



Loan Contract Number

COMMERCIAL LOAN AND SECURITY AGREEMENT

This deed is made on the day and year shown before the signatures below BETWEEN Metro Finance Limited (together with its successors and assigns called “the lender” or “we”) AND the borrower(s) (also referred to as “you”) (together with their executors, administrators and successors in title) described 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 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 and any other amounts due under this deed in the manner set out in the schedule and other terms of this deed and any variations of them

SCHEDULE

INFORMATIVE SCHEDULE OF VARIABLE TERMS

DATE OF CONTRACT:

<p>The borrower may send notices to the creditor by:</p> <ul style="list-style-type: none"> Writing to the creditor at the creditors postal address; or Sending a fax to the number specified; or Delivering to the lender at its physical address; or Sending an email to the address specified 	<table style="width: 100%; border: none;"> <tr> <td style="width: 30%;">Name:</td> <td>Metro Finance Limited</td> </tr> <tr> <td>Physical Address:</td> <td>78 Rostrevor Street, Hamilton</td> </tr> <tr> <td>Telephone:</td> <td>07 834 3296</td> </tr> <tr> <td>Facsimile:</td> <td>07 839 2992</td> </tr> <tr> <td>Email:</td> <td>office@metrofinance.co.nz</td> </tr> <tr> <td>Postal Address:</td> <td>P.O Box 162, Hamilton</td> </tr> </table>	Name:	Metro Finance Limited	Physical Address:	78 Rostrevor Street, Hamilton	Telephone:	07 834 3296	Facsimile:	07 839 2992	Email:	office@metrofinance.co.nz	Postal Address:	P.O Box 162, Hamilton
Name:	Metro Finance Limited												
Physical Address:	78 Rostrevor Street, Hamilton												
Telephone:	07 834 3296												
Facsimile:	07 839 2992												
Email:	office@metrofinance.co.nz												
Postal Address:	P.O Box 162, Hamilton												

FULL NAME AND ADDRESS OF BORROWERS

Name:
Address:

Name:
Address:

FULL NAME AND ADDRESS OF GUARANTORS

Name:
Address:

Name:
Address:

CREDIT DETAILS

Initial unpaid balance

This is the amount the borrower owes at the date of this statement (including any fees charged by the lender).

Borrower	\$0.00
Refinance Amount	\$0.00
Establishment Fee	\$0.00
3 rd Party Registration Fees	\$0.00
Introducer Fee	\$0.00
PPI	\$0.00
Credit and Licence Check	\$0.00
Caveat and Mortgage Registration	<u>\$0.00</u>
TOTAL	\$0.00

Total Advances

This is the total amount of all advances made
Or to be made to you

\$0.00

The following sections relating to payments, credit fees and charges and annual interest and default fees and charges and default interest are subject to paragraph 13

PAYMENTS – The borrower is required to make each payment of the amount specified and by the time specified. (Payment dates are based on the assumption that the loan is drawn on the date of contract. The dates of payment are to be linked to the actual date of advance and will be adjusted to correspond with this date if it differs from the date of contract.)

Further this assumes that the lender does not vary the credit fees or interest pursuant to paragraph 13 of the operative terms and conditions

Timing of payments Frequency: Monthly First payment: one month after the advance Last payment:	Number of payments: [Total amount of payments:
---	------------------------------	---------------------------

Note lender’s right to appropriate payments in accordance with paragraph 18

Subject to satisfactory account conduct, a right of renewal for up to further one month extensions is available. A pro rata lenders fee of % of the facility limit will be charged for each month loan is extended.

INTEREST

Annual interest rate charged on the unpaid balance.

Pursuant to clause 13, % fixed for the whole term of the contract.

Method of charging interest
Interest charges are calculated by multiplying the unpaid balance at the end of the day by a daily interest rate. The daily interest rate is calculated by dividing the annual interest rate by 365. Interest is charged to the borrower’s account monthly.

COMPLAINTS
If you are not satisfied with the service you have received from us you should contact us. We have an internal complaints process and undertake to investigate your concerns promptly and fairly. You may contact us to make a complaint by telephone, by email or in writing. We are a member of an independent dispute resolution scheme operated by Financial Services Complaints Limited ("FSCL") and approved by the Ministry of Consumer Affairs. We have 40 days to respond to your complaint. If you are not satisfied by our response, you may refer the matter to FSCL by emailing info@fscl.org.nz or calling FSCL on 0800 347257. Full details of how to access the FSCL scheme can be obtained on their website www.fscl.org.nz. There is no cost to you to use the services of FSCL.

CREDIT FEES AND CHARGES

The following credit fee(s) and charge(s) (which may not be 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.

- (i) Facility Fee of \$21.93 per month as long as the account balance is in debit
- (ii) Personal property security preparation and registration fee of \$35.00 including \$10.00 registration, \$0.16 Motor check, \$3.00 per PPSR search.
- (iii) Readvancing fee of \$10.00 for existing PPSR security.
- (iv) Mortgage preparation and registration fee of \$700.00 (per each separate entity and/or land registration district) including title search fees of \$25.00, LINZ registration fee of \$80.00, agency fee of \$57.00, Subsequent titles incur an extra \$5.00 per title search.
- (v) Caveat preparation and registration fee of \$500.00 (per each separate entity and/or land registration district) including title search fees of \$15.00, LINZ registration fee of \$85.00, agency fee of \$20.00, post registration search of \$5.00. Subsequent titles incur an extra \$5.00 per title search.
- (vi) Readvancing fee of \$95 where we already hold a caveat or mortgage security
- (vi) Inspection Fee of \$75. Where progress drawdowns are required and Metro Finance undertakes progress inspections, this amount may be charged, per property, per inspection as requested by the borrower or required by Metro Finance.
- (vii) An Administration cost of \$385.00 is payable for a Mortgage discharge and/or Caveat Withdrawal. This is the cost of preparing a discharge of any mortgage/withdrawal of any caveat taken by the lender as security for the loan. The lender will, on request, provide the discharge to the borrower when the account balance is paid in full but will not be responsible for registering the discharge unless the borrower so requests and further agrees to pay the costs of such a registration, or that the lender requires its removal for whatever reason. In that event the lender may charge the sum of \$385.00 including the \$80.00 charged by LINZ, agency fee of \$36.00, Search fee \$5.
- (ix) Letter fee of \$15.00 is charged to your account any time you request and we provide a statement of your account.
- (x) \$117.00 per hour file time fee chargeable if the borrower wishes to alter security or other contractual terms or we are required to deal with any third party with respect to the debt or the security provided after the agreement begins or if the borrower or the borrower's agent requests a settlement figure for a certain date and the borrower fails to pay on that date.
- (xi) If the lender requires a solicitor to prepare any document associated with this loan (other than those referred to above), the fees charged by that solicitor.
- (xii) Administrative charge of \$100 plus other disbursements if you repay the principal in full before it is due.
- (xiii) The costs and expenses and other liabilities listed in clause 12(iv) of the operative terms and conditions incurred while the borrower is not in default.

Note – all fees shown as being currently of a certain amount may be increased if the external supplier of the relevant service charges more than the fee shown.

□ **SECURITY INTERESTS.**

The creditor has an interest in the property listed below to secure performance of the borrowers 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 interests of one or more guarantors)

Personal Property - Collateral

A security interest as defined in section 17 of the Personal Property Securities Act 1999, (securing without limit payment of all money secured and performance of all 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. However, collateral does not include consumer goods which are not specifically identified in this section "Personal Property – Collateral" unless such consumer goods are replacements for consumer goods which are specifically identified. The collateral (without limitation) includes:

Motor Vehicle(s) or Trailer(s)

Located At:

Name of owner:

Goods other than Motor Vehicle(s) or Trailer(s)

Year: _____ Make: _____ Model: _____ Serial Number: _____

Description: _____ Name of Owner(s): _____

Located at:.....

Identifying Features:

And any other personal property owned by _____ individually as detailed in the attached Security Schedule A (if used).

Real Property – The Land to be Mortgaged.

A registered mortgage over:-

Address:

Legal Description:

Owned by:

Any other land which _____ and _____ together and which _____ and _____ individually owns now and may own in the future.

The security interest is an all obligations mortgage of the land and it secures payment of all the unpaid balance. It also secures the performance of all the landowner's obligations under this contract to the extent of the value of the owners interest in the land.

If the land is sold and the net proceeds are not enough to repay what you owe us (the unpaid balance) the borrower will owe us the difference and we may recover that amount from the borrower. That further amount will include interest and costs which are payable under the agreement and which are incurred (which arise) after the sale.

The owner of the land may not give security over the land (for example grant another mortgage) to any other person without our written consent and, if the owner does so, the owner will be in breach of this agreement and the land may be sold by the lender.

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 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 any default and while the default continues the borrower 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.

- (i) Default interest is 10% per annum more than the interest rate provided for in the INTEREST section above, charged on any unpaid instalment or overdue amount from the time that the borrower falls into financial default until the borrower 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 capitalised to the borrowers account monthly.

We will also charge to the borrower's account:

- (ii) A default payment fee of \$15.00 debited if any scheduled payment to the lender is made late after the date due, or is reversed or dishonoured or is otherwise not made without our default.
- (iii) Letter fee of \$15.00 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.
- (iv) A default time fee if any staff member of ours spends time on the administration of the borrowers 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 \$117.00 per hour and will include time our staff spend outside our offices.
- (v) Mileage fee if a staff member 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.
- (vi) Local telephone call fee of \$5.00 any time we have to telephone or fax you with regard to a missed payment(s) or in relation to any other default the borrower commits under this agreement.
- (vii) Toll telephone call fee of \$8.00 any time we have to telephone or fax you 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.
- (viii) Home visit fee, charged at \$117.00 per hour, if we deem it necessary to visit you or any other borrower(s) listed in this agreement at your, or their, home or place of work in relation to a missed payment(s) or in relation to any other default you commit under this agreement.
- (ix) 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 commission, fees and disbursements and the costs and disbursements of 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 12(iv) of the operative terms and conditions arising out of the borrower's default

FULL PREPAYMENT

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. This 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 the operative terms and conditions and if I am the guarantor I acknowledge receipt of the guarantee as well.

Signed thisday of20

Signed by the Borrower:

Signed by the Witness:

Witness Name:

Address:

Occupation:

Signed by the Guarantor:

Signed by the Witness:

Witness Name:

Address:

Occupation:

Signed by the Guarantor:

Signed by the Witness:

Witness Name:

Address:

Occupation:

OPERATIVE TERMS AND CONDITIONS

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 so shown, at 28% per annum calculated daily at the rate of one 365th of the annual default interest rate charged on the unpaid instalments or other overdue amounts from the time that the borrower falls into financial default until the borrower is no longer in financial default and compounded monthly. "Financial default" means that the borrower fails or continues to fail to make a payment when due or demanded as the case may be. "Guarantor" means the person shown as guarantor in this agreement and any associated 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 INTERESTS" "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 Metro 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. All obligations of the borrowers (if there are more than one borrowers) 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 subsequent advances, the borrower grants to the lender a security interest over any collateral which the borrower owns and which is listed in the "SECURITY INTERESTS" "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 2018/4344 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 subsequent 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 an all obligations form published by the Auckland District Law Society Incorporated so as to incorporate memorandum registered number 2018/4346 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 or less or (b) \$150,000 plus 5 times the total advances if total advances are greater than \$10,000.00 and less than \$25,000 or (c) \$350,000 plus total advances if total advances are greater than \$25,000 and less than \$350,000 or (d) \$100,000 plus twice total advances if total advances are \$350,000 or more (in each case 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, will charge such other land accordingly

Power of Attorney

4. In exchange for the loan of the initial unpaid balance 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 named 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 2017 (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 credit card or 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 judgment. 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 or document 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 "or work" after the word "abode" and excluding sub-section 38(7). 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 each borrower 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 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 affixed to what appears to be the principal external entry to the building for the purposes of obtaining access to the address 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 shown an email address or a facsimile number in his address in this agreement or the schedule, or any borrower in default 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 shall be the information system specified by that borrower for the purpose of service.
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 nor by virtue of any security becoming all or partly void or unenforceable for any reason whatsoever.
8. The borrower irrevocably authorises 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 judgment 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 make the payments in the amounts and at the times and in the fashion provided for in the schedule (or any subsequent variation) and (subject to paragraph 16) 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 default 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 and (iii) the lender's full prepayment fees 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:

- a. 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
- b. 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
- c. 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.
- d. If the borrower is in default the transfer of the security interest of any other secured party to the lender or the security interest of the lender to another secured party and
- e. 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
- f. The lender's doing anything the borrower should have done but has not done
- g. If the borrower (or any person on his behalf) makes a demand under section 162 of the PPSA contrary to paragraph 40 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 incur 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. Any increase in annual or default interest will be proportionate to the increase in the lender's cost of funds. Any increase in credit or default fees will be proportionate to the increase in the costs relied on by the lender in connection with the credit or default fees.
14. If the borrower is in financial default, the borrower shall pay to the lender default interest on the amount in respect of which the borrower is in financial default from the due payment date of such amount until actual payment of the amount. All default interest shall continue to be payable after and notwithstanding judgment against the borrower and shall compound monthly.
15. 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
16. 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 unless the borrower has judgment for what it claims.
17. The lender may receive commission on any insurance included in this agreement or subsequently required.
18. 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 ("debt A") owed by the borrower in any manner that the lender may decide, notwithstanding any appropriation to any debt ("debt B") the borrower claims to have made or that the time for payment of the amount to debt A has not arrived. However:
 - a. That appropriation will not be the cause of the borrower's being in default with respect to debt B and if the two debts have different interest rates, the interest uncharged on the payment will be credited at the higher of the two rates.
 - b. The lender will only exercise such right of appropriation to debt A for the purpose of:
 - i. Retaining a purchase money security interest in collateral for longer than the lender would have retained it had the payment been applied in full to debt B or
 - ii. Reducing debt A secured against collateral (which the lender believes is declining in value or being consumed or sold more quickly than is other collateral) more quickly than it would have been had the payment been applied in full against debt B or
 - iii. Reducing debt A because
 - 1) It is unsecured or is secured against collateral of less value or ease of sale than the collateral of debt B or
 - 2) It is not guaranteed by a third party or because it lacks a co-borrower or
 - 3) The lender reasonably values a guarantor or co-borrower of debt B more highly than that of debt A for the purpose of that person paying the lender.
 - iv. The lender will not appropriate any payment from debt B to debt A and if the payment is identified as primarily intended to reduce a debt secured by a security interest in consumer goods or known to the lender to have been incurred for a household domestic or personal purpose.
19. 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.
20. 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 authorised agents directly at the latest telephone number provided by it (whether landline or cellular), the borrower authorises 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 it.

21. The borrower must not change the borrower's name, address or its landline or cellular telephone number without first giving the lender seven 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.
22. 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 organisation (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 organisation or any collateral or land to be mortgaged.
23. 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.
24. 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

25. The borrower must store any collateral which is goods at the address shown as that of its owner in the schedule or at the most recent address provided by the borrower under clause 21 hereof and in any event the borrower may not change the storage address of any collateral goods 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 when 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 for 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.
26. If the borrower obtains consumer goods after this agreement comes into effect and those consumer goods are replacements for consumer goods specifically identified in this agreement as collateral, the borrower must if necessary 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.
27. 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, (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.
28. The borrower must not do anything or allow anything to happen which may impair, challenge 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 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 the borrower is required to keep it nor concealed from the lender. The borrower must not obtain any personalised 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.
29. Any accessions (including replacements and accessories) which are attached to collateral goods and any replacement for collateral goods shall become part of the collateral. This includes the borrower's interest in any personalised motor vehicle registration plate.
30. The lender may take possession of the collateral for the purposes of perfecting its security interest under the PPSA.
31. 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 all 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 owners' 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.
32. 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
33. If the borrower fails to 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

34. 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.
35. 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 unless the lender approves in advance in writing the assignee's character, financial status and ability to comply with this agreement and such approval shall not be unreasonably withheld.
36. 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 the 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 the 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.
37. If the lender takes an assignment to itself of another lender's rights and powers under an agreement ("Agreement A") 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 agreement and default (or further default) under either agreement after such assignment shall be deemed to be default under the other agreement. However to the extent that any unpaid balance or part of the unpaid balance owed under either agreement was be mortgaged or to seize or sell collateral in respect of which no security interest has been granted under the agreement whereby that debt was incurred. Furthermore, default under one agreement shall not entitle the lender to seize or sell consumer goods in respect of which there is no security interest under that agreement.
38. The Consumer Guarantees Act 1993 shall not apply unless the borrower is a consumer as defined in section 2 of that Act and in that event shall only apply with respect to the goods or services referred to in sub-section (a) of the definition of "Consumer".
39. The lender shall not be obliged to marshal in the borrower's favour or in favour of any other person.
40. The borrowers agree that neither of sections 133 or 134 of the PPSA will apply to any dealings with the collateral under this agreement. The borrower further waives the borrower's right to receive a verification statement on registration of the lender's security interest and its rights under section 116, 120(2), 121, 125, 129 and 131 of the PPSA. The borrower must not lodge any demand under section 162 of the PPSA unless one of more of sub-sections (a) to (e) inclusive of that section applies.
41. 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.