

IT IS AGREED THAT

1. Interpretation

In this encumbrance instrument, unless the context requires otherwise:

1.1 Definitions

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Encumbrancee means [REDACTED] and includes its statutory successors.

Encumbrance Instrument means this encumbrance.

Encumbrancer means the Encumbrancer named in this encumbrance instrument and being the registered proprietor of the Land from time to time.

Land means the land included in Certificate of Title [REDACTED].

Rent Charge means \$1 per annum.

Site Supervisor means as defined in paragraph 4.2d of this Annexure Schedule.

1.2 Defined Expressions: Expressions defined in the main body of this encumbrance instrument have the defined meaning in the whole of this encumbrance instrument, including the background.

1.3 Headings: Section, clause and other headings are for ease of reference only, and do not affect this encumbrance instrument's interpretation.

1.4 Negative Obligations: Any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done.

1.5 Parties: References to parties are references to parties to this encumbrance instrument.

1.6 Persons: References to persons include references to individuals, companies, corporations, partnerships, firms, joint ventures, associations, trusts, organisations, governmental or other regulatory bodies or authorities or other entities, in each case whether or not having separate legal personality.

1.7 Plural and Singular: Words importing the singular number include the plural and vice versa.

1.8 **Sections, Clauses and Schedules:** References to sections, clauses and schedules are references to this encumbrance instrument's sections, clauses and schedules.

1.9 **Statutes and Regulations:** References to any statutory provision includes any statutory provision which amends or replaces it, and any subordinate legislation made under it.

2. **Land Encumbered**

2.1 The Encumbrancer encumbers the Land in accordance with the following terms of this Encumbrance Instrument.

2.2 Unless terminated earlier in accordance with clause 5 herein, the term of this Encumbrance instrument is 300 years from the date of this Encumbrance Instrument.

3. **Rentcharge**

3.1 The Rentcharge shall be paid by the Encumbrancer to the Encumbrancee on the last day of June in each year, **if** demanded. The Encumbrancee may only make demand for payment of the Rentcharge if there has been a breach by the Encumbrancer of the terms of this encumbrance instrument, and that default is not rectified within 20 working days (as defined under the Property Law Act 2007) following receipt of notice of breach.

3.2 Any demand by the Encumbrancee for payment shall be without prejudice to the Encumbrancee's other remedies for breach by the Encumbrancer of the terms of this encumbrance instrument.

4. **Encumbrancer's Covenants**

4.1 The Encumbrancer covenants with the Encumbrancee that within Area A:

a. No building shall be built or erected or caused to be built or erected on Area A.

b. No earthworks or removal of ground-cover shall be undertaken on Area A

[REDACTED]

c. That all of the requirements under the Encumbrancee's operative District Plan shall be adhered to.

[REDACTED]

[REDACTED]

4.2 The Encumbrancer covenants with the Encumbrancee that within Area B:

a. Any dwelling constructed on Area B shall:

i. Be of a light timber frame design and constructed on foundations designed by a suitably qualified [structural engineer] to cope with the expansive soils present on the Land; and

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4.3 The Encumbrancer hereby agrees to indemnify the Encumbrancee from and against all costs (including costs as between Solicitor and client), damages and expenses, claims, actions and proceedings of or against the Encumbrancee in consequence of or arising out of any breach by the Encumbrancer of the agreements and provisions in this Encumbrance and/or the exercise by the Encumbrancee of any rights, powers and remedies available under this Encumbrance.

4.4 All costs (including costs as between Solicitor and client) of and incidental to this Encumbrance (including its preparation and registration against the Title to the Land) shall be borne by the Encumbrancer.

5. **Property Law Act 2007**

5.1 Sections 203 to 205 of the Property Law Act 2007 apply to this encumbrance instrument, but otherwise (and without prejudice to the Encumbrancee's rights of action at common law as a rentchargee or encumbrancee):

- a. the Encumbrancee shall be entitled to none of the powers and remedies (including any power of sale) given to encumbrancees by the Land Transfer Act 1952 and the Property Law Act 2007; and
- b. no covenants on the part of the Encumbrancer are implied in this encumbrance instrument other than the covenant for further assurance implied by section 154 of the Land Transfer Act 1952.

6. Consent of Encumbrancee

- 6.1 The Encumbrancee's consent shall not be required to the registration of any instrument against the computer freehold register identifier for the Land which has priority behind this encumbrance instrument. Where any third party consent is required all costs will be paid by the Encumbrancee.

7. No Prejudice

- 7.1 No delay or failure by the Encumbrancee or the Encumbrancer to enforce performance of any of the covenants set out in this encumbrance instrument and no indulgence granted to the Encumbrancer by the Encumbrancee, or to the Encumbrancee by the Encumbrancer, shall prejudice the rights of either party to enforce any of the covenants of this encumbrance instrument.