

Major terms and conditions

Grant of security interest in chattels or other personal property. (“Collateral”)

In exchange for the lender lending you the initial unpaid balance (of which you are acknowledging receipt) you grant to the lender a security interest over any collateral you may own that has been listed to be used as security. The security interests are to secure payment to the lender of the money secured and also to secure your performance of all other terms of this agreement. You promise to the lender that there is no security interest in the collateral other than that granted by this agreement.

Other terms and Conditions

YOU THE BORROWERS AND/OR GUARANTOR ACKNOWLEDGE THE DEBT TO THE LENDER OF THE INITIAL UNPAID BALANCE AND AGREE:

Meaning

The expression “borrowers” or “you” includes their/your executors, administrators and successors in title. “Collateral” means the goods and/or other personal property described in the disclosure statement in the box headed WHAT COULD HAPPEN IF YOU FAIL TO MEET YOUR COMMITMENTS Security Interest. “Default under this agreement means that the borrower or the guarantor does something he is required not to do or fails to do something he is required to do. “Default Fees” are listed under that heading in the disclosure statement. “Default interest is interest payable at 10% per annum, compounded daily at the rate of one 365th of 10% charged on the arrears portion of the account balance IN ADDITION TO THE NORMAL INTEREST CHARGED from the time that you fall into financial default until you are no longer in financial default. “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. “The money secured” means all money, including the initial unpaid balance and default or other interest, and default and other fees and charges, and disbursements and other money, which you must pay to the lender under this agreement or under any collateral or subsequent loan agreement. “Person” includes a limited liability company or other legal entity or an organisation as defined in the PPSA. “PPSA” means the Personal Property Securities Act 1999. “PPSA” means the Personal Property Securities Act 1999. “Working day” means any day but a Saturday, Sunday or a national public holiday. Each gender shall include other genders.. All obligations on your part are joint and several. Any expression not described or defined in this agreement shall have the meaning ascribed to it in the Personal Property Securities Act 1999 unless the context requires otherwise. Unless the context prevents it, the singular shall include the plural and the plural include the singular.

Power of Attorney and General

- 1 In exchange for the loan of the amount of credit and to enable the lender more effectively to obtain the benefits under this agreement, each borrower jointly and severally irrevocably appoints the lender and any one director of the lender severally to be the attorney of each borrower to do anything which the borrowers agree to do and to do anything and to sign any document which the attorney thinks desirable to ensure the lender is paid the money secured and otherwise to protect the interests of the lender under this agreement. Without in any way limiting the generality of the power, the attorney may execute any document for the purpose of creating a security interest under the PPSA. This power shall inure until the money secured has been paid to the lender in full. The borrowers ratify anything done by an attorney under this clause and further indemnify 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 of you named as borrower irrevocably appoints the assignee his attorney accordingly.
- 2 Subject to any other clause of this agreement any notice, demand, letter or document for service on you shall be deemed to be properly served, in any court proceeding or otherwise, if served in accordance with the wording of Section 59A and Section 83G of the Credit Contracts and Consumer Finance Amendment Act 2014. This applies although that Act may not apply to the collateral and although the notice or demand is not one required or authorised under that Act. In addition, service on you or any of you shall be deemed to have been effected if such notice demand letter or document is handed to any person in apparent occupation of the address of any of you or of the property shown in this agreement by attaching the document to an external door at such address. In addition if your 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 you if the document is posted at the letterbox corresponding to such flat, apartment or room. If there is no such letterbox, service will be deemed to have been effected on you if the document is affixed to what appears to be the principal external entry to the building for the purposes of obtaining access to the address provided by you or if the document is given to any building manager or receptionist for the building and directed to be given to you.
- 3 Service of any notice or document upon the lender must be done to the main office of the lender as disclosed on the initial disclosure document or in person to any offices of the lender.
- 4 You shall not be released from your obligations under this Agreement or have your 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 nor by virtue of any security becoming all or partly void or unenforceable for any reason whatsoever.
- 5 You irrevocably authorise any person to provide the lender with such information as the lender may request as part of its administration and enforcement of the loan secured under this agreement and further irrevocably authorise the lender to provide to any third party details of the loan or any associated loan application or any financial dealings that the lender may have with the borrowers. You further promise that all information provided by you or on your behalf to enable the lender to decide whether or not to lend to you is true and correct and if it is not true and correct, the lender may demand payment of the then outstanding balance of the loan and you will pay forthwith on such demand.
- 6 The law applicable to this agreement shall be the law of New Zealand.
- 7 You must make all payments as shown in the PAYMENTS section of the disclosure statement when due without any deduction or set-off or counter-claim and in such manner as the lender requires. If you make any payment which is not in accordance with the schedule of payments in the “PAYMENTS” section of the disclosure statement the lender may credit the payments in accordance with the schedule.
- 8 You must pay to the lender forthwith upon demand or when otherwise due (i) the lender’s credit fees shown in the “CREDIT FEES AND CHARGES” section of the disclosure statement and (ii) the lenders default fees and default interest shown in the “WHAT COULD HAPPEN IF YOU FAIL TO MEET YOUR COMMITMENTS - default interest charges and default fees” section of the disclosure statement and (iii) all of the lender's costs, expenses and any other liabilities not now known to the lender which may be incurred or suffered by the lender in connection with:
 - a The preparation, signing, registration, administration, variation and release of this security agreement or any financing statement in relation to this security interest and the negotiation and grant of any consent or waiver
 - b 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 proceedings
 - c Any dispute negotiation or communication with any other secured party or party claiming to be a secured party with respect to the collateral and or the priority of the security interest granted by this agreement and
 - d The transfer of the security interest of any other secured party to the lender or the security interest of the lender to that secured party and
 - e Any dispute negotiation or communication with any of you or with any guarantor in default
 - f The lender’s doing anything you should have done but which you have not done.
 - g Unidentified payments due to incorrectly referenced payments being made via the bank resulting in interest charges that may not have been applicable. All payments made in this way must be accompanied by your loan agreement number as the reference.

And you agree that such amounts are and are deemed to be contractual damages if they are incurred by you with the lender or suffered or incurred by the lender while you are in default hereunder and in any event if not paid shall incur default interest until paid in full. The lender may exercise all or any right, power or remedy at any time.

- 9 If you fail to pay one or more instalments in full so that you are in default but otherwise are paying on time, the lender, at its absolute discretion may add the unpaid amount to the loan thus extending the term and varying the final payment or payments. The lender may but is not bound to do this more than once.
- 10 If you fail to pay any instalment due on the due date, you shall pay to the lender default fees and default interest on the arrears portion of the unpaid balance from the due date of such instalment until actual payment of the instalment is made as outlined in the initial disclosure document.
- 11 To the extent allowed by law, the lender may from time to time without notice off set against any claim or demand which you may have any debt owed by you or claim or demand which the lender may have against you.
- 12 The lender may appropriate any payment received from you or money which is proceeds of the sale of collateral against any debt owed by you in any manner that the lender may decide, notwithstanding any appropriation you claim to have made or the fact that the time for payment of the amount has not arrived.
- 13 This agreement may secure future advances. This will apply even although any sum has been paid from time to time to the lender unless the borrower has asked for no further advances in writing. The lender can at any time stop further advances without notice for any reason.
- 14 In accordance with section 50 of the Credit Contracts and Consumer Finance Act 1993 you may repay the outstanding balance of your loan in full before it is due. However, you must also pay the lender the administrative costs arising from the full prepayment or a charge equal to its average administrative costs so arising. The lender may also charge you a fee representing a reasonable estimate of its loss arising from the full prepayment. The lender's method of calculating its loss is set out in the FULL PREPAYMENT section of the disclosure statement.
- 15 You must maintain a telephone connection. You consent to the lender's leaving the name of the lender with any person who answers that telephone number or any number provided by you and with any person shown as a contact person for you.
- 16 You must not change your name or address or the place where collateral which is security is stored or your telephone number without first giving the lender three working days notice of your intention to do so.
- 17 If the lender accepts any payment or banks any cheque, which you have made or forwarded in purported full satisfaction 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 cheque is forwarded unless the lender has, before it receives the payment or cheque, agreed in writing to accept the amount in full satisfaction or otherwise as accord and satisfaction.

Security Interest

- 18 You must store any collateral which is goods at the address shown as that of its owner in the disclosure statement. You must not allow any collateral to be taken out of New Zealand. You must also care for and maintain collateral and comply with any laws relating to its ownership and use and you must not use it in any dangerous or illegal activity or for any purpose for which it was not intended. You may not race any collateral which is a motor vehicle. The lender may inspect any collateral on giving 24 hours written notice and you shall make such collateral available for inspection at the address that you have provided as the place where the owner lives.
- 19 You must not do anything or allow anything to happen which may impair or undermine any borrower's ownership of collateral or the lender's security interest in collateral. Further you must not grant any other security interest over collateral nor 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 where you are required to keep it (see clause 16 above) or concealed from the lender. You must not obtain any personalised registration plate on any motor vehicle which is collateral nor otherwise alter or remove any serial number unless you first and in writing provide the lender with three working days' notice.
- 20 Any accessions (including accessories) which are attached to collateral which is goods shall become part of the collateral
- 21 The lender may take possession of the collateral for the purposes of perfecting its security interest under the PPSA at the borrower's request.
- 22 From time to time if required by the lender you must provide security for the money secured in the form of a security interest in a motor vehicle to the value of 100% of the money secured at that time.
- 23 You must insure or procure the insurance of the collateral which is goods and keep them insured against fire, accident, theft and all other risks as the lender may require both in the names of the lender and in your names for the lender's and your respective interests, all payments, in the event of a claim to be made to the lender. You must not do or allow any act or omission which causes the insurance be invalidated or cancelled.
- 24 If you fail to do anything which you must do or do anything you must not do, the lender may do or pay anything to remedy the default and may add that sum to the unpaid balance and if you do not pay the cost of such remedy on demand the lender may charge you default interest.
- 25 You indemnify the lender and will keep it indemnified against any claim from any person relating to the collateral. If the lender incurs any loss, liability or expense in respect of the collateral or this agreement as a result of any act or omission of yours then the amount of such loss, liability or expense plus goods and services tax if any shall be payable by you to the lender and shall become part of the money secured and the lender may charge default interest thereon.
- 26 The lender may assign its right, title and interest in the collateral in this agreement or any of them at any time.
- 27 If you default under this agreement the lender may, without notice save that required under the Credit Contracts and Consumer Finance Amendment Act 2014, seize the collateral and for such purposes you irrevocably give to the lender the right and licence for its agents to enter any premises and if necessary to break into any building where the collateral may be situated or where you are for the purpose of searching for and seizing the collateral. On seizure, 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 obligations under the Personal Property Securities Act 1999 and under the Credit Contracts and Consumer Finance Amendment Act 2014. 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.
- 28 In the event that, contrary to your obligations hereunder, another security interest has priority over that of the lender with respect to the collateral, and if the lender takes a transfer of that security interest to itself then any money owing under this agreement shall be deemed to be owing under the security agreement providing for the security interest with priority and default under this agreement shall be deemed to be default under the other security agreement
- 29 The lender shall not be obliged to marshal in your favour or in favour of any other person.
- 30 If the lender does not at any time have priority over all other secured parties in relation to any collateral then pursuant to section 107(1) of the PPSA, for the purposes of dealing with that collateral you and the lender contract out of sections 108 and 109 to the extent that the words "with priority over all other secured parties" in sections 108 and 109(1) shall not apply so as to restrict the lender's ability to seize and to sell the collateral.
- 31 You waive your right to receive a verification statement following registration of any security interest.
- 32 If you are borrowing money from the lender in order to purchase any property to be used as security for your debt to the lender, you must apply that money to the purchase and the lender may pay the loan money directly to the seller of the property. In addition, you authorise and request the lender to pay or apply any advance to you to the person named or for the purposes set out in this agreement or any separate writing provided to the lender by you. The lender may impose such conditions on the payment or on the application of the money as it sees necessary to protect any security interest it may have.