



Memorandum of Encumbrance Securing Rentcharge

THIS MEMORANDUM OF ENCUMBRANCE dated the 7th day of March 2002.

WHEREAS

- A. **TERRANOVA DEVELOPMENTS LIMITED** (the encumbrancor) is the registered proprietor of Lot 1 DP 12562 lower Wanaka Survey District containing 4.0924 ha and described in Certificate of Title OT4D/1019 (the "land").
- B. By virtue of being a registered proprietor of land in the North Meadows subdivision the encumbrancor is required to enter into the Memorandum of Encumbrance with **NORTH MEADOWS UTILITIES SOCIETY INCORPORATED** at Wanaka (the "encumbrancee").
- C. The encumbrancor agrees to make regular payments as levied by the encumbrancee to cover expenses incurred by the Society in carrying out its duties in respect of the North Meadows subdivision. To secure the encumbrancor's performance and observance of the provisions of the agreement the encumbrancor is granting the rentcharge and making the covenants to the encumbrancee in this memorandum of encumbrance.

WITNESSES that the encumbrancor encumbers the land for the benefit of the encumbrancee with an annual rentcharge to be struck at each Annual General Meeting of the Encumbrancee and to be notified in writing to the Encumbrancor before 28th day of March in each and every year, and the encumbrancor covenants with the encumbrancee that:

1. **Pay Rent Charge**

The encumbrancor and here or his successors in title will, during the lifetime of the encumbrancee, pay the rentcharge in the manner and at the times appointed without deduction.

2. **Pay Rates**

The encumbrancor will duly pay all rates, assessments and other outgoings from time to time payable in respect of the land. If the encumbrancor does not duly pay them the encumbrancee may pay them, and recover from the encumbrancor any amount paid with interest at the rate of BNZ base rate plus 5 percent per annum computed from the day of payment, and payable on demand.

3. **Provisos**

- 3.1 **Implied Provisions** – The rights, powers and remedies conferred by the Property Law Act 1952 and the Land Transfer Act 1952 are vested in and exercisable by the encumbrancee as if they were express clauses in this memorandum.
- 3.2 **Modification of Statutory Power of Sale** – Subject to s92 of the Property Law Act 1952, the power of sale included in the Fourth Schedule to the Property Law Act 1952 shall be deemed to arise and be exercisable by the encumbrancee if and whenever:-
 - (a) the encumbrancer defaults for the space of twenty-one days in payment of any of the calendar monthly instalments of the rentcharge or any part of them; or
 - (b) the encumbrancer defaults in the performance or observance of any covenant expressed or implied in this instrument; or
 - (c) the encumbrancer becomes bankrupt.

It shall not be necessary for the encumbrancee, before exercising such power of sale or any incidental or subsidiary power, to give any notice (other than the notice required by s92 of the Property Law Act 1952) or to do or see to the doing of any act, matter or thing, or wait any period or periods other than the period of twenty-one days. Upon any exercise by the encumbrancee of the power of sale the encumbrancee may grant or reserve any easement over or appurtenant to any part or parts of the land for such consideration and upon and subject to such covenants, conditions and provisions as the encumbrancee thinks fit. For the consideration mentioned above the encumbrancer irrevocably appoints the encumbrancee the true and lawful attorney of the encumbrancer to exercise all or any of the supplementary powers in this clause (including the execution of all necessary instruments), and the exercise of all or any supplementary powers by the encumbrancee shall be as valid and effectual as if this instrument had not been executed and the encumbrancer were personally present and acting.²

- 3.3 **General Powers** – Subject to this memorandum the encumbrancee is entitled to all powers and remedies given to an encumbrancer by the Land Transfer Act 1952 and the Property Law Act 1952.

TERRANOVA DEVELOPMENTS LIMITED
By its Directors



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Director



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Director

DATED 7th March 2002

**CORRECT FOR THE
PURPOSES OF THE LAND
TRANSFER ACT 1952**

Solicitor for the Encumbrancee

Terranova Developments Limited

"The Encumbrancer"

**North Meadows Utilities Society
Incorporated**

"The Encumbrancee"

**MEMORANDUM OF ENCUMBRANCE
SECURING RENT CHARGE**

Checketts McKay
Solicitors
WANAKA

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