

Bond Form - Subdivision

BY THIS BOND dated this day of

WHEREAS of

(together with their successors and permitted assigns called "the Owner")

AND theand having its registered office at Masterton

(together with its successors and permitted assigns called "the Surety").

ARE FIRMLY BOUND jointly and severally to the MASTERTON DISTRICT COUNCIL a body corporate pursuant to the Local Government Act 1974 ("the Council") in the aggregate sum of (\$.....) (called "the Sum").

WHEREAS:

- A. **THE** Owner is registered as proprietor of an estate in fee simple in the land described in the First Schedule (called "the Land").

- B. **THE** Owner has applied under the Resource Management Act 1991 to the Council for a subdivision consent of the land.

- C. **THE** Council has approved the application subject to certain conditions referred to in the Second Schedule (called "the Works").

- D. **THE** Council requires this bond to secure due compliance with those conditions.

NOW THE CONDITION OF THIS BOND is that if those bound by the bond pay the Sum to the Council this bond shall be void but it shall otherwise remain in force.

PROVIDED ALWAYS THAT:

- 1.1 **THE** Council shall not enforce this bond if within the period of from the date of the consent (“the specified time”) the Owner supplies to the Council a certificate of completion in respect of the Works provided by a suitably qualified engineer and to the Council’s satisfaction.
- 1.2 **THE** liability of those bound by this bond shall not be affected by any extension of time or indulgence granted them jointly or severally or permitted by the Council or by any delay or neglect of the Council to enforce this bond or any particular obligation under it.
- 1.3 **THE** Council's satisfaction with the Works will be signified by written notice to that effect signed by the Council's Planning & Consents Manager.
- 1.4 **THE** liability of this bond shall not be released without the written consent of the Council’s Planning & Consents Manager.

PROVIDED FURTHER THAT:

- 2.1 **IF** the Owner or in default of the Owner the Surety fails to complete the Works or fails to make such progress as the Council considers necessary to complete the Works within the specified time then the Council may at any time and from time to time after the specified time enter upon the land and without prejudice to its rights hereunder take such steps and do such things as the Council considers necessary to complete the Works.

2.2 **ALL** or any expenses incurred by the Council in so completing the Works or having them completed or arising therefrom shall constitute a debt due to the Council and may be recovered by the Council from those bound by this bond in whole or in part or in any proportion the Council may from time to time desire without prejudice to its rights hereunder provided that the total liability of the surety in this respect shall be limited to the Sum. In the event that the expenses incurred by the Council in completing the Works exceeds the Sum the Owner agrees that the excess will be a debt ("Debt") payable on demand and the Council will be entitled to register a mortgage over the relevant land to secure the Debt.

2.3 **ANY** balance of the money paid to the Council by those bound by this bond in respect of or towards the completion of the Works by or on behalf of the Council remaining in the hands of the Council after all expenses incurred by the Council in respect of those Works have been met shall be paid to the Surety whose receipt shall be sufficient discharge to the Council in respect of any claim by the owner relating to those moneys.

2.4 **THE** Owner and the Surety covenant that they hereby jointly and severally indemnify the Council against all claims costs and expenses which may be taken or made against the Council by reason of or arising out of any neglect or sufferance of the Owner or Surety their servants agents and contractors in respect of the Works or of any fault neglect or sufferance of the Council its servants agents and employees in carrying out or completing any portion of the works for which the Council would not be liable if approval of the application had been delayed until completion of the said Works provided that the total liability of the Surety in this respect shall be limited to the Sum.

- 2.5** WITHOUT limiting its obligations or liability hereunder the Owner will at its own costs effect and keep policies of insurance fully assuring the Council and the Owner against all claims and liabilities in respect of the Works and their due completion whether under any statute or law in respect of or arising by reason of damage or loss of any real or personal property of any description whatsoever plus all liability for personal injury not covered by the Accident Compensation Act 2001.
- 2.6** THE powers and remedies hereby given to the Council are in addition to all other powers and remedies conferred on it by the Resource Management Act 1991 and the Local Government Act 2002 & 1974 and by any other Act and the exercise by the Council of any power or remedy under these presents or any such Acts shall not prejudice its authority to exercise any other such power or remedy.
- 2.7** THE Owner shall be responsible for the cost of the preparation approval and signing of the bond.
- 2.8** NOTWITHSTANDING anything to the contrary it is a further condition of the abovementioned Bond that the Surety may at any time deposit with the Masterton District Council the Sum of
(\$.....) (called "the Sum").or such lesser amount as may be required by the Masterton District Council and that upon such deposit being made the liability of the Surety shall be terminated.

2.9 **PAYMENT** will only be made forthwith upon receipt of a written demand purporting to be signed by Masterton District Council and that such payment will be made without reference to, and notwithstanding any instruction from the Owner to the Surety to the contrary. Payment, or part payments, will be made as demanded under this guarantee up to the aggregate amount expressed in this Bond.

FIRST SCHEDULE

The property situated at (Address):

Comprising all that parcel of land containing (Area):

Being (legal description):

SECOND SCHEDULE

- (1)
- (2)
- (3)
- (4)

SIGNED by:-

(OWNER)

(BANK)

MASTERTON DISTRICT COUNCIL

