

Easement Agreement

Customer-Initiated Works

Background

Our customer has arranged for electrical work to be carried out on or near your Land. Because of that work, we'll own Lines and/or Works on your Land. You have agreed to grant us an easement in gross in respect of your Land, and our customer has agreed to pay your costs, on the terms set out in this Agreement.

It is agreed

1 KEY TERMS IN THIS AGREEMENT

- 1.1 **Powerco:** Powerco Limited, company number 1021162 and includes the successors, assigns, transferees, employees, contractors, agents and invitees of Powerco.
- 1.2 **Landowner:** the owner of the Land as named in the Schedule to this Agreement, and the successors in title, assigns, transferees and personal representatives of the Landowner.
- 1.3 **Customer:** the person that has arranged for works to be carried out by a Powerco approved contractor on or near the Land (who may or may not be the Landowner), and includes their successors in title, assigns, transferees and personal representatives. If the Customer is the Landowner, a reference to "Customer" is deemed to be a reference to "Landowner" and vice versa.
- 1.4 **Easement Instrument:** an easement instrument in the same form as the document titled 'Easement instrument to grant Easement or Profit à prendre Section 109 Land Transfer Act 2017' attached to this Agreement.
- 1.5 **Other terms.** Terms in initial capitals have the meanings given to them in the Schedule, unless the context otherwise requires.

2 CONSIDERATION

- 2.1 **Consideration for Easement.** In consideration of the Landowner agreeing to grant the easement(s) in gross in respect of the Easement Area contemplated by this Agreement to Powerco (**Easement**), Powerco agrees to pay the sum of \$1.00 (**Easement Fee**) to the Landowner promptly after the registration of the easement instrument and Powerco providing the Landowner with a buyer created tax invoice in respect of the Easement Fee.
- 2.2 **No other compensation.** The Landowner acknowledges that no compensation, reimbursement or other form of consideration, other than the payment required under clause 2.1 above, will be payable by Powerco to the Landowner in return for granting the Easement and the other rights provided for in this Agreement in favour of Powerco.

3 EASEMENT INSTRUMENT

Part of Agreement. The terms set out in the Easement Instrument form part of this Agreement as if set out in this Agreement in full. If the terms of this Agreement are in conflict with the terms of the attached form of Easement Instrument, the terms of this Agreement will prevail until such time as the Easement Instrument is registered.

4 LAND ACCESS BY POWERCO

- 4.1 **Land access.** On signing of this Agreement by the Landowner, Powerco may at all reasonable times enter the Land, with or without vehicles, machinery and implements of any kind in order to:

- (a) **Identify easement route.** to identify the route of the Easement including by topographical survey (but without prejudice to the Customer's obligation under clause 7.1(b) to engage arrange for a registered surveyor to undertake a survey of the Easement Area over the Land); and
- (b) **Install and construct.** install and construct the Works (as defined in the Easement Instrument);

4.2 **Notice of Land access.** Powerco will use reasonable efforts to give the Landowner or any lawful occupier of the Land reasonable prior notice that Powerco intends to enter on the Land (except in circumstances which Powerco assesses to be an emergency, in such case, no notice will be required).

4.3 **Minimise interference.** When exercising its rights under this Agreement, Powerco will use its reasonable efforts to minimise the level of interference caused to the Landowner, any lawful occupier of the Land, and any crops, or livestock and any farming or horticulture operations being carried out on the Land at the time. Nothing in this clause 4.3 will limit any of Powerco's rights under this Agreement.

4.4 **Repair damage.** Powerco will at its own cost repair any damage to the Land. This includes any damage to any fence or other improvement caused by Powerco or its contractors. Any repair will be as close as reasonably possible to the original condition of the Land prior to such damage occurring.

5 COSTS

- 5.1 **Powerco costs.** Powerco agrees to pay its own costs.
- 5.2 **Customer costs.** The Customer agrees to pay its own costs, including legal costs and expenses of and incidental to the preparation and signing of this Agreement and the grant and registration of the Easement Instrument.
- 5.3 **Landowner costs.** The Customer will pay all the Landowner's legal costs and expenses of and incidental to the preparation and signing of this Agreement and the grant and registration of the Easement Instrument.

6 LANDOWNER'S OBLIGATIONS

- 6.1 **Easement registration.** Following a request from Powerco, the Landowner will:
- (a) provide relevant details including identification in order to complete and sign any documentation required to enable the Easement Instrument to be registered and maintained. This includes authority and instruction forms. It also includes arranging for proper witnessing of the documents;
- (b) obtain the consent of any mortgagee, caveator or other person having a prior registered interest in respect of the Land to the Easement. Alternatively, the Landowner

- can authorise Powerco to obtain such consent on its behalf; and
- (c) do all other acts and things required to enable the finalised Easement Instrument to be registered.
- 6.2 **No objection.** The Landowner will not, in its capacity as owner or occupier of the Land or both, either directly or indirectly:
- (a) object to the application for, or the granting of, any approval under the Resource Management Act 1991 sought by Powerco;
- (b) object to, advocate against, oppose or impede any action taken, or any proposed by Powerco to enable Powerco to exercise its rights under this Agreement;
- (c) fund, facilitate, assist, support, encourage or promote any other person to take any action that would result in the Landowner breaching its obligations under this Agreement; or
- (d) object to the application for, or the granting of, any other authorisation, consent or approval required by Powerco to enable Powerco to exercise its rights under this Agreement.
- 6.3 **Sale or disposition of Land.** Prior to entering into a sale and purchase agreement to dispose of the Land, the Landowner agrees that it will:
- (a) give written notice to Powerco of its intention to sell or dispose of the Land;
- (b) inform Powerco of the due date for settlement of the sale or disposal;
- (c) advise the purchaser of the existence of this Agreement and supply a copy of this Agreement to the purchaser or ask Powerco to do so; and
- (d) procure a deed of covenant (in a form reasonably acceptable to Powerco) in favour of Powerco from the purchaser ensuring that the purchaser agrees to the grant of the Easement to Powerco set out in this Agreement.
- 7 **CUSTOMER'S OBLIGATIONS**
- 7.1 **Survey and easement registration.** Following a request from Powerco, the Customer will:
- (a) grant a registerable easement to Powerco (or, if the Customer is not the Landowner, arrange with the Landowner to grant a registrable easement to Powerco);
- (b) arrange for a registered surveyor to undertake a survey of the Easement Area over the Land and to have an appropriate easement plan of survey prepared for the purpose of lodgement with Land Information New Zealand;
- (c) do all other acts and things required to enable the finalised Easement Instrument to be registered.
- 8 **HEALTH AND SAFETY**
- 8.1 **Powerco's duties.** Powerco acknowledges that it has responsibilities as a 'person conducting a business or undertaking' (PCBU) under the Health and Safety at Work Act 2015, including under any applicable regulations and approved codes of practice relevant to it. When exercising its rights under this Agreement, Powerco will at all times comply with its health and safety obligations under the Health and Safety at Work Act or at common law generally.
- 8.2 **Landowner's duties.** If the Landowner is also a PCBU because it conducts a business or undertaking on the Land, the Landowner acknowledges that it also has responsibilities under the HSAWA. The Landowner will inform Powerco or its contractors of any reasonable rules or procedures regarding health and safety of persons on the Land prior to their entry.
- 8.3 **Mutual agreement.** Each party will comply with and use all reasonable endeavours to ensure their visitors comply with all health and safety signs, notices, policies and instructions issued or displayed on or at the Land.
- 9 **CAVEAT**
- Right to register caveat.** Powerco may at any time, without prior notice to the Landowner, register a caveat against the title to the Land to protect its interests under this Agreement. Any such caveat will be withdrawn on registration of the Easement Instrument. Powerco will promptly give caveator consent to all dealings relating to the Land that do not prejudice Powerco's interests under this Agreement.
- 10 **NOTICES**
- 10.1 **Form and delivery.** Any notice to be given under this Agreement will be in writing and delivered or transmitted to the addresses below or such other address as any party may notify to the others in writing for such purpose, and in any event will be sufficiently given or served if actually received by the party or the party's solicitor or otherwise delivered in accordance with the Property Law Act 2007.
- 10.2 **Address for notices:** The Landowner's address for notices, and the Customer's address for notices, are set out on the signing page of this Agreement. Powerco's address for notices is: Level 2, 84 Liardet Street, Private Bag 2061, New Plymouth 4342
Attention: Property Legal Executive (Registered Legal Executive) **Email:** easements@powerco.co.nz
- 11 **MISCELLANEOUS**
- 11.1 **Non merger.** The terms and conditions of this Agreement will not merge on registration of the Easement Instrument.
- 11.2 **Severability.** In the event that any part of this Agreement or the Easement Instrument becomes void, invalid or unenforceable at any time, that will not affect the validity of the rest of this Agreement or the Easement Instrument.
- 11.3 **No obligation to exercise rights.** Powerco will be under no obligation to exercise the rights granted under this Agreement at any particular time or in any particular way unless otherwise agreed in writing with the Landowner.
- 11.4 **Counterparts.** This Agreement may be signed in one or more counterparts (including by PDF and electronic means), all of which when taken together will constitute one and the same instrument.
- 12 **OWNERSHIP OF LINES AND WORKS**
- 12.1 **Owned by Powerco.** The Landowner acknowledges that any Lines and Works (as defined in the Easement Instrument) installed (including constructed) or used by Powerco and that are located in, on, over or under the Land remain at all times owned by Powerco and not the Landowner. In particular, such Lines and Works do not become part of or integrated into the Land, and no other person having any interest in the Land will have any interest in such Lines or Works. To avoid doubt, Powerco's ownership does not extend to any customer-owned Lines and Works. To avoid doubt, Powerco's ownership does not extend to customer-owned electrical assets.

Schedule

| | |
|---------------------------|--|
| CUSTOMER | [insert customer's full legal name or, if the customer is the landowner, state "The Customer is the Landowner"] |
| LANDOWNER | [insert landowner's full legal name name] |
| LAND | All the land described as [insert legal description of land] and comprised in Record of Title [insert register number and Land Registry] |
| EASEMENT AREA | That approximate part of the Land shown as [insert reference used to mark out Land on plan e.g. "A"] on the Plan below |
| SPECIAL CONDITIONS | If this agreement is the second or subsequent easement agreement for a staged subdivision, insert the following special condition A. If not, delete special condition A. |

Special condition A: Amendment and reinstatement

A.1 This Agreement:

- (a) amends and restates the original Agreement to Grant Easement dated [insert date] between Powerco and the Landowner ("**Original Agreement**");
- (b) takes effect on the date of execution of this Agreement by all parties; and
- (c) supersedes the Original Agreement on the date that it takes effect.

A.2 Each of the Landowner and Powerco confirms that its liabilities and obligations under the Original Agreement continue, and will continue, in full force under, and in accordance with, this Agreement.

Schedule

Easement Plan:

Insert Plan for Agreement to Grant.

Signed as an agreement

Date signed _____

To be completed by Powerco

Signed for and on behalf of Powerco Limited by its authorised signatory

Signature of authorised person

Name of authorised person

To be completed by the Landowner

Landowner's address for notices:

physical or postal address

email address

Landowner's surveyor:

surveyor's name and email address

Landowner's lawyer:

lawyer's name and email address

SIGNED as Landowner by:

sign here

print name

SIGNED as Landowner by:

sign here

print name

SIGNED as Landowner by:

sign here

print name

SIGNED as Landowner by:

sign here

print name

To be completed by the Customer if the Customer is not the Landowner

Customer's address for notices:

physical or postal address

email address

Customer's surveyor:

surveyor's name and email address

Customer's lawyer:

lawyer's name and email address

SIGNED as Customer by:

sign here

print name

SIGNED as Customer by:

sign here

print name

SIGNED as Customer by:

sign here

print name

SIGNED as Customer by:

sign here

print name

[insert easement instrument]