

DEVELOPER - LOAN AND SECURITY AGREEMENT

This deed is made on the day and year shown before the signatures below BETWEEN Kings Finance™ Limited (together with its successors and assigns called “the lender” or “we”) AND the borrowers (also referred to as “you”) (together with their executors and administrators) described in the schedule below

BACKGROUND

1. The lender has agreed to lend to the borrowers the initial unpaid balance shown in the schedule.
2. The borrowers and or guarantors who own the personal property collateral have agreed to grant a security interest in that property to the lender and
3. The borrowers and or guarantors who own the land to be mortgaged have agreed to grant a mortgage over that land to the lender.

OBLIGATION

The borrowers (jointly and severally if more than one) acknowledge their indebtedness to the lender for the initial unpaid balance set out in the schedule and promise to pay that amount plus interest and any other amounts due under this agreement in the manner set out in the schedule and other terms of this agreement and any variations of them and otherwise promise to comply with the terms and conditions of this deed.

Informative Schedule of Variable Terms

ClientAddress

Loan Number	LoanId
Effective date of Statement	LoanStartDate

Account Type	LoanType
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FULL NAME AND ADDRESS OF CREDITOR

This is the person or company providing you the credit.

<p>You may send notices to the creditor by:</p> <ul style="list-style-type: none"> • Writing to the creditor at its postal address; or • Sending a fax to the number specified (if any); or • Sending an email to the address specified (if any). 	<p>Name: Kings Finance™ Limited</p> <p>Physical Address: 1 Greenwood Street, Frankton, Hamilton 3204</p> <p>Postal Address: P O Box 9364, Waikato Mail Centre, Hamilton 3240</p> <p>Phone: 07 846 6008</p> <p>Fax: 07 847 2077</p> <p>Email: anne@kingsfinance.co.nz</p>
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FULL NAME AND ADDRESS OF DEBTORS

This is the person responsible for making payments to the creditor.

Debtors		
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CREDIT DETAILS

Initial unpaid balance.

This is the amount you owe at the date of this statement (including any fees charged by the creditor).

OpeningBalance made up of: OpeningTransactions

An initial payment of \$ to be paid on signing of these documents.
The balance to be paid by way of progress payments as required (following inspection):

Total advances
This is the total amount of all advances made or to be made to you as known to the lender.

TotalAdvances

PAYMENTS

The following sections relating to payments, credit fees and charges and annual interest and default fees and charges and default interest are subject to paragraphs 9 and 11

The loan is at call but until a call is made or the term otherwise expires, the following arrangement will apply.

Total amount of payments

TotalPayments

Arrangement

The borrower is not bound to make periodic payments but interest and fees accrue and are capitalised at (and thus interest charged on them from) the end of each month after the advance of the initial unpaid balance and added to the unpaid balance. The borrower may repay in part (not less than \$10 000.00 or multiples thereof) at the end of any monthly period or in full at any time and must pay the unpaid balance in full no later than

INTEREST

Interest

Total interest charges
This is the total amount of the interest charges payable under the contract.

TotalInterest

Method of charging interest

InterestMethod

CREDIT FEES AND CHARGES

The following credit fee(s) and charge(s) (which are not included in the initial unpaid balance) are payable under, or in connection with, the contract. The credit contract allows the lender to vary this/these fee(s) and charge(s) – i.e. the amounts shown are those currently charged and when debited to the borrower they may be greater or lesser.

1. Facility fee 1% of balance per month as long as there is an unpaid balance
2. Letter fee of \$25.00 is charged to the borrower’s account any time the borrower requests a statement of its account
3. Inspection fee of \$80.00 where progress payments are required and the lender undertakes progress inspections, the lender may charge this amount, per property, per inspection as requested by the borrower or required by the lender.
4. Rollover or new loan fee of \$100.00 where we already hold a caveat or mortgage security.
5. If the lender requires a solicitor to prepare any document associated with this loan, the fees charged by that solicitor
6. Any other fees or disbursements suffered or incurred by the lender as part of searching land titles and the Personal Property Securities Register and registering any caveat or security interest or discharge or amendment of same.
7. Administrative charge of \$100.00 plus other disbursements if you repay the principal in full before it is due
8. The costs, expenses and other liabilities listed in clause 10(iii) of the standard terms incurred while the borrower is not in default

Security Interest in Collateral

The lender has an interest in the property listed below to secure performance of the borrower’s obligations under the contract, or the payment of money payable under the contract, or both. **If the borrower (or, if applicable the guarantor) fails to meet its commitments under the contract, then to the extent of the security interest the lender may be entitled to sell or seize and sell this property.**

(Note that these interests may include interest of one or more guarantors)

Security

Personal Property – Collateral

A security interest as defined in section 17 of the Personal Property Securities Act 1999 (securing without limit payment of all the money secured and performance of all the borrower’s obligations under this contract and under any other contract providing for payment of the money secured (including a contract assigned to the lender) to the extent of the value of the security interest) in:-

All present and after-acquired personal property owned by and by individually. This (without limitation) includes the following:-

Real Property – Land to be mortgaged

An all obligations mortgage (which may be registered or may be supported by a registered caveat) (securing without limit payment of all the money secured and performance of all the borrower’s obligations under this contract and under any other contract providing for payment of the money secured (including a contract assigned to the lender) to the extent of the value of the borrower’s interest in the land) over:

Address:

Legal Description:

And any other land owned now or in the future by and by individually but excluding the consumer chattels listed in section 83ZN(1) of the Credit Contracts and Consumer Finance Act 2003.

NB – Disclosure notes concerning security and other agreements

If the lender takes an assignment to itself of another lender’s rights and powers under an agreement whereby any person who has provided security of any nature under this agreement has created or provided for a security interest in collateral or a mortgage of land, then any money owing under either agreement shall additionally be deemed to be owing under the other security agreement and default (or further default) under either agreement after such an assignment shall be deemed to be default under the other agreement. The effect of this will be that the security interest assigned by the other creditor shall secure payment of the amount secured under this agreement and the security interest granted under this agreement shall secure payment of the amount secured under the other agreement. Among other things (and subject to certain exceptions with respect to consumer goods), this means that the unpaid balance hereunder owed by a borrower or guarantor (which in some circumstances may have become unsecured

as a result of insufficiency of value of collateral or land to be mortgaged under this agreement), may be secured by virtue of that debt becoming subject to the other security interest.

Default interest charges and default fees

In the event of a default in payment and while the default continues you must pay the default interest charges. In the event of a breach of the contract or on the enforcement of the contract, the default fees specified below are payable. The credit contract may allow the lender to vary these fees and charges.

Default interest is 5% more than the annual interest rate provided for in the INTEREST section above charged on the unpaid balance from the time that the borrower falls into financial default until it is no longer in financial default and calculated by multiplying the instalment or overdue amount by the daily default interest rate. The daily default interest rate is calculated by dividing the annual default interest rate by 365. Default interest is charged to your account monthly

We will also charge to your account:

1. Defaulted payment fee of \$15.00 debited if any scheduled payment to the lender is made late after the date due, or is revised or dishonoured or is otherwise not made without our default.
2. Letter fee of \$25.00 any time we have to write to the borrower with regard to a missed payment(s) or in relation to any other default the borrower commits under this agreement or with respect to ongoing default.
3. Monthly management fee of 1% of unpaid balance
4. Default time fee if any staff member of ours spends time on the administration of this borrower's account when the borrower is in default. "Administration" in this case includes all work in any way associated with our recovery of the unpaid balance but which is not charged to the borrower otherwise. The default time fee may be charged at \$90.00 per hour and will include time our staff spends outside our office.
5. Visiting fee of \$250.00 if the lender deems it necessary to send someone to attempt to visit the borrower in person at the borrower's home or place of work in relation to a missed payment(s) or to any other default the borrower commits under this agreement, and
6. Mileage fee if a staff of ours finds it necessary to travel to visit the borrower or any guarantor or otherwise to attend any meeting or any court or tribunal. Mileage may be charged at the current rate recommended by the Automobile Association for a 2.5 litre petrol engine motor car.
7. Local Telephone Call fee of \$5.00 any time we have to telephone the borrower with regard to a missed payment(s) or in relation to any other default the borrower commits under this agreement.
8. Toll Telephone Call fee of \$8.00 any time we have to telephone the borrower on a mobile number or any STD code with regard to a missed payment(s) or in relation to any other default the borrower commits under this agreement.
9. Consumer Monitor fee of \$10.00 each time we receive a Consumer Monitor Report concerning the borrower's credit activity.
10. \$180.00 – to issue a warrant to repossession agent to seize goods
11. \$150.00 – to send post sale notice
12. In the case of enforcement, including (but not by way of limitation) Court or Disputes Tribunal proceedings and seizure and sale of collateral and the sale of the land to be mortgaged, all court and tribunal costs and actual solicitors fees and disbursements (assessed on a solicitor client basis) and debt collection agency commissions, fees and disbursements and the costs and disbursements of repossession agents, valuers, auctioneers, process servers and any agents of the lender in effecting such enforcement plus any other necessary disbursements as those costs are ascertained. The lender may also charge the borrower for any dealings (the lender has while the borrower is in default) with other persons with respect to the debt or any security the borrower (may) provide. In addition the lender may charge the borrower the cost of doing anything which the borrower has failed to do and which it has done. The borrower will also be charged for the costs, expenses and other liabilities listed in clause 10(iii) of the standard terms arising out of the borrower's default.

FULL PREPAYMENT

If the borrower repays the loan in full before it is due, the lender will charge the borrower one month's interest on the then unpaid balance plus administrative Costs of up to \$100.00 plus other fees listed in the CREDIT FEES AND CHARGES section above for the removal of any and all security registered for this loan for our staff's work associated in receiving and processing the full prepayment. Administrative fees may vary if the borrower asks for a full prepayment figure for more than once.

I acknowledge receipt of a copy of this schedule and operative terms and conditions and if I am the guarantor I acknowledge receipt of the guarantee as well.

Date of Signature	Dated this _____ day of (month) _____ 20
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Signatures Borrower (1) _____ Borrower (2) _____	
In the presence of:	
Signature of witness	Signature of witness
Print name of witness	Print name of witness
Occupation of witness	Occupation of witness
Address of witness	Address of witness
Signatures Guarantor(s) _____ Guarantor(s) _____	
In the presence of:	
Signature of witness	Signature of witness
Print name of witness	Print name of witness
Occupation of witness	Occupation of witness

Address of witness

Address of witness

Operative terms and Conditions

THE BORROWER ACKNOWLEDGES THE DEBT TO THE LENDER OF THE INITIAL UNPAID BALANCE AND AGREES:

TRUSTEE LIABILITY

- a) Where any borrower or a guarantor is described (in this loan agreement or elsewhere) as a trustee of a trust, that borrower or guarantor promises to the lender that the entry into this loan agreement and any securities required pursuant to the loan agreement is authorised by the trust deed or by the Trustee Act 1956.
- b) Each trustee agrees and the lender acknowledges that the lender:
- c) (in addition to any security interest in collateral or in land which the lender may also hold) may have full recourse to all property of the trust and will be subrogated to each trustee's rights to be indemnified from that property or by any other person (including any beneficiary of the trust):
- d) May have recourse to (and, if so shown in the schedule or guarantee, security over) the property (that is property owned other than as trustee under the trust) of any trustee other than a limited liability trustee; and
- e) Will have no recourse to property belonging to any limited liability trustee in trust for the beneficiaries of the trust, except as provided in any other agreement, and except in respect of any indebtedness which the lender is unable to recover under this loan agreement or any other security given to the lender over the property so held in trust as a result of any breach of trust by that limited liability trustee, alone or with others, or any lack of capacity, power or authority of that trustee to enter into this loan agreement or to grant any security interest or lack of power to incur the indebtedness, or as a result of any dishonesty of that trustee.
- f) c) A 'limited liability trustee' is a borrower/guarantor who is so described in this loan agreement, or whom the lender otherwise agrees in writing to be a limited liability trustee.
- g) d) Each trustee will notify the lender in writing on that trustee's retirement or other removal as a trustee, and will therefore be released from liability under this loan agreement (in his capacity as trustee, but not (if he is not a limited liability trustee) in his capacity other than as trustee of the trust) when the lender has been formally notified by notice signed by all succeeding and current trustees that all the succeeding and current trustees of the trust immediately following the retirement have joined in and become liable under this loan agreement and/any security agreement (and any other agreement in existence between the trustees as borrowers or guarantors and the lender).
- h) e) The borrowers and guarantors must not allow any trustee company borrow to be struck off the register or liquidated and should they do so, they expressly promise not to rely on that fact for any purpose in any proceeding between the borrowers or guarantors on the one hand and the lender on the other nor resist any application to restore the company to the register.
- i) f) No trustee will be party to any alteration of the trust deed without the lender's prior written consent.
- j) g) For the purpose of this clause (.....) is recorded as a limited liability trustee.

Meaning

1. The expression "borrowers" means the person(s) shown as borrower(s) in the schedule and includes their executors, administrators and successors in title. (Expressions like "no borrower" or "each borrower" or "any borrower" apply to a particular borrower individually) "Collateral" means the goods and any other personal property described in the schedule in the box headed "SECURITY INTERESTS" "Personal Property – Collateral" section and includes an interest in such goods or other personal property. "Default" under this agreement means that the borrower does something the borrower is required not to do or fails to do something the borrower is required to do. "Default Fees" are listed under that heading in the schedule. "Default interest" is interest payable at the rate shown under that heading in the schedule and, if not show, at 5% per annum greater

than the annual interest rate shown under INTEREST in the schedule calculated daily at the rate of one 365th of the annual default interest rate charged on the unpaid balance from the time that the borrower falls into default until the borrower is no longer in default and compounded monthly. "Financial default" means that the borrower fails to make a payment when due or demanded as the case may be. "Guarantor" means the person shown as guarantor in this agreement and the attached guarantee and includes his or her executors, administrators and successors in title. "Land" includes an interest in land. "Land to be mortgaged" means the land shown in the schedule in the box headed "SECURITY INTEREST" "Real Property – Land to be Mortgaged" section. "Month" means calendar month. "The money secured" includes (without limitation) the unpaid balance plus any money the borrower must pay to the lender under any collateral or subsequent loan agreement and any money owed under an agreement between the borrower(s) and any other lender if the lender takes an assignment of that other lender's rights and interests, no matter when the debt under that other agreement was incurred. "Own" includes "having an interest in" and "owner" is interpreted accordingly. "Person" includes an organisation as defined in the PPSA. "PPSA" means the Personal Property Securities Act 1999. "Security interest" includes a mortgage of land. "Unpaid balance" means the amount owing under this agreement at a particular time, being the difference between all amounts credited and all amounts debited to the borrowers under this agreement at that time. Each gender shall include other genders. All obligations of the borrowers (if there is more than one borrower) are joint and several. Any expression not described or defined in this agreement shall have the meaning ascribed to it in the PPSA unless the context requires otherwise. Unless the context prevents it, the singular shall include the plural and the plural include the singular and each gender shall include other genders. If an Act of Parliament is referred to it includes any replacement Act.

Grant of security interest in personal property. ("Collateral")

2. In exchange for the lender lending the borrower the initial unpaid balance (of which the borrower is acknowledging receipt) and any other advances, the borrower grants to the lender a security interest over any collateral which the borrower owns and which is listed in the "SECURITY INTEREST" "Personal Property – Collateral" section of the schedule. That includes a security interest in all the borrower's present and after-acquired property (subject to certain limitations with respect to consumer goods) if there is a reference to such property owned by the borrower in that section. This agreement also incorporates Auckland District Law Society Incorporated form registered under the Land Transfer Act as 2017/4339 and if the terms of either document conflict those of this agreement shall prevail. The security interests are to secure payment to the lender of the money secured and also to secure the borrower's performance of all other terms of this agreement and any associated loan agreement. The borrower promises to the lender that the borrower owns the collateral and that there is no security interest in the collateral which the borrower has not disclosed in writing to the lender.

Agreement to mortgage land

3. In exchange for the lender lending the borrower the initial unpaid balance (of which the borrower is acknowledging receipt) and any other advances, the borrower or such of the borrowers who own the land to be mortgaged in the "SECURITY INTERESTS" "Real Property – Land to be mortgaged" section of the schedule shall execute in favour of the lender and at the cost of the borrowers a registrable mortgage over that land. Such a mortgage shall be in all obligations form published by the Auckland District Law Society so as to incorporate memorandum registered number 2017/4339 or, at the lender's option, any form to the same or similar effect reasonably required by the lender and the terms of the relevant memorandum shall be incorporated into this agreement and the priority figure for the purposes of section 92(1) of the Property Law Act 2007 shall be (a) ten times the total advances if the total advances are \$10 000.00 or less or (b) \$150 000.00 plus five times the total advances are greater than \$10 000.00 and less than \$25 000.00 or (c) \$350 000.00 plus total advances if total advances are \$25 000.00 or more (in each case plus interest). In addition, if the borrower owes any amount to the lender under any other agreement, the priority figure shall be increased by not less than twice that or those amounts at the time of registering the mortgage plus interest. The mortgage will secure payment of the money secured and the performance of all other terms of this agreement and any variation and the borrowers who own the

land to be mortgaged hereby charge that land accordingly. If there is a reference to any other land which the borrowers may own now or may own in future in the "SECURITY INTERESTS" "Real Property – Land to be mortgaged" section of the schedule the land to be mortgaged shall also include the interest of the borrowers in such other land and the borrowers hereby charge or, as the case may be, must charge such other land accordingly.

Power of Attorney and General

4. In exchange for the loan of the unpaid balance and any other advances of credit and to enable the lender more effectively to obtain the benefits under this agreement, each person named as borrower irrevocably appoints the lender and any one director or person names as a manager of the lender severally to be the attorney of the borrower to do anything which the borrower agrees to do. Without in any way limiting the generality of the power, the attorney may execute any document for the purposes of (a) the grant and registration of any interest (including a mortgage) under the Land Transfer Act 1952 (including a mortgage of land in which any borrower has no interest at the date of this deed) or (b) creating a security interest under the PPSA or causing one to attach. The attorney may transfer ownership of and take or transfer possession of negotiable instruments, of chattel paper, of negotiable documents of title and of investment securities and (without limitation) shall have all rights, powers and privileges of the borrower in dealing with any share registry, custodial service, securities depository, clearing house or issuer. By way of example and not by way of limitation, the attorney may sign any request to cancel FIN numbers as security for a loan. The attorney may operate and draw on any bank, building society or credit union account held by any borrower and may debit any debit card account, in each case to reduce the debt owed to the lender. If any borrower is a shareholder in any company, the attorney may exercise all and any of the borrower's rights as shareholder of that company in place of the borrower. This power shall continue in effect until the money secured has been paid to the lender in full and continues after judgement. The borrower ratifies anything done by an attorney under this clause and further indemnifies any person acting in reliance upon the power. If the lender assigns the benefit of this agreement the assignee shall have the same rights and powers under this clause as does the lender and each person named as borrower irrevocably appoints the assignee his attorney accordingly.
5. Subject to sections 352 to 359 of the Property Law Act 2007 any notice (including a bankruptcy notice), demand, letter, other document or communication for service on the borrower shall be deemed to be properly served, in any court proceeding or otherwise, if served in accordance with the wording of Section 38 of the Credit (Repossession) Act 1997, read as if section 38(1)(b)&(c) contained the words "required or authorized by the Act" and as if section 38(1)(b)&(c) contained the words "or work" after the word "abode" and excluding sub-section (7). This consent applies although that Act may not apply to the collateral. In addition, service on each borrower shall be deemed to have been effected if such notice demand, letter, document or communication is handed to any person in apparent occupation of the address of that borrower or of the property shown in this agreement as being the land to be mortgaged or by attaching the document to an external door at such address. In addition, if any borrower's address is a flat or apartment or room in a building and if the lender or its agents are unable to obtain access to such flat, apartment or room by virtue of the security system of the building or for some other reason, then service will be deemed to have been effected on that borrower if the document is posted at an outside letterbox corresponding to such flat, apartment or room. If there is no such letterbox, service will be deemed to have been effected on that borrower if the document is clearly addressed to the borrower and affixed to what appears to be the principal external entry to the building for the purposes of obtaining access to the address provided by the borrower or if the document is given to any building manager or receptionist for the building and directed to be given to the borrower. Further, if any borrower has provided an email address or a facsimile number or a mobile phone number in any loan application form or in this agreement, or if any borrower is in default and has a public address, including an internet social media address or an address at any other internet communication system (such as, without limitation, Facebook, Skype or Trademe) that address or number shall be an information system specified by that borrower for the purpose of service or other communication.
6. The borrower and the lender consent to using, providing and accepting information in electronic form and the parties agree that the Electronic Transactions Act 2002 applies. The borrower further consents to accessing the terms of this agreement plus any other agreements between the borrower and the lender by the borrower's linking to the lender's website or otherwise obtaining the information by means of the internet if such terms are so provided by the lender.
7. The borrower shall not be released from the borrower's obligations under this Agreement or have the borrower's liability reduced by any lack of legal capacity or other reason which would result in the Agreement not being enforceable against or any moneys not being recoverable from any other person not by virtue of any security becoming all or partly void or unenforceable for any reason whatsoever.
8. The borrower irrevocably authorize any person to provide the lender with such information as the lender may request as part of its administration and enforcement of this agreement and further irrevocably authorises the lender to provide to any third party (including any guarantor) any information it may hold about the borrower for the purposes of such administration and enforcement. The borrower consents to the personal information provided in support of the application and obtained by the lender from time to time being held by the lender and used by the lender for the administration and enforcement of this agreement and supplying the borrower and the guarantor with information about services offered by the lender. The borrower must provide the lender with ongoing information and any associated documentation requested by the lender relating to the borrower's financial position or to the collateral or to any land to be mortgaged.
9. The borrower further promises that
 - (a) there is (and through the term of the loan, there will be) no information that a reasonable lender in the lender's position would wish to be aware of before granting the loan or during the term of the loan that the borrower has not disclosed or will not disclose to the lender and
 - (b) all information provided by the borrower or on the borrower's behalf with respect to the borrower's financial affairs and whenever provided, is true and correct and if you the borrower breaches this clause 9, the lender may demand payment of the then outstanding balance of the loan and the borrower will pay forthwith on such demand.
10. This agreement is governed by New Zealand law and the parties irrevocably submit to the jurisdiction of the New Zealand courts. Should the borrower wish to dispute the lender's rights or powers or any action of the lender in connection with this agreement, the borrower may do so only in the New Zealand courts. This does not limit the lender's rights to enforce this agreement against the borrower or any judgement against the borrower or against the borrower's real and personal property in any country where the borrower or that property may be.
11. The unpaid balance is at call. Until the lender calls up the loan the borrower must pay the payments in the amounts and at the times and in the fashion provided for in the schedule (or any subsequent variation) without deduction or withholding for any purpose whether by way of set-off counter-claim or otherwise and in such manner as the lender requires. This may mean that the borrower must allow the lender to directly debit its bank account or that it set up automatic payments. The lender may also use any direct debit authority to pay itself any credit or debit fee or penalty interest.
12. The borrower must pay to the lender forthwith upon demand or when otherwise due at the then current rate as notified by the lender if different from that shown in the SCHEDULE (i) the lender's credit fees shown in the "CREDIT FEES AND CHARGES" section of the schedule and (ii) the lender's default fees and default interest shown in the "Default interest charges and default fees" section of the schedule, (iii) the lenders full prepayment fees (if any) as set out in the schedule and (iv) all of the lender's costs (which include the lender's own internal administration fees), expenses and any other liabilities not now known to the lender (which include legal expenses on a solicitor and own client and on a full indemnity basis) which may be incurred or suffered by the lender in connection with:
 - I. Any further application for finance, credit and security checks, interviews for and consideration and refusal or granting of that application and any variation and release of this security agreement or any financing statement or Land Transfer Act registration in relation to this security agreement not provided for in the schedule and the negotiation and grant of any consent or waiver and

- II. Any dispute, negotiation or communication with any other party having or claiming to have any interest (whether registered or not) in any collateral or in the land to be mortgaged and
- III. Any negotiation, communication, dealing (including any loan settlement that does not proceed) (or, if the borrower is in default, dispute) with any borrower or with any guarantor.
- IV. If the borrower is in default the transfer of the security interest or mortgage of land of any other secured party to the lender or the security interest or mortgage of land of the lender to another secured party and
- V. The exercise or enforcement or protection or the attempted exercise enforcement or protection of any right or remedy of the lender under this agreement or what the lender believes to be a right or remedy to which it is entitled including the conduct of any Court or tribunal proceedings and any further checks and investigations necessitated by the borrower's breach or in pursuance of the enforcement and
- VI. The lender's doing anything the borrower should have done but has not done and
- VII. If the borrower (or any persona on his behalf) makes a demand under section 162 of the PPSA (such demand being a breach of this agreement) the lender's obtaining of an order under section 167 of that Act.

And the borrower agrees that amounts referred to in this clause 12 are and are deemed to be contractual damages if they are incurred by the borrower with the lender or suffered or incurred by the lender while the borrower is in default hereunder and in such event shall make the borrower liable to pay default interest until paid in full.

- 13. The lender may from time to time vary (so as to increase or decrease) the annual interest rate, default interest rate, credit fees and default fees payable under this agreement or any of them and the borrower must pay such varied interest rate and varied fees as applicable. In each case, the lender will give the borrower not less than a month's notice of any such variation and any increase or decrease in the borrower's periodic payment and the date when any increased or decreased payments begin. From that date the borrower must pay the varied amount and if the borrower is in default or default generally, the borrower must also pay any varied default interest or default fees. No increase will be backdated.
- 14. The loan is a call.
- 15. If the borrower fails to pay any instalment or other money due (including any amount for which payment has been accelerated) on the due date or on demand as the case may be or is otherwise in default, the borrower shall pay to the lender default interest on the unpaid balance from the due date of such instalment or other money until actual payment of the instalment or amount. All default interest shall continue to be payable after and notwithstanding judgement against the borrower and shall compound monthly.
- 16. It is the borrower's responsibility to ascertain from the lender the amount of any default interest and default fee or credit fees incurred by the borrower from time to time and to pay them.
- 17. The lender may from time to time without notice set off against any claim or demand which the borrower may have any claim or demand which the lender may have against the borrower. The borrower has no such right.
- 18. The lender may receive commission on any insurance included in this agreement or subsequently required.
- 19. The lender may appropriate all or part of any payment received from the borrower or money which is proceeds of the sale of collateral or of any land to be mortgaged against any debt owed by the borrower in any manner that the lender may decide, notwithstanding any appropriation the borrower claims to have made or that the time for payment of the amount has not arrived but if the lender appropriates a sum intended by the borrower for a particular debt ("debt A") to another debt (debt "B") that appropriation will not be the cause of the borrower being in default under the agreement for debt A and if the two agreements have different interest rates, the interest unchanged on the sum will be credited at the higher of the two rates.
- 20. This agreement secures future advances. This will apply even although any sum has been paid from time to time to the lender or any account between the borrower and the lender may be or have been in credit or settled. Any further advance will be on the same terms as those of this agreement subject to any changes set out in any variation or agreement for further advance.
- 21. The borrower must maintain a landline or cellular telephone connection or subscription as the case may be. If for any reason the lender is unable to speak directly to the borrower or its authorized agents directly at the latest telephone number provided by it (whether landline or cellular), the borrower

authorizes the lender to advise any person who answers **any** telephone number that the lender has for the borrower, the identity of the caller as lender, that the lender is trying to communicate with the borrower and that the lender wishes the borrower to contact them.

- 22. The borrower must not change the borrower's name, physical, registered or email address or its landline or cellular telephone number, without first giving the lender five working days written notice of the borrower's intention to do so and of the replacement name, address or landline or cellular telephone number. The lender may write to the borrower at any address provided to the lender.
- 23. The borrower will breach this agreement and the lender may call up the loan if
 - I. As a natural person the borrower commits an act of bankruptcy or if
 - II. As an organization
 - a. It becomes insolvent or in the opinion of the lender appears from its records to be insolvent or unable to pay its debts within the meaning of section 287 of the Companies Act 1993 or
 - b. It is subject to a resolution or an order to appoint a liquidator or
 - c. A receiver, liquidator, provisional liquidator or statutory manager is appointed in respect of the organization or any collateral or land to be mortgaged.
- 24. If the lender accepts any payment or banks any cheque, which the borrower has made or forwarded in purported full settlement or in terms connoting accord and satisfaction, the lender will not be deemed by such acceptance or banking to have accepted the terms upon which the payment is made or the cheque is forwarded unless the lender has, before it receives the payment or cheque, agreed in writing to accept the amount in full settlement or otherwise as an accord and satisfaction.
- 25. No amendment to this agreement shall have any effect unless in writing and signed by a manager of the lender. The lender may exercise all or any right, power or remedy at any time and failure to do or delay in doing so shall not constitute a waiver unless the lender grants it in writing and a continuous breach shall only be waived if the lender specifies that the waiver is continuous. Waiver of one right power or remedy is not waiver of another.

Security Interest

- 26. The borrower must store any collateral which is goods at the address shown as that of its owner in or above the SCHEDULE or at the most recent address provided by the borrower under clause 22 hereof, and in any event the borrower may not move any collateral goods from one address to another while it is in default without the written consent of the lender. The borrower must not allow any collateral goods to be stored elsewhere nor any collateral to be taken out of New Zealand. The borrower must also care for and maintain collateral and comply with any laws relating to its ownership and use and the borrower must not use it in any dangerous or illegal activity or for any purpose for which it was not intended. If any collateral is a motor vehicle the borrower must additionally repair damage to panels, bumpers, lights, windows and other exterior and interior surfaces and to paint work as soon as such damage occurs and must ensure that the vehicle at all times is registered and not only has a warrant of fitness but is in a condition that will enable a warrant of fitness to be issued to it. The borrower must not use any collateral motor vehicle or motor boat for motor sport activity such as (without limitation) racing, rallying, speed or time trials or (and in particular) so that any driver or owner of a collateral motor vehicle receives a written caution under section 129B of the Sentencing Act 2002. The lender may inspect any collateral on giving 12 hours written notice and the borrower shall make such collateral available for inspection at the address that the borrower has provided as the place where the owner lives. The lender need not give notice if the collateral is at risk as defined in section 109 of the PPSA and its employees or agents may enter any place where it believes the goods may be to look for and inspect them. In doing so the lender's employees or agents are the borrower's agents.
- 27. If the borrower has granted security over after-acquired personal property and if the borrower obtains consumer goods in future, the borrower must appropriate those goods to the lender's security interest and must provide any serial numbers for those goods as may be necessary to enable or assist registration.
- 28. If collateral is or includes shares in a company registered under the Companies Act 1993 or a society under the Industrial and Provident Societies Act 1908 or any act in replacement or variation of either
 - a. The lender's security interest includes all issues of bonus shares, rights and newly created shares and all share conversions and dividends, and
 - b. The lender may vote in place of the borrower at any meeting of the members and shall have all the rights and powers of the borrower under the organisation's constitution or rules and at law. The authority of this subclause (b) is irrevocable.

29. The borrower must not do anything or allow anything to happen which may challenge impair or undermine any borrower's ownership of collateral or the lender's security interest in collateral or the registration thereof. Further the borrower must not grant any other security interest over collateral now allow any lien to be created over it nor dispose of nor allow the disposal of collateral by sale or gift or lease or in any other way nor cause nor allow collateral to be taken out of the possession of the borrower who owns it, nor destroyed, damaged, endangered, disassembled, removed from the place the borrower is required to keep it nor concealed from the lender. The borrower must not obtain any personalized registration plate on any motor vehicle which is collateral or otherwise alter or remove any serial number. In any event if any of these act or omissions occurs, the borrower must forthwith advise the lender.
30. Any accessions (including replacements and accessories) which are attached to collateral which is goods and any replacement for collateral goods shall become part of the collateral. This includes the borrower's interest in any personalized motor vehicle registration plates.
31. The lender may take possession of any collateral for the purposes of perfecting and otherwise protecting its security interest under the PPSA
32. The borrower must insure or procure the insurance of the collateral to its full insurable value and of any buildings or improvements on the land to be mortgaged (in the case of such buildings or improvements for full replacement value if possible) and keep them insured against fire, accident, theft, flood and storm (and any other risks as the lender may require) both in the names of the lender and in the names of the owners for the lender's and the owner's respective interests, all payments, in the event of a claim, to be made to the lender. Such insurance must be with an insurer licensed under the Insurance (Prudential Supervision) Act 2010. The borrower must not do or allow any act or omission which causes the insurance to be invalidated or cancelled or which may cause the insurer to refuse payment. The borrower must provide premium receipts and an insurance company certificate of the insurance if required by the lender. If the lender so requires insurance must be taken out with a company nominated by it. The lender may apply the proceeds in repayment of the unpaid balance even though it or part of it has not yet fallen due.
33. The borrower must not use the land to be mortgaged or the collateral or allow them to be used for any criminal purpose including, without limitation, the commission of an offence under the Misuse of Drugs Act 1975 or any replacement Act.
34. If the borrower fails to do anything which it must do or does anything the borrower must not do, the lender may do or pay anything to remedy the default and may add that cost to the unpaid balance.
35. The borrower indemnifies the lender and will keep it indemnified against any claim from any person relating to the collateral or the land to be mortgaged or the use thereof. If the lender incurs any loss, liability or expense in respect of the collateral or the land to be mortgaged or this agreement as a result of any act or omission of the borrower then the amount of such loss, liability or expense plus goods and services tax if any shall be payable by the borrower to the lender on demand and in any event shall become part of the unpaid balance.
36. The lender may assign its right, title and interest in the collateral and in the land to be mortgaged and its right, title and interest in this agreement or any of them at any time. The borrower has no such right.
37. If the borrower defaults under this agreement the lender may, without notice save that required by any statute, seize the collateral and for such purposes the borrower irrevocably gives to the lender the right and licence for its agents, acting as the borrower's agents, to enter any premises and if necessary to break into any building where the lender may reasonably believe collateral may be situated (whether or not the borrower is present) or where the borrower is for the purpose of searching for and seizing the collateral. The lender may use the borrower's chattels to gain access to or remove collateral. The lender shall not be liable in any way to the borrower or to any person claiming whether through the borrower or otherwise for any damage or loss which occurs in the process of entry into any premises or during or as a result of the seizure and subsequent sale of the collateral and the borrower will indemnify the lender against such claim. On seizure (or without seizure if seizure is not necessary in order to sell the collateral or if the collateral is otherwise in the possession of the lender), the lender may sell the collateral by auction or otherwise in any manner and in all respects (including, without restricting the generality of the power, the right to buy in, give credit and allow payment over time) as if the lender were the unencumbered owner subject to any applicable statutory obligations. The borrower must do everything necessary to enable the lender to effect (and if applicable to register and otherwise publicly record) the sale, including the signing of all necessary transfers, assignments and other documents and including the making of any necessary decisions or resolutions. On such sale the receipt of the lender or its agent will be sufficient discharge to the purchaser for the purchase money and no purchaser shall be bound to investigate the propriety or regularity of any such sale or be affected by any notice express or constructive that such sale is improper or irregular. The lender is not obliged to account for the proceeds of sale of the collateral unless and until it has received the proceeds.
38. In the event that the lender takes an assignment to itself or another lender's rights and powers under an agreement whereby any person, who has provided a security interest of any nature under this agreement, has created or provided for a security interest in collateral or a mortgage of land, then any money owing under this agreement shall additionally be deemed to be owing under the other security agreement and default (or further default) under this agreement after such assignment shall be deemed to be default under the other agreement.
39. The Consumer Guarantees Act 1993 shall not apply.
40. The lender shall not be obliged to marshal in the borrower's favor or in favour of any other person.
41. The borrower waives any right to receive a verification statement following registration of any security interest and if any of the collateral is not consumer goods, none of sections 133 or 134 of the PPSA will apply to any dealings with that collateral under this agreement and the borrower waives any rights with respect to that collateral under sections 114(1)(a), 116, 120(2), 121, 125 (if the debtor is in possession), 129 and 131 of the PPSA. The borrower further must not lodge any demand under section 162 of the PPSA.
42. If the borrower is borrowing money from the lender in order to purchase property over which the lender is to take a security interest the lender may pay the money directly to the supplier of that property. The lender may impose such conditions on the payment or on the application of the money as it sees necessary to protect its security interest.