**LINZ Dealing Number:**

**Client Reference:**

**PRIVATE CORPORATE CLIENT AUTHORITY AND INSTRUCTION FOR AN ELECTRONIC TRANSACTION**

*(This form is approved by the New Zealand Law Society and Registrar-General of Land.*

*For use by a non-publicly listed company or incorporated society, etc.)*

1. **TO LAW FIRM:**

*(Firm name)*

1. **CLIENT: Northpower Limited and Northpower Fibre Limited**

*(Registered name of corporate as per Certificate of Incorporation. Referred to as ‘the Client’.)*

**Full Names of Authorised Signatory: Paul William McElwee**

1. **TRANSACTION:**

**Property Address:**

**Date and Nature of Base Document:**

**Easement Instrument to Grant Easement**

Name of other party:

Title Reference(s):

Nature/Purpose: Right to Convey Electricity, Telecommunications and

Computer Media

DP number:

1. **AUTHORITY AND INSTRUCTION:**

I confirm that:

1. I am properly and duly authorised by law to sign this Authority on behalf of the Client;
2. this authority is binding on the Client;
3. this form is for the transaction noted above;
4. I am 18 years of age or over;
5. the Client is not subject to any statutory management order, the appointment of a receiver or liquidator, or similar;
6. the Client has passed the necessary resolutions as required by its empowering constitution, rules or statute to authorise the transaction noted above;
7. as required by s164A of the Land Transfer Act 1952 I irrevocably authorise and instruct you to register the instruments above as an e-dealing;
8. I understand that by signing this form the Client is legally bound by the electronic instruments certified and registered on its behalf pursuant to this authority and instruction as if such instruments had been signed by me personally on behalf of the Client;
9. I understand that the authorised transaction will become a matter of public record upon registration.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Signature of Authorised Signatory Date**

*(Important note:* ***Each Signatory named must sign personally.*** *‘For and on behalf’ is not acceptable).*

**5. SIGNATORY IDENTIFICATION:** *(Tick applicable ID. Person establishing identity to complete.)*

Driver Passport Firearms Other government

Licence Licence issued photo ID

**Signatory: Paul William McElwee** \_\_\_\_\_\_ \_\_\_\_\_\_\_ \_\_\_\_\_\_\_ \_\_\_\_\_\_\_

*(****Attach*** *copy of ID used or details (e.g. passport number) where copying not practicable.)*

I certify that:

1. I have witnessed the signatory(s) sign this form;
2. I have sighted the original form(s) of identity ticked above;
3. I have attached a copy of ID(s) used;
4. the photo(s) name(s) and signature(s) match the signatory(s) name(s) and identification provided.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Signature of person establishing identity Full name of person establishing identity**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Occupation**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Phone/Email Address**

**Notes:**

1. The requirements for client identification specified in LINZS20002 Standard for verification of Identity must be complied with.
2. With the exception of foreign Passports, only NZ government issued photo ID may be relied upon for identity verification purposes.
3. Where the person who is signing this form is doing so under a Power of Attorney the identification required to be established is that of the attorney.
4. Attach certificate of non-revocation of power of attorney if required.
5. The full legal name of the corporate as registered must be used.
6. A faxed copy of this form is acceptable (refer to NZLS *e-dealing* Guideline J).
7. The consent of prior mortgagees, lessors, etc may be necessary to avoid a breach of covenants.
8. This form is derived from the New Zealand Law Society’s Property Transactions & *e-dealing* Guidelines, Part 2, Appendix 2.

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

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

**Grantor**

|  |
| --- |
|  |

**Grantees**

|  |
| --- |
| **Northpower Limited and Northpower Fibre 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 Grantees** (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; *profit* or covenant | Shown (plan reference) | Servient Tenement  (Computer Register) | Dominant Tenement  (Computer Register) or in gross |
| Right to convey electricity, telecommunications and computer media | on DP |  | In Gross to Northpower Limited and Northpower Fibre Limited |

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

**and conditions)**

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

|  |
| --- |
| Unless otherwise provided below, the rights and powers implied in specified classes of easement are those prescribed by the Land Transfer Regulations 2002 and/or Schedule Five of the Property Law Act 2007  The implied rights and powers are hereby **substituted** by: the provisions set out in the Annexure Schedule |

# EASEMENT INSTRUMENT ANNEXURE SCHEDULE

# 1. DEFINITIONS

## 1.1 In this instrument unless the context indicates otherwise:

"**Easement Area**" means that part of the Land referred to in Schedule A;

"**Electrical Works**" means the Works, Electrical Installations, Electrical Appliances, Fittings and Associated Equipment, as those terms are defined in the Electricity Act 1992, presently fixed or installed on, over or under the Easement Area, or to be fixed or installed on, over or under the Easement Area in substitution, addition or replacement for them, whether of the same smaller or larger dimensions or capacity;

“**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 or telecommunications and computer media;

“**Grantees**” means Northpower Limited and Northpower Fibre Limited and their successors, transferees and assigns;

“**Grantees’ Authorised Persons**” means the Grantees’ subsidiary and related companies, and the agents, employees, contractors, lessees, licensees and invitees of the Grantees and the Grantees’ subsidiary and related companies;

“**Grantor**” means the registered proprietor of the Land and includes their heirs, executors, administrators and assigns;

"**Land**" is the land owned by the Grantor described in Schedule A;

“**Telecommunications**” means the conveyance by electromagnetic means from one device to another of any encrypted or non-encrypted sign, signal, impulse, writing, image, sound, instruction, information, or intelligence of any nature, whether for the information of any person using the device or not (and for the avoidance of doubt, includes any conveyance that constitutes broadcasting);

**“Telecommunications Works”** means any cable, duct, wire or a conductor of any other kind (including a fibre optic cable) used or intended to be used for the transmission or reception of Telecommunications and any instrument, furniture, plant, office, building, machinery, engine, excavation, or work, of whatever description, used in relation to, or in any way connected with that wire or conductor presently fixed or installed on, over or under the Easement Area, or to be fixed or installed on, over or under the Easement Area in substitution, addition or replacement for them, whether of the same smaller or larger dimensions or capacity;

“**Works Owner(s)**” means the Grantees, the Grantees’ subsidiary and related companies, or any other person(s) the Grantees authorise to install Electrical Works or Telecommunications Works, and includes such person(s) as they may transfer ownership to.

## 2. GRANT OF ELECTRICITY AND TELECOMMUNICATIONS EASEMENT

## 2.1 The Grantor grants to the Grantees, as an easement in gross forever, the rights to:

## 2.1.2 convey, reticulate, convert, transform, transmit, supply and use electrical energy and power by means of the Electrical Works; and

## convey, reticulate, convert, transform, transmit, supply and use Telecommunications and computer media, by means of the Telecommunications Works,

## in each case without obstruction or interruption and in any quantity.

## 2.2 The Grantees and the Grantees’ Authorised Persons have the right, subject to clause 3, to enter and remain for a reasonable time on the Easement Area, and any other parts of the Land as are reasonably necessary, to do the following work:

### 2.2.1 To construct, install and lay the Electrical Works and/or Telecommunications Works on, over or under the Easement Area, at a depth or height and along a line determined by the Grantee;

### 2.2.2 To inspect, maintain, repair, dig up, alter, enlarge, renew or replace those Electrical Works and/or Telecommunications Works; and

### 2.2.3 To do anything else in the full exercise of the rights granted under this instrument, with or without tools, plant, equipment and vehicles.

## 2.3 The Grantees have no obligation to construct the Electrical Works and/or the Telecommunications Works or to convey electrical energy and power or Telecommunications through them continuously or at all.

# 3. ACCESS

## 3.1 The Grantees must before exercising the right of entry in clause 2.2:

### 3.1.1 Make reasonable efforts to identify the Land owner or the Land occupier;

### 3.1.2 Give reasonable notice to the Land owner or the Land occupier, except in an Emergency Situation, when prior notice is not required;

### 3.1.3 Identify the work they intend to carry out.

### The Grantees are not required by reason of the obligations in this clause to delay entry onto the Land from the date notified.

## 3.2 The Grantees, in entering the Land, will take reasonable steps to minimise inconvenience to the Land owner or the Land occupier, including:

#### 3.2.1 The time of entry (unless this is not possible due to an Emergency Situation);

#### 3.2.2 Leaving gates as they are found;

#### 3.2.3 Driving in a safe manner and taking reasonable steps not to disturb stock; and

#### 3.2.4 Avoiding access through specific areas identified by the Grantor unless necessary to access the Electrical Works and Telecommunications Works.

## The Grantees are not required to delay entry onto the Land or to pay any money or other consideration by reason of the obligations in this clause.

## 3.3 When obtaining access to the Easement Area, the Grantees will:

### 3.3.1 Complete the Electrical Works and Telecommunications Works as soon as possible with as little damage as possible to the Land and any vegetation, fences or improvements on it; and

### 3.3.2 Repair and make good all damage caused by the Grantees or the Grantees’ Authorised Persons.

# 4. OWNERSHIP

Ownership of the Electrical Works and Telecommunications Workswill at all times be vested in the Works Owner(s). No person, company, or other party has an interest in the Electrical Works and Telecommunications Worksby reason only of having an interest in the Land.

# 5. GRANTOR'S OBLIGATIONS

## 5.1 The Grantor will not, without the prior written permission of the Grantees (which will not be unreasonably withheld):

### 5.1.1 On the Easement Area, or within the minimum distance from the Electrical Works and Telecommunications Works as advised by the Grantee (having regard to the relevant codes of practice and statutory or regulatory requirements applicable from time to time), construct or permit the construction of any walls, or carry out any earthworks or stockpiling, or place any buildings or structures, or allow any trees to become established, or remove or permit the removal of any soil, substance or material;

### 5.1.2 Construct or permit the construction of any roads or driveways on the Easement Area except where the easement is over an access or right of way;

### 5.1.3 Do or allow anything to be done which would interrupt or restrict the transmission of electrical energy, Telecommunications, data or computer media or interfere with or affect the other rights of the Grantees under this easement;

### 5.1.4 Impede the Grantees’ access over the Land or the Easement Area to the Electrical Works and Telecommunications Works.

## 5.2 The Grantor may put up fencing or gates on any part of the Easement Area as long as:

### 5.2.1 The Grantor first notifies the Grantees of this intention;

### 5.2.2 Before putting up the gates or fences, the Grantees have marked the location of the Electrical Works and Telecommunications Works; and

### 5.2.3 If in the reasonable opinion of the Grantees, the design or location of any proposed fence or gate may interfere with the operation of the Electrical Works and/or the Telecommunications Works, the Grantee may prescribe the height, material used and/or location of the fence or gate.

## 5.3 The Grantor must not knowingly cause or permit flooding of the Easement Area.

# 6. MAINTENANCE

## The Grantees are responsible for maintaining the Electrical Works and Telecommunications Works in the Easement Area so that they do not become a nuisance or a danger.

# 7. NO POWER TO TERMINATE

There is no implied power in this instrument for the Grantor to terminate the easement rights due to the Grantees breaching any term of this instrument or for any other reason, it being the intention of the parties that the easement rights will continue forever unless surrendered.

# 8. LICENCE AND ASSIGNMENT

## 8.1 The Grantees may assign, transfer, lease, licence or otherwise grant or permit the use of all or any part of their rights, obligations and interests under this instrument without needing to obtain the Grantor’s consent. The Grantor will if requested to do so by the Grantees sign such documents and obtain such consents as are required to enable registration of a transfer or assignment of part or all of a Grantee’s interest under this instrument against the Computer Register(s) for the Land. The Grantees must reimburse the Grantor for the reasonable legal fees incurred by the Grantor when complying with the Grantor’s obligations under this clause.

## 8.2 The liability of a Grantee under this instrument is limited to obligations and liabilities arising while that Grantee is the registered proprietor of the benefit of this easement, and ceases (except for any obligation or liability which has arisen during their time as registered Grantee) upon registration of any transfer or assignment of their interest as Grantee.

## 8.3 If at any time there is more than one Grantee, their liability to the Grantor shall be joint and several.

# 9. STATUTORY PROVISIONS

## The easement rights are in substitution for those set out in Schedule 4 to the Land Transfer Regulations 2002, but otherwise this easement does not affect any statutory powers which the Grantees may have.

# 10. DISPUTES

If any dispute arises between the Grantor and Grantees about the rights in this instrument which cannot be resolved by negotiation, the parties must submit at the request of either party to the arbitration of an independent arbitrator. This arbitrator is to be appointed jointly by the parties, and if they cannot agree on one within 14 days, to be appointed by the President for the time being of the branch of the New Zealand Law Society where the Land is situated. The arbitration will be determined in accordance with the Arbitration Act 1996 and its amendments or any statute which replaces it. The parties' execution of this instrument is to be treated as a submission to arbitration.