In reviewing a request for access specified in an Access Request Notice and determining the appropriate conditions (if any) of granting consent, the relevant Occupant must act properly, responsibly and in good faith but may take into account all relevant considerations including:
- (i) the nature of the activities intended to be undertaken;
  - (ii) the reasonableness of the intended activities for the purposes proposed;
  - (iii) the type and nature of materials and equipment proposed to be utilised in connection with the intended activities;
  - (iv) the period or periods of time during which the intended activities are proposed to be undertaken;

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- (v) the effects or potential effects of the intended activities on the day to day operation of that Occupant's business, or on the use and enjoyment of the relevant Occupied Area; and
- (vi) any special considerations including requirements for security and protection of property.
- (d) **Obligations on entry:** If an Occupant consents to access following receipt of an Access Request Notice then:
  - (i) the person undertaking the intended activities may enter upon and remain on the relevant part of the Occupied Area for the period or periods of time and during the days and the times consented to, and undertake the relevant activities consented to but will be bound by and must comply with the general provisions specified in this clause 2 (which shall be deemed to apply and be enforceable by the relevant Occupant) in addition to any condition reasonably specified or required by that Occupant; and
  - (ii) if the relevant activities are undertaken by or on behalf of a person exercising the relevant right or performing the applicable obligation, that person must ensure compliance with the conditions (if any) specified by the relevant Occupant and with the general provisions specified in this clause 2, and will be personally liable to the relevant Occupant for any default in performance of such general conditions and will compensate the relevant Occupant for expenses, damages and losses incurred or suffered;

provided that in the case of an emergency affecting the Building an Owner may enter an Occupied Area without notice or consent.

**2.8.4 Inspections:** All inspections and testing must be undertaken only by properly qualified professional/trade skilled persons having the requisite skills and experience to undertake such inspections and testing safely and competently, and in compliance with applicable statutory requirements and regulatory controls.

**2.8.5 Protection of Building:** All materials and equipment required for or incidental to undertaking an activity in the exercise of an easement right or performance of a positive covenant or other obligation under this Instrument must be of such a nature so as to avoid any damage or deterioration to any parts of the Building through which or within which such material and/or equipment passes or remains, and all work in relation to the activities must be undertaken in a manner which avoids damage or deterioration to any part of the Building (including that part within which the relevant activities are undertaken).

**2.8.6 Undertaking work:** Where any work (including any building work) is undertaken, such work must be carried out:

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- (a) in a proper and competent manner by appropriately experienced, qualified and responsible persons;
- (b) in accordance with, and in compliance with, applicable statutory requirements and regulatory controls (including the Resource Management Act 1991, the operative and proposed district plans of the Queenstown Lakes District Council, the Building Act 2004 and the Building Code);
- (c) with all reasonable speed;
- (d) in such a manner as to minimise disturbance, inconvenience or disruption to any Occupant; and
- (e) if any consents are required in respect of the relevant work, in strict compliance with the conditions attaching to the applicable consents;

and the person undertaking the relevant work, or on whose behalf the relevant work is undertaken must leave the relevant area clean and tidy, restored to its former state and condition, and with all equipment, excess materials, debris and rubbish removed.

**2.8.7 Notice of works:** Where any work is undertaken by or on behalf of any Owner in the exercise of an easement right or in the performance of an obligation under or pursuant to this Instrument, the Owner undertaking the relevant work, or on whose behalf the relevant work is undertaken, shall promptly give written notice to the other Owner(s):

- (a) of the nature and extent of the work to be undertaken; and
- (b) of completion of the relevant work following completion.

**2.8.8 Damage:** If damage is caused by any person entering upon or undertaking any inspections, testing, maintenance, repairs or any works in respect of any part of the Building, that person will be liable for all costs and expenses incurred in remedying the relevant damage and in compensating the person suffering the consequences of the relevant damage.

**2.8.9 Acts of agents:** Where any work or activity is undertaken on behalf of, or is authorised by the Lot 1 Owner or the Lot 2 Owner, the Lot 1 Owner or the Lot 2 Owner (as the case may be) on whose behalf, or with whose authorisation, the relevant work or activity is undertaken, shall be responsible for the acts and omissions of such persons.

**2.8.10 Fire rating of ducting routes:** Where any piping, pipework, wiring, ducting, cables, conduits or connections are required for or in connection with an easement right or a building system, facility, service or amenity benefiting the Owner of a dominant tenement, the Owner of the relevant dominant tenement must at all times ensure that applicable statutory requirements and

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regulatory controls relating to fire safety and protection from fire and other like hazards are complied with.

**2.8.11 Maintenance of facilities:** Except as otherwise provided in this Instrument, each Owner will be responsible for maintenance of and repairs to Facilities (and related costs incurred) benefiting that Owner whether or not such Facilities are located within or pass through part of the Building owned by that Owner or are located within or pass through part of the Building which is a servient tenement in respect of the relevant easement right granted to that Owner.

**2.9 Failure to perform obligation:** If a covenantor fails, refuses or neglects to perform an obligation specified in this Instrument or does not perform the relevant obligation in a manner which is prudent, reasonable and responsible in the circumstances, the covenantee may serve a Default Notice on the covenantor. If, following receipt of a Default Notice, the covenantor has not performed the relevant obligation by the date or within the period specified by the covenantee then the covenantee:

**2.9.1** may perform the relevant obligation and undertake any works required to ensure compliance with the relevant obligation;

**2.9.2** recover from the covenantor as a liquidated debt any costs and expenses properly and reasonably incurred by the covenantee arising from or incidental to remedying the relevant default by the covenantor; and

**2.9.3** set-off such costs and expenses against any monies which may otherwise be payable by the covenantee to the covenantor.

The exercise of rights under this clause are without prejudice to and do not derogate from any other rights or remedies available to the covenantee.

**2.10 Disputes:** The following provisions shall apply to disputes or differences concerning rights or obligations specified in this Instrument.

**2.10.1 Notice of dispute:** If any dispute or difference arises between persons concerning rights or obligations under this Instrument, or if any matter or issue arises which a person exercising or affected by rights or obligations under this Instrument wishes to have determined, resolved or remedied, either of such persons or that person may serve a Dispute Notice on the other person.

**2.10.2 Negotiations:** The issuer and the recipient of a Dispute Notice must use reasonable endeavours to resolve the relevant dispute or difference in good faith by negotiation and, if required, by reference to the dispute resolution procedures referred to in clause 2.10.3.

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2.10.3 **Dispute resolution procedures:** The following procedures will apply following the giving of a Dispute Notice:

- (a) The recipient of the Dispute Notice shall within 2 Business Days of receipt of that Dispute Notice give notice in writing to the issuer of the Dispute Notice of the person having authority on behalf of the recipient of the Dispute Notice to negotiate and settle the matter or issue specified in the relevant Dispute Notice.
- (b) The respective representatives ("the representatives") designated respectively by the issuer and the recipient of the applicable Dispute Notice shall, following whatever investigations the representatives each deems appropriate, seek to resolve the dispute within 5 Business Days of the date the notice referred to in subclause 2.10.3(a) is received by the issuer of the relevant Dispute Notice.
- (c) If the dispute or difference is not resolved within 5 Business Days (or such longer period as the representatives may agree in writing is appropriate), the representatives shall seek to agree on a process for resolving the dispute through means other than litigation or arbitration by such further negotiations, mediation, conciliation or determination by an independent expert or professional mediator (including a person appointed for that purpose by the President for the time being of the Otago District Law Society as may be appropriate in the circumstances).
- (d) If appropriate, the representatives may also agree on:
  - (i) the procedures and a timetable for any exchange of documents or other information relating to the dispute;
  - (ii) procedural rules and a timetable for the conduct of the selected mode of proceeding;
  - (iii) a procedure for selection and compensation of any neutral person who may be engaged to assist in the resolution of the dispute; and
  - (iv) whether the parties should obtain the assistance of a recognised dispute resolution organisation.
- (e) Either the recipient or the issuer of the relevant Dispute Notice may, so long as:
  - (i) that person has acted in good faith in attempting to resolve the relevant matter in dispute in accordance with the foregoing procedures;
  - (ii) a period of 25 Business Days (or such longer period as the representatives may have agreed is appropriate for the dispute resolution process agreed between them) has elapsed since the service of the relevant Dispute Notice; and

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- (iii) written notice terminating the dispute resolution process has been served on the other person;

exercise any rights available at law or reserved by this Instrument (including reference of the relevant matter or issue in dispute to arbitration, or commencement of court proceedings in relation to the matter or issue in dispute, as may be appropriate).

**2.10.4 Confidentiality:** Where the dispute resolution procedures referred to in subclause 2.10.3 apply, the persons in dispute may not use any information (whether oral, in writing or produced or stored by electronic means or otherwise) or documents obtained for any purpose other than an attempt to settle the dispute between those persons.

**2.10.5 Savings:** The procedures specified in subclause 2.10.3 do not apply to court proceedings for:

- (a) an injunction to restrain any action taken or threatened which the person seeking to restrain the relevant action believes in good faith and on proper, justifiable grounds:
- (i) exceeds the rights or powers granted under this Instrument; or
  - (ii) is in breach of a term, condition, covenant or restriction attaching to the relevant easement or right; or
  - (iii) is in breach of a positive covenant or other obligation under this Instrument; or
  - (iv) is otherwise unauthorised, inappropriate or unlawful; or
- (b) specific performance requiring a covenantor to perform an obligation specified in this Instrument.

**2.11 Costs of performing obligations under positive covenant:** The following provisions apply where under any provision of this Instrument a covenantor is entitled to require a covenantee to make contributions toward costs incurred by the covenantor in performing the relevant positive covenant.

**2.11.1 Right to contributions:** Subject to any specific provisions in this Instrument and to the following provisions in this clause 2.11, a covenantor shall be entitled to require each covenantee to contribute such amounts as are fair and reasonable in the circumstances towards all costs properly and reasonably incurred by the covenantor in the performance by the covenantor of the relevant obligation.

**2.11.2 Determination of and payment of contributions:** Where a covenantor is entitled to require any covenantee to contribute towards costs properly and reasonably incurred by the covenantor, each covenantee shall promptly pay to the covenantor such amounts as are fair and reasonable in the circumstances having regard to, and determined by reference to, the relative benefits respectively

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derived by or accruing to the covenantor, the covenantee and Occupants, or which will be derived by or accrue to the covenantor, the covenantee and Occupants.

**2.11.3 Notice of intended works:** Except for costs incurred in undertaking work required as a matter of urgency or in order to restore the operation of the relevant facility and related equipment which has failed where it is not practical to give prior written notice to each covenantee in the circumstances of the intention to undertake the relevant work, the covenantor must in any other case where the covenantor intends or proposes to require any covenantee to make a contribution towards costs incurred by the covenantor in performing the relevant obligation, give a notice (as defined by section 126 of the Property Law Act 1952) in terms required by section 126C of the Property Law Act 1952.

**2.11.4 Cross notices and disputes:** Where a notice is served on one or more covenantees requiring a contribution towards costs in respect of the relevant works specified in that notice, the applicable provisions of section 126D, 126E and 126F of the Property Law Act 1952 will apply, but with the following additional provisions:

- (a) **Verification of estimated costs:** The covenantee issuing a cross notice may require competitive quotations to be obtained, or for the estimate of the cost of the relevant work to be certified as reasonable by a registered quantity surveyor, and either the covenantor or the covenantee may obtain competitive quotations in respect of the relevant works, or obtain a certificate from a registered quantity surveyor as to the reasonableness of the estimated costs of the relevant work.
- (b) **Unreasonable expenditure:** A covenantee shall not be liable to make a contribution towards any costs, or to any additional costs, incurred to the extent that such costs would not have been incurred, or are greater than costs which would reasonably have been incurred, had the covenantor acted prudently, properly and reasonably in performing the relevant obligation.
- (c) **Disputes:** The covenantor and any covenantee issuing a cross notice must in good faith attempt to resolve the relevant dispute by agreement between them, including the use of alternative dispute resolution procedures referred to in clause 2.10.3.
- (d) **Verification of costs incurred:** In addition to the details to be included in a notice as required by section 126C of the Property Law Act, and also when work has been undertaken, the covenantor must, if so requested by any covenantee, provide copies of all relevant reports, invoices and other information reasonably necessary to comprehend the reasons for undertaking the relevant work, and to verify the costs and the reasonableness of the costs incurred in undertaking the relevant work.

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**2.11.5 Recoveries from third parties:** The rights of the covenantor under subclause 2.11.1 to require contributions to costs do not apply where:

(a) **Negligence:** the relevant work is required as a consequence of any damage or deterioration arising from any negligent act or omission of any person and the costs incurred in undertaking relevant remedial works are recoverable from that person; or

(b) **Insurances:** the costs incurred are recoverable under insurance covers which apply to the relevant works or which should have been effected pursuant to subclause 2.13.2.

**2.12 Undertaking works or fixing costs by agreement:** Notwithstanding any other provision in this Instrument, obligations may be performed and works undertaken of such nature, in such manner, and on such terms as to cost allocation as may from time to time be agreed between the covenantor and relevant covenantees, and contributions to costs may be fixed on a basis agreed between the covenantor and the relevant covenantees (in which case the parties will be bound by the agreed arrangements to the extent the agreement made has application to the matters agreed).

**2.13 Protection of property:** All rights granted, and all obligations imposed, under this Instrument are subject to the following additional obligations:

**2.13.1 Safety:** All Facilities must at all times be kept safe and maintained and operated in a manner which avoids and does not cause injury to any person or damage to any property.

**2.13.2 Insurance:** All persons having the benefit of, or operating, or having the primary obligations in respect of, any Facility must ensure that reasonable insurance cover is at all times effected and remains current for all reasonably foreseeable risks and potential claims by any other person where property may be damaged or who may suffer losses as a consequence of any failure or any event connected with the operation of any Facility or any part thereof.

**2.14 Effect of Land Covenant:** The Grantor and the Grantee acknowledge that they have entered into a Land Covenant dated the same date as this Instrument, to regulate various matters pertaining to the Building. The Grantor and the Grantee agree that in the event of any conflict between the terms of this Instrument and the terms of the Land Covenant, the terms of the Land Covenant shall prevail.

**2.15 Easements generally:** All the easements recorded in this Instrument include:

**2.15.1** the right to use any Facilities already situated in or on the stipulated easement area for the purpose of the easement granted; and

**2.15.2** the right to lay, install, and construct such Facilities in or on the stipulated easement area as are reasonably required by the Grantee (including the right to excavate land for the purpose of that construction).

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**3. SEWAGE DRAINAGE EASEMENTS**

The following provisions shall apply to each Sewage Drainage Easement:

- 3.1 The Grantee and other authorised persons shall have the right (in common with the Grantor and other authorised persons) to drain, discharge or convey sanitary sewerage and other waste material and fluid in any quantities in a free and unimpeded flow (except during any periods of necessary cleaning, renewal and/or repair) from the Dominant Land through the relevant Facilities laid through the Servient Land, such Facilities being for the purpose of conveying sanitary sewerage and other waste material and fluid from the Dominant Land through the Servient Land and into external public sanitary sewerage disposal systems.
- 3.2 The Grantor shall undertake the repair and maintenance of all the relevant Facilities located in the Sewage Drainage Area so as to keep the same in good order, repair and condition and to prevent the same becoming a nuisance.
- 3.3 The Grantor shall be entitled to require the Grantee to contribute such sum as is fair and reasonable in the circumstances towards the costs properly and reasonably incurred by the Grantor in performing the obligations specified in clause 3.2.

**4. WATER DRAINAGE EASEMENTS**

The following provisions shall apply to each Water Drainage Easement:

- 4.1 The Grantee and other authorised persons shall have the right (in common with the Grantor and other authorised persons) to convey stormwater (whether rain, tempest, spring, soakage or seepage water) in any quantities in a free and unimpeded flow (except during any periods of necessary cleaning, renewal and/or repair) from the Dominant Land through the relevant Facilities laid through the Servient Land, such Facilities being for the purpose of conveying stormwater (whether rain, tempest, spring, soakage or seepage water) from the Dominant Land through the Servient Land and into the public stormwater disposal system.
- 4.2 The Grantor shall undertake at its cost the repair and maintenance of all of the relevant Facilities located in the Water Drainage Area so as to keep the same in good order, repair and condition and to prevent the same becoming a danger or a nuisance.
- 4.3 The Grantor shall be entitled to require the Grantee to contribute such sum as is fair and reasonable in the circumstances towards the costs properly and reasonably incurred by the Grantor in performing the obligations specified in clause 4.2.

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**5. WATER SUPPLY EASEMENTS**

The following provisions shall apply to each Water Supply Easement:

- 5.1 The Grantee and other authorised persons shall have the right (in common with the Grantor and other authorised persons) to convey and lead water in any quantities in a free and unimpeded flow (except during any periods of necessary cleaning, renewal and/or repair) through the relevant Facilities laid through the Servient Land, such Facilities being for the purpose of conveying the supply of water to the Dominant Land through the Servient Land from the public water system.
- 5.2 The Grantor shall undertake at its cost the repair and maintenance of the relevant Facilities located in the Water Supply Area so as to keep the same in good order, repair and condition and to prevent the same becoming a danger or a nuisance.
- 5.3 The Grantor shall be entitled to require the Grantee to contribute such sum as is fair and reasonable in the circumstances towards the costs properly and reasonably incurred by the Grantor in performing the obligations specified in clause 5.2.

**6. FIRE FIGHTING SYSTEM AND WATER SUPPLY EASEMENTS**

The following provisions shall apply to each Fire Fighting System and Water Supply Easement:

- 6.1 The Grantee and other authorised persons shall have the right (in common with the Grantor and other authorised persons) to lead and convey water (including pressurised water) and to utilise the fire detection, control, pumping, exhaust and other related fire apparatus without interruption or impediment (except during any periods of necessary renewal and/or repair) through the relevant Facilities laid through the Servient Land to the Dominant Land, such Facilities being for the purpose of conveying water and detecting, controlling and extinguishing fires on the Dominant Land.
- 6.2 The Grantor shall undertake the repair and maintenance of all the relevant Facilities located in the Fire Fighting System and Water Supply Area so as to keep the same in good order, repair and condition and to prevent the same becoming a nuisance.
- 6.3 The Grantor shall be entitled to require the Grantee to contribute such sum as is fair and reasonable in the circumstances towards the costs properly and reasonably incurred by the Grantor in performing the obligations specified in clause 6.2.

**7. WASTE MANAGEMENT EASEMENTS**

The following provisions shall apply to each Waste Management Easement:

- 7.1 The Grantee and other authorised persons shall have the right (in common with the Grantor and other authorised persons) to place and use waste bins on the Servient Land within the Waste Management Area.

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- 7.2 Any use of the Waste Management Area by the Grantor or other authorised persons shall be such that the Grantee shall at all times have sufficient waste storage area for the Grantee's use.
- 7.3 The Grantor shall undertake the repair and maintenance of the Waste Management Area so as to keep the same in good order, repair and condition and to prevent the same becoming a danger or a nuisance.
- 7.4 The Grantor shall be entitled to require the Grantee to contribute such sum as is fair and reasonable in the circumstances towards the costs properly and reasonably incurred by the Grantor in performing the obligations specified in clause 7.2.

**8. VENTILATION SYSTEMS EASEMENTS**

The following provisions shall apply to each Ventilation Systems Easement:

- 8.1 The Grantee and other authorised persons shall have the right (in common with the Grantor and other authorised persons) to convey air without interruption or impediment (except during any periods of necessary cleaning, renewal and/or repair) by means of the relevant Facilities laid through the Servient Land, such Facilities being for the purpose of conveying air to the Dominant Land.
- 8.2 The Grantor shall undertake the repair and maintenance of all the relevant Facilities located in the Ventilation Systems Area so as to keep the same in good order, repair and condition and to prevent the same becoming a danger or a nuisance.
- 8.3 The Grantor shall be entitled to require the Grantee to contribute such sum as is fair and reasonable in the circumstances towards the costs properly and reasonably incurred by the Grantor in performing the obligations specified in clause 8.2.

**9. ELECTRICITY SUPPLY EASEMENTS**

The following provisions shall apply to each Electricity Supply Easement:

- 9.1 The Grantee and all other authorised persons have the right (in common with the Grantor and other authorised persons) to lead and convey electricity without interruption or impediment (except during any periods of necessary renewal and/or repair) through the relevant Facilities laid through the Servient Land, such Facilities being for the purpose of conveying electricity to the Dominant Land.
- 9.2 The Grantor shall be responsible for arranging the repair and maintenance of the relevant Facilities located in the Electricity Supply Area so as to keep the same in good order, repair and condition and to prevent the same becoming a danger or a nuisance.
- 9.3 The Grantor shall be entitled to require the Grantee to contribute such sum as is fair and reasonable in the circumstances towards the costs properly and reasonably incurred by the Grantor in performing the obligations specified in clause 9.2.

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**10. GAS SUPPLY EASEMENTS**

The following provisions shall apply to each Gas Supply Easement:

- 10.1 The Grantee and other authorised persons have the right (in common with the Grantor and other authorised persons) to lead and convey gas without interruption or impediment (except during any periods of necessary renewal and/or repair) through the relevant Facilities laid through the Servient Land, such Facilities being for the purpose of conveying gas to the Dominant Land.
- 10.2 The Grantor shall undertake the repair and maintenance of the relevant Facilities located in the Gas Supply Area so as to keep the same in good order, repair and condition and to prevent the same becoming a danger or a nuisance.
- 10.3 The Grantor shall be entitled to require the Grantee to contribute such sum as is fair and reasonable in the circumstances towards the costs properly and reasonably incurred by the Grantor in performing the obligations specified in clause 10.2.

**11. TELECOMMUNICATIONS EASEMENTS**

The following provisions shall apply to each Telecommunications Easement:

- 11.1 The Grantee and other authorised persons have the right (in common with the Grantor and other authorised persons) to convey telecommunications signals without interruption or impediment (except during any periods of necessary renewal and/or repair) by means of the relevant Facilities laid through the Servient Land to the Dominant Land, such Facilities being for the purpose of conveying telecommunications signals to the Dominant Land.
- 11.2 The Grantor shall undertake the repair and maintenance of all the relevant Facilities located in the Telecommunications Area so as to keep the same in good order, repair and condition and to prevent the same becoming a danger or a nuisance.
- 11.3 The Grantor shall be entitled to require the Grantee to contribute such sum as is fair and reasonable in the circumstances towards the costs properly and reasonably incurred by the Grantor in performing the obligations specified in clause 11.2.

**12. STRUCTURAL SUPPORT AND INTEGRITY EASEMENTS**

The following provisions shall apply to each Structural Support and Integrity Easement:

- 12.1 The Grantee and other authorised persons shall have the right (in common with the Grantor and other authorised persons) to have the benefit of the Building Support Components located within the Structural Support and Integrity Area for all purposes connected with the use and enjoyment of the Dominant Land.

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12.2 The Grantor shall undertake the repair and maintenance of all of the Building Support Components located in the Structural Support and Integrity Area so as to keep the same in good order, repair and condition and to prevent the same becoming a nuisance.

12.3 The Grantor shall be entitled to require the Grantee to contribute such sum as is fair and reasonable in the circumstances towards the costs properly and reasonably incurred by the Grantor in performing the obligations specified in clause 12.2.

**13 STORAGE EASEMENTS**

The following provisions shall apply to each Storage Easement:

13.1 The Grantee and other authorised persons shall have the right (in common with the Grantor and other authorised persons) to store materials on the Servient Land within the Storage Area.

13.2 The Grantor shall undertake the repair and maintenance of the Storage Area so as to keep the same in good order, repair and condition and to prevent the same becoming a danger or a nuisance.

13.3 The Grantor shall be entitled to require the Grantee to contribute such sum as is fair and reasonable in the circumstances towards the costs properly and reasonably incurred by the Grantor in performing the obligations specified in clause 13.2.

**14. PEDESTRIAN RIGHT OF WAY EASEMENTS**

The following provisions shall apply to each Pedestrian Right of Way Easement:

14.1 The Grantee and other authorised persons shall have the right (in common with the Grantor and other authorised persons) to pass and re-pass on foot for all purposes connected with the use and enjoyment of the Dominant Land over and along the Pedestrian Right of Way Area.

14.2 The Grantor shall undertake the repair and maintenance of the Pedestrian Right of Way Area so as to keep the same in good order, repair and condition and to prevent the same becoming a danger or a nuisance.

14.3 The Grantor shall be entitled to require the Grantee to contribute such sum as is fair and reasonable in the circumstances towards the costs properly and reasonably incurred by the Grantor in performing the obligations specified in clause 14.2.

**15. RIGHT OF WAY EASEMENTS**

The following provisions shall apply to each Right of Way Easement:

15.1 The Grantee and other authorised persons shall have the right (in common with the Grantor and other authorised persons) to pass and repass on foot with or without domestic animals of any kind and with

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motor and other vehicles, laden and unladen, machinery and implements of any kind for all purposes connected with the use and enjoyment of the Dominant Land over the Right of Way Area.

15.2 The Grantor shall undertake the repair and maintenance of the Right of Way Area so as to keep the same in good order, repair and condition and to prevent the same becoming a danger or a nuisance.

15.3 The Grantor shall be entitled to require the Grantee to contribute such sum as is fair and reasonable in the circumstances towards the costs properly and reasonably incurred by the Grantor in performing the obligations specified in clause 15.2.

**16 LOADING BAY EASEMENTS**

The following provisions shall apply to each Loading Bay Easement:

16.1 The Grantee and other authorised persons shall have the right (in common with the Grantor and other authorised persons) to use the Loading Bay Area for the loading and unloading of goods and to remain on the Loading Bay Area with or without motor and other vehicles for a reasonable time, subject to the rights of other users.

16.2 The Grantor shall undertake the repair and maintenance of the Loading Bay Area so as to keep the same in good order, repair and condition and to prevent the same becoming a danger or a nuisance.

16.3 The Grantor shall be entitled to require the Grantee to contribute such sum as is fair and reasonable in the circumstances towards the costs properly and reasonably incurred by the Grantor in performing the obligations specified in clause 16.2.

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**Annexure Schedule - Consent Form**

Land Transfer Act 1952 section 238(2)



Insert type of instrument  
"Caveat", "Mortgage" etc

Mortgage

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**Consentor**Surname must be underlined or in CAPITALS**Capacity and Interest of Consentor**

(eg. Caveator under Caveat no./Mortgagee under Mortgage no.)

ANZ National Bank Limited

Mortgagee under Mortgage Nos. 6257879.3,  
6295366.5 ad 6306298.2**Consent**

Delete Land Transfer Act 1952, if inapplicable, and insert name and date of application Act.

Delete words in [ ] if inconsistent with the consent.

State full details of the matter for which consent is required.

Pursuant to [section 238(2) of the Land Transfer Act 1952]

[section of the Act ]

[Without prejudice to the rights and powers existing under the interest of the Consentor]

the Consentor hereby consents to:

the registration of the within easement instrument

Dated this 23rd day of January 2008

**Attestation**

Timothy Andrew James Johnston

Signature of Consentor

Signed in my presence by the Consentor

V. Balachandran

Signature of Witness

Witness to complete in BLOCK letters (unless legibly printed)

Witness name VATHSALA BALACHANDRAN

Occupation BANK OFFICER

Address AUCKLAND

An Annexure Schedule in this form may be attached to the relevant instrument, where consent is required to enable registration under the Land Transfer Act 1952, or other enactments, under which no form is prescribed.

REF: 7029 - AUCKLAND DISTRICT LAW SOCIETY

**ANZ NATIONAL BANK LIMITED**

**CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY**

I, TIM ANDREW JAMES JOHNSTON of AUCKLAND in New Zealand, DIRECTOR, ANZ National Bank Limited, hereby certify that:

1. By Deed dated 17 March 2006 (*"The Deed"*), I was appointed an Additional Attorney of ANZ National Bank Limited, a Company incorporated in New Zealand and having its head office at Wellington on the terms and subject to the conditions set out in that deed.
2. At the date of this certificate, I am a DIRECTOR, PROPERTY & CONSTRUCTION FINANCE, ANZ National Bank Limited.
3. At the date hereof I have not received any notice of the revocation of that appointment by the winding up or dissolution of ANZ National Bank Limited or otherwise.
4. The Deed is registered with Land Information, New Zealand, Dealing Number PA 6796072.1.

SIGNED by the abovenamed )  
Attorney at Auckland on this day, )  
23 January 2008 )

  
\_\_\_\_\_  
Signature