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Statement Date: 20

KOOKMIN BANK – LOAN SUMMARY

This Statement (Loan Summary) sets out the key information about your facility and forms part of your credit contract. You should read this Loan Summary, our Specific Terms and Conditions for Loans and our Standard Terms and Conditions for our Accounts.

If you (including if you are a guarantor) do not understand anything in the items mentioned above, in any guarantee or any security you are to provide, you should seek independent advice.

The law gives you a limited right to cancel your Consumer Credit Contract (see below for further details). Note that strict time limits apply.

You should keep this document in a safe place.

BORROWER (YOU, YOUR)

Name: [XXX]

Postal address: [XXX]

Fax: [XXX]

Email: [XXX]

Phone: [XXX]

GUARANTORS (EACH A GUARANTOR AND TOGETHER THE GUARANTORS)

Name: [XXX] *[If a guarantor is a trust, please insert "[the full names of the trustees of the Trust], as trustee of the [insert name of Trust] (Trust), constituted by a certain deed of trust dated [insert date]"*

Postal address: [XXX]

Fax: [XXX]

Email: [XXX]

Phone: [XXX]

FACILITY SUMMARY

Kookmin Bank, having its principal place of business at Level 16/88 Shortland Street, Auckland CBD, Auckland 1010 (**we, our, us**) agrees to provide you with a loan facility (**Loan**) subject to this:

- Loan Summary;
- our Specific Terms and Conditions for Loans;
- our Fees and Charges Brochure; and
- our Standard Terms and Conditions for Accounts,

which together, and as they may be amended or replaced, form your **Agreement** with us in respect to your Loan.

Terms which are defined in Specific Terms and Conditions for Loans have the same meanings in this Loan Summary unless the context otherwise requires or unless otherwise defined in this Loan Summary.

1. TYPE OF LOAN

1.1 The type of loan is a [**Select one** - Residential Term Loan / [insert other type/ Residential Table Loan / Construction Loan].]

1.2 The purpose of the Loan (**Loan Purpose**) is to [**Insert consumer loan purpose** - e.g. purchase the property situated at [insert address] (RT [insert Record of Title]) (**Property**) / refinance your existing loans / provide capital for personal purposes, being [insert description] / [insert purpose of the loan] / assist with meeting or reimbursing costs for the Owner-Occupied Development].

2. THE LOAN AMOUNT IS \$[XXX].

2.1 The Loan Amount is the maximum amount that you may borrow. Your Loan Amount may be reduced or increased from time to time in accordance with your Agreement.

2.2 ***[If there is only one drawing for the loan with no subsequent advances]*** \$[XXX] —The full Loan Amount must be borrowed in full and in one lump sum on the date you request in accordance with clause 3.4 of the Terms.]

OR

Subsequent advances

[If there is more than one drawing and the borrower can choose when to make the drawings and there are no other ascertainable dates or milestones for advances] We will advance you the amounts on the date you request in accordance with clause 3.4 of the Terms.]

OR

[If subsequent advances are ascertainable] – The following advances will be made in accordance with clause 3.4 of the Terms:

(a) [insert the amount, a description, and timing of each advance to be made after the effective date of this Loan Summary, if ascertainable].]

The total advances to be made under this Agreement is \$[XXX].

3. LOAN TERM

3.1 ***[If there is only one repayment of principal to be made]*** - The Loan Term is from the Drawdown Date to [insert months/years] from that date (**Repayment Date**). You must repay the Loan and any other amounts outstanding under this Agreement on the Repayment Date.]

OR

[If this is a table loan] – The Loan Term is from the Drawdown Date to [insert month/years] from that date (**Repayment Date**). You must make payments in accordance with clause 7.3 below.]

OR

[If this is an on-demand loan] - This Loan is repayable on demand. If we ask you to, you must repay all amounts you owe, or may owe, under this Agreement on the day we specify (**Repayment Date**).]

4. THE INITIAL UNPAID BALANCE IS \$[XXX].

4.1 The Initial Unpaid Balance is the amount you owe as at the Statement Date (including any fees charged by us), if any. ***[Delete if initial unpaid balance is \$0]*** -This amount will be incorporated into your Loan and is also made up of:

(a) \$[XXX] – Loan Application Fee, being our reasonable administrative costs to process and document your application for this Loan. This fee is payable on execution of this Agreement and will be deducted from the advance on the Drawdown Date;

(b) \$[XXX] ***[describe any advance, charge, fee, optional service, when it is payable];***

Less

(a) \$ [XXX] ***[describe any payment received etc].]***

5. INTEREST RATE AND TOTAL INTEREST CHARGES

Interest Rate

5.1 As at the Statement Date:

- (a) the Variable Annual Interest Rate is [XXX]% per annum; and
- (b) the Fixed Annual Interest Rate is [XXX]% per annum. We will set the Fixed Annual Interest Rate on the Drawdown Date. If the Drawdown Date is the Statement Date, this rate will apply.

5.2 As at the Statement Date, the applicable interest rate type for your Loan is **[the Variable Annual Interest Rate] OR [the Fixed Annual Interest Rate for the Fixed Interest Period]**.

Fixed Interest Period

5.3 The Fixed Interest Period is from the Drawdown Date to [insert months / years] from the Drawdown Date.

OR

There is no Fixed Interest Period for your Loan.

[Delete if not applicable - Interest Free Period]

5.4 The Interest Free Period is [X months X years] from the Drawdown Date. During this time, we will not charge you interest on your Loan except in accordance with clause 9 of this Loan Summary. Interest will begin to accrue on [insert date].]

5.5 As at the Statement Date, the formula for calculating:

- (a) the Variable Annual Interest Rate is based on our base rate, being [XXX]% plus a margin of [XXX]%; and
- (b) the Fixed Annual Interest Rate is based on the base rate, being [XXX]% plus a margin of [XXX]%.

5.6 Our interest rates are available by contacting our Auckland branch, your relationship manager or on our website at <https://kbglobal.kbstar.com/auc/main>. Details of the applicable base rate may be found at www.interest.co.nz. The variable interest rate is subject to market fluctuations and may be varied by us at any time. If we do, we will notify you in accordance with clause 14.3 of the Terms.

Total Interest Charges

[Select if a single repayment of the principal sum will be paid in the term loan - Total amount of interest charges: \$[XXX]

Please note: The total amount of interest charges is based on our current interest rate as at the Statement Date (assuming the rate does not change) and if your Loan is to be repaid within 7 years and no other changes are made to your Loan. We can at any time (including before the Drawdown Date) change the interest rate.]

OR

[Select if this is a table loan – Please note: The total amount of interest charges is not ascertainable because the term of your loan is over 7 years. However, we have provided an Appendix to this Loan Summary (**Appendix**) showing your current interest rate, payments and total interest charges as at the Statement Date for the first 12 months of your Loan. The figures shown in the Appendix may change if the interest rate changes (where a variable rate applies) or there are other changes to your Loan. We will provide a similar appendix at or around the beginning of each anniversary of your Loan.]

[The total interest charge means the total amount of interest payable, if this is ascertainable. As previously advised, KB is not required to include the total interest charge if the loan term will be more than 7 years. To the extent that the loan term is 7 years or shorter, the total interest charge will need to be disclosed.

The calculation of the interest should include the date advance is made. If there is an Interest Free Period, interest should be calculation from the end of that period.]

6. METHOD OF CHARGING INTEREST

- 6.1 During any Fixed Interest Period, the interest rate applicable is the Fixed Annual Interest Rate. Otherwise, the Variable Annual Interest Rate is applicable.
- 6.2 Interest charges are calculated by multiplying the unpaid balance at the end of the day by a daily interest rate and the number of days in the relevant period. Interest is charged in monthly arrears and will be payable by you starting one month after your Drawdown Date or if there is an Interest Free Period, one calendar month following the expiry of that period. The daily interest rate is calculated by dividing the applicable annual interest rate by 365.

7. PAYMENTS

- 7.1 ***[Select if a single repayment of the principal sum -*** You will make a single repayment of the principal, being \$[XXX] on the Repayment Date.

Please note: The payments are based on our current interest rate as at the Statement Date and if your Loan is to be repaid within 7 years and no other changes are made to your Loan. We can at any time (including before the Drawdown Date) change the interest rate. **]**

OR

[Select if this is a table loan -

- 7.2 Your Loan Amount will reduce at the same rate as the principal would be repaid on a table loan for the Loan Amount which was due to be repaid over the Loan Term.
- 7.3 Your Loan Amount will reduce by [insert number] monthly reductions. The first reduction will be the First Payment Date as referred to in the Appendix.
- 7.4 Further details regarding the payments required to be made for the first 12 months of your loan are set out in Appendix or will be otherwise specified by us. ***[Delete if there is no Fixed Interest Period –*** At the end of the Fixed Interest Period, your interest and principal payments will be calculated based on the Variable Annual Interest Rate applicable at the time.**]**
- Please note:** The figures in the Appendix are based on the current interest rate as at the Statement Date and if no other changes are made to your Loan. Your repayments may change if the applicable interest rate changes (where a variable rate applies) or there are other changes to your Loan.
- 7.5 On the expiry of the Loan Term, your Loan Amount will reduce to zero. You must make a final payment to pay all principal and any other amounts outstanding under this Agreement on the Repayment Date. **]**

8. PREPAYMENT COSTS

- 8.1 You may prepay some or all of your Loan in accordance with clause 5 of the Terms.
- 8.2 The following becomes payable on the date you make your early repayment:
- (a) any applicable fees and charges that apply to your Loan which are set out in the Fees and Charges Brochure; and
 - (b) if applicable, any Prepayment Amount (see clause 8.4 below).
- 8.3 This applies whether the prepayment is voluntary or required following a Default Event.
- 8.4 If you prepay some or all of your Loan during a **Fixed Interest Period**, you may need to pay us a Prepayment Amount. The Prepayment Amount is not calculated in accordance with the formula prescribed by the Credit Contracts and Consumer Finance Regulations 2004. The formula we use to calculate a Prepayment Amount (which is what we call our pre-estimate of the loss we incur when you repay some or all of the Loan early during a fixed-rate period) is:

$$A \times (B - C) \times D \div 365$$

Where:

A = The amount being repaid early

B = The Fixed Annual Interest Rate

C = Our base rate at the date of early repayment.

D = The number of days remaining in the Fixed Interest Period

If the amount calculated from the formula is a negative number or zero, no Prepayment Amount will be charged.

- 8.5 Our determination of the Prepayment Amount will be conclusive and binding on you. You can ask us at any time to estimate the Prepayment Amount in relation to a prepayment. This estimate will be indicative only and will not be binding on us.

9. WHAT COULD HAPPEN IF YOU FAIL TO MEET YOUR COMMITMENTS

Security interest

- 9.1 This is secured credit. Your Loan is secured by all existing and future security granted to us. The securities listed at clause 10 below will be, or have been, taken by us. They secure all obligations and payments to us under the Loan and other Bank Document or any existing or future loan agreements or security documents.
- 9.2 If you fail to meet any obligation under this Agreement and other Bank Document or any existing or future loan agreements or security documents, including without limitation, if you give a security over the property listed at clause 10 to another person without our consent, we can take any action we think appropriate to recover all money you owe us and all money that you owe us in the future. This includes making demand on any Guarantor and we may be entitled to repossess and/or sell any property set out in clause 10 (that property and any other property we have security over in the future is called **Secured Property**).
- 9.3 If what we recover from the security is less than what you owe, you are still responsible for paying any shortfall to us. The same applies to any Guarantor.

Default interest charges and default fees

- 9.4 **The Default Interest Rate as at the Statement Date is [XXX]% per annum.**
- 9.5 We may charge you interest at the Default Interest Rate on the overdue amount of your Loan if any amount payable under this Agreement is not paid at the time and in the manner specified.
- 9.6 Default interest is calculated from the date the overdue amount became due until the overdue amount is paid in full (whether or not we have obtained a court judgment or order against you in the meantime) by multiplying the overdue amount at the end of the day by a daily interest rate. The daily interest rate is calculated by dividing the Default Interest Rate by 365.
- 9.7 If you do not meet your obligations under the Agreement:
- (a) you may have to pay a default fee to compensate us for a reasonable estimate of any loss we incur because of the default; and
 - (b) you must pay and reimburse us for all costs (e.g. legal costs and staff costs) we pay or incur in relation to the attempted enforcement of our rights under the Agreement.
- 9.8 We may vary these fees and charges at any time in accordance with clause 14.3 of the Terms.
- 9.9 Any default interest or default fee will be immediately due and payable. We can compound or capitalise default interest. We may add the default interest charges or default fees to the Loan. If

we do so, we will not be deemed to have made a further advance or loan to you.

10. SECURITY

Existing security

10.1 The existing securities we already hold to secure your Loan are:

[List and describe all existing security interests to secure the. NB it is a CCCFA requirement to list all existing securities for a consumer loan].

New security

10.2 The new security we need for this Loan is listed below. You must arrange to give us this security by the Drawdown Date. You or anyone providing the security must also sign any security agreement or other documents or give any authority required to register or perfect the security:

[Insert all new securities for the loan e.g. -

- (a) [A registered first mortgage over the Property]
- (b) [An [un]limited guarantee and indemnity from each Guarantor]
- (c) [A registered first ranking general security interest in respect of all of your assets]
- (d) [insert description of other security]].

10.3 If we hold security from you in relation to your obligations as at the Statement Date and such security is not listed at clauses 10.1 or 10.2, we will not rely on that existing security in relation to your obligations under this Agreement.

10.4 Unless otherwise provided for by us in writing, all existing and future securities granted by you to us are to be first in priority.

11. CREDIT FEES AND CHARGES

11.1 The credit fees and charges (which are not included in the Initial Unpaid Balance) are, or may become, payable under, or in connection with, this Agreement are set out in our Fees and Charges Brochure (which can be found on our website at <https://kbglobal.kbstar.com/auc/main>) and additional fees and charges as detailed in our Standard Terms and Conditions for our Accounts.

11.2 Unless we specify otherwise, you agree that we may debit all fees and charges from the following account [insert account number].

11.3 We may change the rate, amount or terms of payment of each fee or charge or introduce a new charge at any time. We will notify you in accordance with clause 14.3 of the Terms. Current information on our fees and charges are available on request by contacting our Auckland Branch or at <https://kbglobal.kbstar.com/auc/main>.

12. CONTINUING DISCLOSURE STATEMENTS

12.1 We are required to provide you with regular statements. The statements will give you information about your Loan.

12.2 Statements will be provided to you at least every six months.

13. RIGHT TO CANCEL

13.1 The Credit Contracts and Consumer Finance Act 2003 (“**CCCFA**”) gives you a short time to cancel the Agreement after the terms of the Agreement have been disclosed to you. A summary of these rights are set out below.

Time limits for cancellation

13.2 To cancel the Agreement pursuant to the CCCFA, you must give notice that you intend to cancel the contract within:

- (a) 5 working days of the Statement Date if the Agreement is given to you in person; or
- (b) 7 working days of the Statement Date if the Agreement is sent by email or otherwise

provided electronically; or

(c) 9 working days of the date of posting of the Agreement if this is posted to you.

13.3 Saturdays, Sundays, and national public holidays are not counted as working days.

How to cancel

13.4 To cancel, you must give us written notice that you intend to cancel the contract by contacting us in any of the ways described in clause 16.1 of this Loan Summary.

13.5 If you want to cancel, you must also return to us any advance received by you in respect of this Agreement.

What you may have to pay if you cancel

13.6 If you cancel the contract, we may charge you:

- (a) the amount of any reasonable expenses we had to pay in connection with the Agreement and its cancellation (including legal fees and fees for credit reports, etc); and
- (b) interest, as provided for in this Agreement, from the day you received the advance until the day you repay the advance.

14. WHAT TO DO IF YOU SUFFER UNFORESEEN HARDSHIP

14.1 If you are unable reasonably to keep up your payments or other obligations because of illness, injury, loss of employment, the end of a relationship, or other reasonable cause, you may be able to apply to us for a hardship variation.

14.2 To apply for a hardship variation, you need to:

- (a) make an application in writing; and
- (b) explain your reason(s) for the application; and
- (c) request one of the following:
 - (i) an extension of the term of the contract (which will reduce the amount of each payment due under the contract); or
 - (ii) a postponement of the dates on which payments are due under the contract (specify the period for which you want this to apply); or
 - (iii) both of the above; and
- (d) give the application to us in any of the ways described in clause 16.1 of this Loan Summary.

14.3 Do this as soon as possible. If you leave it for too long, we may not have to consider your application.

15. DISPUTE RESOLUTION

15.1 If you have a problem, concern or complaint about our services, please contact your relationship manager or the general manager at our Auckland Branch as soon as possible. We will do our best to resolve the matter in a fair and timely manner.

15.2 If you are not satisfied with our response, you can contact Financial Services Complaints Limited (FSCL). FSCL is a free, independent dispute resolution service and its services may help investigate or resolve your complaint if your complaint is not resolved to your satisfaction using our internal complaints process.

Contact details of FSCL:

Phone: 0800 347 257

Website: <http://www.fscl.org.nz>
Business address: PO Box 5967, Wellington 6140

Financial Service Providers Registration

- 15.3 We are registered as a financial service provider under the Financial Service Providers (Registration and Dispute Resolution) Act 2008 under the name Kookmin Bank and our registration number is FSP19261.

16. ELECTRONIC COMMUNICATION AND NOTICES

- 16.1 You may send any notice and other communications to us in any of the following ways below:
- (a) by post at PO Box 7506, Victoria Street West, Auckland, New Zealand;
 - (b) by sending a fax to (09) 366 6608; or
 - (c) by sending an email to kbauckland@kbfq.com.

17. SPECIAL CONDITIONS

- 17.1 The insurance requirements for the Loan are specified in our letter of instructions to your solicitor dated [insert].
- 17.2 [You are required to repay \$[XXX] (**Borrower Indebtedness**) prior to the Drawdown Date.]
- OR**
- [\$[XXX] (**Borrower Indebtedness**) will be deducted from your advance on the Drawdown Date.]
- 17.3 [include any other special terms for relevant customer].

YOUR ACKNOWLEDGEMENT WHEN YOU SIGN YOUR LOAN SUMMARY

When you (and each Guarantor if any) sign this Loan Summary below:

1. *Understand and accept Agreement:* You and each Guarantor **confirm** that you have read and understood the Agreement (which includes this Loan Summary) and each Security Document specified in clause 10 of the Loan Summary **before** signed them and **accept** the offer of the Loan as set out above.
2. *Receipt of documents:* You and each Guarantor **acknowledge** for the purposes of us making initial disclosure under the CCCFA that you have been provided with a completed copy of this Loan Summary. You and each Guarantor also **acknowledge** that you have also been provided with a copy Kookmin Bank's Specific Terms and Conditions for Loans, Kookmin Bank's Standard Terms and Conditions for Accounts, Kookmin Bank's Fees & Charges Brochure, the Security Documents and any other documentation relating to the Loan.
4. *Electronic notices/communication:* You and each Guarantor consent to us meeting our disclosure obligations to you under the CCCFA and sending you other notices and communications in relation to the Agreement in electronic form and by electronic communication.
5. **Prescribed Statement:** You are protected by responsible lending laws. Because of these protections, the recommendations given to you about our consumer credit contracts are not regulated financial advice. This means that duties and requirements imposed on people who give financial advice do not apply to these recommendations. This includes a duty to comply with a code of conduct and a requirement to be licenced. To the extent we are giving recommendations or opinions about acquiring or disposing of, or not acquiring or disposing of, credit contracts that are not consumer contracts, this will not be financial advice.

DATE: 20

Signed by the Borrower(s):

[Name of borrower]

Signature of witness

Name of witness

Occupation of witness

City/Town of witness

[Name of borrower]

Signature of witness

Name of witness

Occupation of witness

City/Town of witness

Signed by the Guarantor:

[Name of Guarantor]

Signature of witness

Name of witness

Occupation of witness

City/Town of witness

SIGNED on behalf of KOOKMIN BANK by:

Signature of authorised signatory

YOUNG KI KIM

Name of authorised signatory

Signature of witness

Name of witness

BANKER

Occupation of witness

AUCKLAND

City/town of residence

KOOKMIN BANK – SPECIFIC TERMS AND CONDITIONS FOR LOANS (TERMS)

1. MEANING OF WORDS AND PHRASES

- 1.1 In this Agreement (being the Loan Summary, the Terms and the Standard Terms and Conditions for our Accounts), unless the context otherwise requires, words and expressions defined in the Bank Document(s) have the same meaning when used in this document and:

Bank Document means this Agreement, each Security Document and each other agreement or document to which you and/or one or more Guarantors has or is to have (or is intended to have) payment and/or other obligations to us.

Business Day means any day other than Saturday, Sunday or a public holiday in Auckland, New Zealand.

CCCFA means the Credit Contracts and Consumer Finance Act 2003.

Companies Act means the Companies Act 1993.

Construction Loan means a Loan where a Purpose of the Loan is to assist with meeting or reimbursing costs for the Owner-Occupied Development of the Property.

Consumer Credit Contract is as defined in the CCCFA.

Default Event means an event of default specified in clause 6.2 of the Terms, or an event which, with the giving of notice, lapse of time or satisfaction of any condition, or any combination of them, would constitute such an event.

Drawdown Date is the date you first draw down your Loan.

Environmental Law means any law relating to the environment, land or water use, noise, smell, pollution, or contamination, toxic or hazardous substances, waste disposal or conservation (including the Resource Management Act 1991) and any consent or notice under such law.

Insolvency includes:

- (a) winding-up or dissolution, liquidation, interim liquidation, receivership, statutory management, the declaration to be a corporation at risk under the Corporations (Investigation and Management) Act 1989, administration, reconstruction or the commission of an act of insolvency within the meaning of the Insolvency Act 2006;
- (b) striking-off or removal from the register under the Companies Act, cancellation or suspension of registration, or the happening of any event on which you or a Guarantor is to terminate (under the legislation under which you or Guarantor is incorporated or was established or under its constitutive documents), or the giving of a direction by the registrar under the relevant legislation prohibiting you or a Guarantor from carrying on any activity, or the suspension of the powers of the officers of you or Guarantor, or the suspension of the constitution of you or Guarantor by that registrar;
- (c) assignment for the benefit of creditors, or arrangement or compromise with creditors; and
- (d) any analogous event.

Loan Summary means the document setting out the key terms for your loan (as attached to the front of the Terms).

Owner-Occupied Development means the development to be carried out on the Property that is, or is intended to be, owner-occupied (if any).

PPSA means the Personal Property Securities Act 1999.

Quantity Surveyor means a person approved by us to act as our independent consultant and reports to us as to the progress of the Owner-Occupied Development as we may require.

Secured Property means the property or properties described in clause 10 of the Loan Summary (if any) over which security has been or is to be taken pursuant to any Security Document (and includes any property over which security is taken pursuant to any future Security Document).

Security Document means the document(s) creating a security specified in clause 10 of the Loan Summary and each other agreement or document under or pursuant to which any Borrower Indebtedness and/or other obligations to us (whether or not together with any other indebtedness and/or obligations) are or are to be (or are intended to be) secured.

Special Conditions means the special terms and conditions specified in clause 17 of the Loan Summary.

Valuer means a person we approve to act as an independent valuer under this Agreement.

- 1.2 Terms which are defined in your Loan Summary have the same meanings in the Terms unless the context otherwise requires or unless otherwise defined in the Terms.

2. CONSTRUCTION

- 2.1 In this Agreement, unless the context otherwise requires:

- (a) a party to this Agreement includes that party's successors, executors and administrators and permitted assignees and transferees;
- (b) if more than one person is named as the Borrower and/or Guarantor then, unless the context otherwise requires, reference to the Borrower and/or Guarantor is a reference to each of them separately and to all of them together and each of them is jointly and severally liable for all the obligations of the Borrower and/or Guarantor under this Agreement;
- (c) all references to \$ or money are a reference to New Zealand dollars unless otherwise specified;
- (d) the singular includes the plural and the converse;
- (e) a gender includes all genders; and
- (f) headings, italics and bold text are for convenience only and do not affect interpretation.

3. WHEN CAN THE LOAN BE MADE AVAILABLE

- 3.1 We are only obliged to make the Loan available and/or provide an advance to you if the following are satisfied (and where applicable, in a form acceptable by us in all respects) in our sole discretion;

- (a) no Default Event has occurred and is continuing;
- (b) we receive:
 - (i) originals of your Agreement and Security Document(s) for any new securities specified in clause 10.2 of your Loan Summary signed by each party to it (other than us) and duly registered where necessary;
 - (ii) a registered valuer's report on the Secured Property (if any) addressed to us which is satisfactory to us in all respects;
 - (iii) a certificate from your solicitors and the Guarantors and our solicitor (as applicable) in relation to the Bank Documents in such form we reasonably require;
 - (iv) evidence that each Guarantor has obtained, or waived the right to obtain, independent legal advice;
 - (v) if you or any Guarantor are a company or a trust, a certificate signed by a director of such company or a trustee of each such trust (as the case may be) in the form required by us;

- (vi) information we request for the purposes of complying with our obligations under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009;
- (vii) written confirmation from your insurer that our interest has been noted on the policy in the form we have specified in our letter of instructions;
- (c) repayment of any Borrower Indebtedness if we specify that repayment is required prior to the Drawdown Date in clause 17.2 of your Loan Summary;
- (d) all the Special Conditions including our insurance requirements (if any) have been satisfied;
- (e) any statement made or information provided in connection with a Bank Document is true, accurate, or does not misleading in any material respect;
- (f) no material adverse change has occurred in relation to any party under a Bank Document (other than us); and
- (g) if this is a construction loan, you must also give us:
 - (i) copies of all consents and approvals required from statutory authorities;
 - (ii) a pre-condition certificate from the Quantity Surveyor;
 - (iii) evidence that the construction contracts associated with the Owner-Occupied Development are for a fixed amount or a guaranteed maximum amount and each contractor has been appointed on terms satisfactory to us or any of our professional consultants;
 - (iv) a report from the Quantity Surveyor addressed to us confirming that:
 - (1) in the event of a dispute between you and us, our position will be paramount;
 - (2) the construction contract for the Owner-Occupied Development is in a commercially acceptable format to complete the Owner-Occupied Development and is for a fixed price;
 - (3) the construction budget and contingency sums are adequate and sufficient to complete the Owner-Occupied Development;
 - (4) the construction timeframe is achievable and that the works and titles can be issued prior to expiry of the Loan and any sunset dates;
 - (5) the contractor has the ability to complete the Owner-Occupied Development;
 - (6) all resource management and local body consents have issued for the Owner-Occupied Development and are still current;
 - (7) the project documentation complies with the Construction Contracts Act 2002;
 - (8) any performance bonds issued in your favour by any contractor evidencing the performance of the contractor's obligations under the construction contract are assigned to us;
 - (9) the contractor has provided an acknowledgement that they will allow us the right to remedy any breach by you under the construction contract prior to cancellation;
 - (10) provisional sums are not to exceed 5% of the final fixed price lump sum in the construction contract, unless we otherwise agree in writing;
 - (11) adequate contract works insurance is in place with our interest noted;
- (h) if this is a construction loan, we must also be satisfied that:
 - (i) you have paid any cost overruns identified by the Valuer;

- (ii) the Valuer confirms all matters relating to the progress of the Owner-Occupied Development as we require, including certification as to the value and cost of work completed and the cost to complete the Owner-Occupied Development for each respective drawing;
- (iii) the Loan (after you make a drawing) will not exceed 55% of the value of the Property; and
- (i) we are satisfied in our absolute discretion of any other matter.

- 3.2 If the Loan is not drawn down within one month of the Agreement, then we may in our absolute discretion and without notice to you cancel all or part of the Loan either immediately or at any time afterwards and retain any fee charged in relation to it. Where we do so, we will have no further liability to you in relation to the Loan.
- 3.3 You may only use the Loan for the Purpose (as defined in clause 1.2 of your Loan Summary).
- 3.4 To make a drawing, you must provide at least two Business Days' notice to us. To provide the advance, we must be satisfied and continue to be satisfied with all items described in clause 3.1 of the Terms.
- 3.5 Any drawing of the Loan will be applied by us first, in payment of any fees payable under the Agreement, secondly in repayment of any Borrower Indebtedness (as set out in clause 17.2 of the Loan Summary), if applicable.

4. YOUR PAYMENTS

- 4.1 You will make all payments under any Bank Document at our Auckland Branch or at any other place we specify, in freely transferable cleared funds and otherwise in the manner we specify.
- 4.2 All payments must be made in the currency in which the Loan was advanced.
- 4.3 All payments to be made by you to us must be made on a Business Day and by:
- (a) 4.30 pm on that day if the Loan is provided in New Zealand dollars; or
 - (b) 12.00 noon on that day if the Loan is provided in a currency other than New Zealand dollars.
- 4.4 If a date for payment is not a Business Day, that payment must be made on the following Business Day.
- 4.5 You agree that the Loan repayment, interest and other payment details set out in your Loan Summary and any further payment details related to the Bank Documents are worked out as at the Statement Date. Those details are indicative and they may differ from the actual amounts payable under this Agreement. They are disclosed for the purposes of CCCFA.
- 4.6 In addition to the fees and charges included in your Loan Summary, you will also pay us all other fees and charges for incidental services provided by us to you relating to the Loan or the Bank Documents, including default fees, in the amounts notified by us to you from time to time. A schedule of our fees is available at our Auckland Branch and on our website at <https://kbglobal.kbstar.com/auc/main>.

5. IF YOU WANT TO REPAY THE LOAN EARLY

- 5.1 You may prepay all or part of the Loan, provided that any amount repaid will be applied first in payment of outstanding interest and other amounts owing to us and secondly in payment of the amount of the Loan outstanding.
- 5.2 On the date of prepayment, you may also be required to pay a Prepayment Administration Fee and/or the Prepayment Amount (see clause 8 of the Loan Summary). The Prepayment Amount applies during the Fixed Interest Period only.
- 5.3 The Prepayment Amount also applies if you default on your Loan and we receive a payment of the default amount during the Fixed Interest Period.

5.4 If you make an early repayment during the Fixed Interest Period, you may be charged the Prepayment Amount.

5.5 No amount prepaid under this clause may be re-borrowed.

6. WHEN WE CAN TAKE ENFORCEMENT ACTION AGAINST YOU

6.1 If any of the Default Events specified in clause 6.2 of the Terms occur:

- (a) we may give you a notice demanding immediate repayment of the Loan and payment of the interest and other amounts payable under the Agreement and / or the other Bank Documents and may exercise all of our other rights under the Agreement or the other Bank Documents and at law, and
- (b) you must repay the Loan and pay all accrued interest and interest due and all other amounts due under the Agreement and the Bank Documents at the time and in the manner specified in our notice of demand.

6.2 Each of the following events is a Default Event:

- (a) if you fail to pay any amount due to us (time being of the essence) under a Bank Document;
- (b) if you fail to comply with an obligation (other than a payment obligation) under a Bank Document;
- (c) any representation or warranty by you made or deemed to be made in a Bank Document, or other information provided by or your behalf to us, is incorrect, untrue, misleading or deceptive in any material respect when made or deemed to be made;
- (d) an amount you owe to someone else is not paid when due or becomes due or capable of being declared due and payable before its stated maturity, or any facility or obligation to provide loans or credit to you is terminated early or suspended, or capable of being terminated or suspended early, or any security affecting the Secured Property is enforced or becomes enforceable;
- (e) an authorisation that is necessary for you to perform an obligation under the Agreement or another Bank Document (or to make your obligations under the Agreement or another Bank Document enforceable) is cancelled or changed in a way that, in our opinion, has or could have a material adverse effect on your ability to comply with that obligation or on our rights under this Agreement or another Bank Document. This includes, without limitation, if any building consent or resource consent issued in respect of the Owner-Occupied Development lapses, is revoked, cancelled, withdrawn or modified in a way unacceptable to us or the Quantity Surveyor;
- (f) an order or judgment requiring you to pay an amount is not complied with within 7 days (unless, in good faith, you appeal against the order or judgment);
- (g) a part of this Agreement or another Bank Document is or becomes (or is claimed to be) illegal, unenforceable, invalid or of limited force or effect or a party becomes (or claims to be) entitled to terminate, limit, cancel, rescind or avoid all or any part of any such document;
- (h) it is or becomes (or is claimed to be) illegal or impossible for you to comply with any or all of your obligations under this Agreement or another Bank Document;
- (i) it is or becomes (or is claimed to be) illegal or impossible for us to fund or continue to make the Loan available to you;
- (j) you give notice terminating your obligations;
- (k) you die or cease to be of full legal capacity, or are unable to pay your debts or are deemed or presumed to be unable to pay your debts, or stop or threaten to stop or suspend payment of all or any class of your debts;

- (l) any step is taken for your Insolvency or for any distress, attachment, execution or other legal process against any of your assets;
- (m) if you are a company, without our prior written consent:
 - (i) you have a creditor's committee, investigating accountant or person with similar powers appointed to investigate your affairs;
 - (ii) any share in you is transferred;
 - (iii) your shareholders at the date of this Agreement cease being the beneficial owners of any of the shares;
 - (iv) one of your shareholders gives notice to you requiring you to repurchase that shareholder's shares pursuant to section 111 of the Companies Act;
 - (v) a proposal is made or a resolution is passed to amalgamate you with another company under the Companies Act;
 - (vi) an investigation into all or part of your affairs commences under companies legislation in circumstances material to your financial condition;
 - (vii) a resolution is proposed in a notice of meeting so as to prevent or restrict the calling up of any of your unpaid capital; or
 - (viii) an order is made requiring you to pay or contribute to any debts of another company;
- (n) all or any part of the Secured Property is compulsorily acquired or any step is taken for acquisition or possession by any holder of a security over the Secured Property other than us;
- (o) any event or series of events (whether related or not) occurs which in our opinion has or could have a material adverse effect on your ability to comply with your obligations under a Bank Document, our security position, the Owner-Occupied Development (if applicable) and/or on your financial condition. If this is a construction loan, this includes without limitation, any claim or requirement of substantial expenditure or of cessation or alteration of activity under any Environmental Law in respect of the Property or if any governmental agency takes action under any Environmental Law and this has, or will be reasonably likely to have, a material adverse effect on you or the Owner-Occupied Development; and
- (p) any event specified in the preceding clauses of this clause 6.2 occurs with respect of any other parties to the Bank Documents other than us (e.g. the Guarantor) as if references in those sub-clauses to you were references to that party.

7. ADDITIONAL TERMS FOR SECURITY DOCUMENTS

- 7.1 You must not create or allow the creation of, or allow to remain any instrument, mortgage, encumbrance, charge or security interest in the Secured Property without our prior written consent.
- 7.2 If we reasonably request, you agree at your expense to provide or procure the provision to us of a current registered valuation of any property given as security and other financial information to verify current income or servicing requirements.
- 7.3 You must insure and keep insured all of the property which we require as security for the Loan for full insurable value in accordance with our insurance requirements as advised to you from time to time including that our interest as mortgagee must be noted on each policy. If this is a construction loan, this includes, without limitation, taking out for full replacement value, contract works insurance for the entire construction period, material damage insurance immediately upon completion of the construction works, and where applicable under the Unit Titles Act 2010, principal insurance and mortgage redemption insurance with an insurer approved by us.
- 7.4 You agree that you will, immediately upon our request, take any steps necessary obtain from any person any and all agreements and waivers we determine are necessary to protect any security interest granted to us pursuant to a Security Document.

8. IF YOU ARE A TRUSTEE – YOUR LIABILITY & WARRANTIES

- 8.1 If a Guarantor is described as a trust (or trustee(s) acting in relation to a trust) in this Agreement or a Bank Document, each Bank Document to which it is party will bind each trustee of that trust. Each trustee will also be bound personally unless that trustee is an independent trustee.
- 8.2 Each trustee warrants that he or she:
- (a) has the power to enter into this Agreement and each other Bank Document either under the terms of the trust document or under the powers given to him or her by the Trusts Act 2019;
 - (b) has or will have properly signed each Bank Document in accordance with the terms of the trust; and
 - (c) has a right of indemnity from the trust assets; and
 - (d) the details of the trust for the Borrower or Guarantors (as applicable) in the Agreement are correct.
- 8.3 We may bring proceedings against a trustee for breach of warranty if any of the above warranties are incorrect.
- 8.4 Our rights against a trustee will be limited only if the trustee is an independent trustee. In that case, we will only be entitled to recover amounts from that trustee's personal assets if we are not able to recover any amounts from the trust assets because any of the representations and warranties given by the trustee are incorrect. We will only be entitled to recover from the trustee's personal assets the amount we would have recovered from the trust assets had those representations and warranties been correct.
- 8.5 Where a trustee is not an independent trustee, we may seek to recover any amounts from that trustee's personal assets as well as from trust assets.
- 8.6 For the purposes of this clause 8, a trustee is an independent trustee unless that trustee has any right to or interest in any of the assets of the trust except in their capacity as trustee of the trust.
- 8.7 Where a Guarantor is a trust (or trustee(s) acting in relation to a trust), in addition to their other obligations under the Bank Documents, the trustees will ensure that (unless we consent otherwise in writing):
- (a) the trust deed is not amended or revoked;
 - (b) no existing trustee is removed or retires as trustee of the trust;
 - (c) no new or additional trustee of the trust is appointed;
 - (d) the trustees duly and punctually comply with their obligations under the trust deed;
 - (e) no vesting date under the trust deed is determined during the term of this Agreement; and
 - (f) no restriction or limitation on the right of indemnity of any trustee of the trust is created.

9. DEDUCTIONS FROM PAYMENTS

- 9.1 You must not make any payment subject to any condition, restriction or claim you have or may have against us. You may only make a withholding or deduction from money you pay to us under the Agreement or any other Bank Document if that withholding or deduction is required by law. If the law requires you to make a withholding or deduction, the following rules apply:
- (a) you must make sure that the withholding or deduction is for not more than the minimum amount required by that law;
 - (b) you must make sure that the withholding or deduction is paid to the relevant revenue or governmental agency by the due date for payment;

- (c) you must send us, within 30 days of the withholding or deduction, a receipt showing that the withholding or deduction has been paid to the relevant revenue or governmental agency; and
- (d) you must increase the amount you pay to us, so that we receive the amount we would have received had there been no withholding or deduction.

9.2 If the law requires that we make a deduction or withholding from any amount received or receivable by us under the Agreement or any other Bank Document (including any sum received or receivable under this clause 9.2, and excluding any tax on our overall net income) then you must increase the amount you pay us so that we receive the amount we would have received had there been no withholding or deduction.

9.3 If:

- (a) we (or any person on our behalf) are required by law to make a deduction or withholding for, or on account of, tax or on any other account from an amount paid or payable to a person from whom we have borrowed or obtained moneys to enable us to fund the Loan or any other payment by us under the Agreement or any other Bank Document, and
- (b) as a result we are required to increase our payment, or makes an additional payment, to that person or to a taxation authority,

you indemnify us against that increased or additional payment and must, on demand by us, pay us the amount which, after receiving that amount and making that increased or additional payment, will place us in the same position in which we would have been had no increased or additional payment been made.

10. CHANGE IN CIRCUMSTANCES

Increased costs

10.1 If as a result of:

- (a) our compliance with any law; or
 - (b) any change in or introduction of any law or change in the interpretation or application of any law by any governmental agency or court which:
 - (i) imposes, modifies or deems applicable any reserve, capital adequacy, prudential deposit, liquidity or similar requirement against assets of, or deposits with, any one of our branches;
 - (ii) imposes on us any other requirement with respect to this Agreement or any other Bank Document; or
 - (iii) changes the risk weighting for capital adequacy purposes of the Loan,
- any of the following occur:
- (i) the cost to us of making, funding or maintaining the Loan is increased; or
 - (ii) the moneys payable to us or the effective return to us under or in connection with this Agreement is reduced; or
 - (iii) we make any payment or forego any interest or other return on, or calculated by reference to, any sum received or receivable by it under any Bank Document; or
 - (iv) we are unable to obtain the rate of return on capital (including any notional return on capital calculated on a risk adjusted basis) which we would have received at the date of this Agreement,

then:

- (a) we will use our reasonable efforts promptly to notify you in writing of those events, provided that failure to do so will not affect our rights under this clause; and

- (b) you must pay on demand, from time to time, for our account, the amount certified by us which will compensate us for our increased cost, reduction, payment or foregone interest or other return.

10.2 Your obligations under clause 10.1 will survive termination of the Loan and payment or repayment of all amounts outstanding under the Bank Documents.

11. INDEMNITY

11.1 You indemnify us upon demand against any loss, cost (including legal costs and disbursements on a solicitor and own client basis), expense, charge, damage, claim or liability which we may suffer or incur as a consequence of:

- (a) the occurrence of a Default Event;
- (b) the exercise, contemplated exercise or attempted exercise of, or the failure to exercise, any power, right, authority, discretion or remedy under or in connection with any Bank Document;
- (c) the receipt of any amount to be paid under any Bank Document on a date other than the due date; or
- (d) a Loan advance requested by you not being made for any reason (excluding our default) on the date notified by you to us as a drawdown date.

11.2 Without limitation, the indemnity you have given in clause 11.1 will extend to:

- (a) any losses, costs, penalties and expenses incurred by reason of the liquidation or re-employment of deposits or other funds acquired or contracted for by us (including loss of margin), and
- (b) any losses, costs, penalties and expenses which may be incurred by us in:
 - (i) terminating any options or forward rate agreements or interest or currency swap contracts entered into in connection with the Loan; or
 - (ii) in entering into any new contracts which we deem appropriate to protect the return we would otherwise have expected under this Agreement.

11.3 If for any reason:

- (a) we receive or recover an amount under a Bank Document in a currency other than the currency in which we should have been paid and, after we have converted that other currency to the correct currency there is not enough to pay off the full amount then due under the Bank Document; or
- (b) we obtain any judgment or court order against you in a currency other than the currency in which the amounts outstanding are due, and we incur any loss from the conversion of any amount actually received by us from that other currency to the correct currency,

then, as a separate and independent indemnity obligation, you must pay us the full amount of any shortfall or of any such loss we incur.

11.4 The indemnities in this clause 11 are unconditional and irrevocable and will survive termination of the Loan and payment of all amounts outstanding under the Bank Documents and the release of any security under the Security Documents and will not be discharged or impaired by any act, omission, matter or thing which might discharge them but for this provision.

11.5 You agree that the fees set out in this Agreement are a genuine pre-estimate of the actual loss suffered by us as a result of your breach of this Agreement and are fair and reasonable in all respects.

12. SET OFF AND COMBINATION

- 12.1 If you have any money in any account with us, we may choose to apply any amounts (whether or not due and payable) to which you are entitled to on any account (in any currency) and at any of our offices, in or towards satisfaction of any amounts then due and payable by you but unpaid.
- 12.2 To the maximum extent allowed by law, you give up any right to set off any amounts we owe to you against amounts owing under the Bank Documents.
- 12.3 If at any time an amount is contingently due from you or an amount due is not quantified, we may retain and withhold repayment of any money in any account you have with us and the payment of interest or other moneys pending that amount becoming due and/or being quantified. Further, we may set off against such credit balance, the maximum liability which may at any time be or become owing to us by you and in each case without prior notice or demand.
- 12.4 Subject to any applicable Bank Document, where you have two or more accounts with us:
- (a) we may at any time combine any two or more of those accounts. We may do so without notice and whether or not it has allowed a set-off for a calculation of interest between any of those accounts;
 - (b) we may at any time combine any two or more of those accounts even where one or more of the combined accounts are in different currencies and may effect currency exchanges appropriate to implement that combination; and
 - (c) if we combine two or more accounts, we may decline to pay cheques and it may otherwise act as if the combined accounts had always been one account.
- 12.5 Our rights under this clause 12 are contractual rights affecting the terms upon which a credit balance is held and the creation of those rights does not constitute the creation of a security interest in respect of that credit balance.
- 12.6 Any moneys which, pursuant to a Bank Document, are deposited at any time by you with us (or withheld by us from a payment to you and retained on deposit with us) will be held on the following basis:
- (a) each deposit and all of your rights relating to it must be incapable of assignment by you or of being the subject of a security interest (as defined in the Personal Property Securities Act 1999) except in our favour or with our prior written consent; and
 - (b) you will have no right to withdraw any moneys from a deposit until all of your obligations under the Bank Documents (present and future, direct and contingent) have been performed and complied with, except:
 - (i) for the purpose of complying with its obligations under the Bank Documents; or
 - (ii) with our prior written consent.
- 12.7 Each amount deposited with us under clause 12.6 will (unless otherwise agreed) bear interest calculated by reference to successive deposit periods of a duration agreed between us (or, in the absence of agreement, as we may nominate). The rate of interest applicable to a deposit period will be as agreed between us (or, in the absence of agreement, as we certify as applicable to deposits of similar size and maturity placed with us by our customers).
- 12.8 For the purposes of clause 12, you authorise us to break any term deposit and use all or any part of any credit balance to buy such other currencies as we reasonably consider necessary to effect the application of any amounts then due and payable by you but unpaid. Our rights under this clause 12, are without prejudice and in addition to any other right we have under any Security Document and any right of set-off, combination of accounts, lien or other right to which we are at any time otherwise entitled by law, contract or otherwise.

13. WHAT YOU WARRANT AND UNDERTAKE TO US

13.1 You represent and warrant to us that:

- (a) you are not in default under any agreement relating to you or your assets;
- (b) no legal proceedings have been commenced or threatened against you and you are not under investigation by any tax authority;
- (c) all the information provided to us by you in connection with this Agreement is in all material respects true and correct and not misleading in any material respect;
- (d) there is no information about your affairs which, if disclosed to us, might have or have had an adverse effect on our decision to make the Loan available to you; and
- (e) none of the Default Events in clause 6.2 has occurred and is continuing.

13.2 If this is a construction loan, you also agree:

- (a) there is no circumstance (including any act or omission) relating to some or all of your business or assets which has given rise, or may give rise, to a material claim against you or a requirement of substantial expenditure or the cessation or alteration of any material activity under or as a result of the application of any Environmental Law (including all necessary consents and approvals required for the Owner-Occupied Development under any Environmental Law being obtained and implemented within the required timeframes of any Environmental Law);
- (b) neither the Property nor any activity currently or previously conducted on the Property:
 - (i) is in breach of any Environmental Law or any order or direction made under any Environmental Law in respect of the Property or the use of the Property;
 - (ii) is affected by any environmental liability;
 - (iii) otherwise constitutes an environmental hazard;
 which, after due enquiry would be likely to give rise to a material claim against you;
- (c) no fact or circumstance exists in relation to the Property arising out of the ownership, occupation or control of the Property by you or by any previous occupier or controller of the Property being liable to be served with an order, notice or direction or to be dealt with or subjected to a penalty or fine under any Environmental Law or liable for the cost of clean-up or other treatment of any containment on the Property;
- (d) all necessary consents (such as resource consents or building consents) required for the Owner-Occupied Development) and other authorisations are in full and effect;
- (e) you comply with all applicable New Zealand laws, including the Resource Management Act 1991 and the Building Act 2004.

13.3 You will be deemed to have repeated the representations and warranties in clauses 13.1 and 13.2 (if applicable) on each day that a payment is required to be made under this Agreement or any other Bank Document.

13.4 Both you and each Guarantor undertake to us to:

- (a) advise us in writing if the party becomes aware of:
 - (i) the happening of any of any Default Event; or
 - (ii) anything happening which would make any of the representations and warranties in clauses 13.1 and 13.2 (if applicable) untrue, incorrect or misleading; and

- (b) provide us with such information about you and about each Guarantor's, financial condition as we may request.

13.5 If this is a construction loan, you also agree that you will:

- (a) make sure all work on the Owner-Occupied Development is completed on time and provide monthly progress reports of the work completed to date;
- (b) fund any cost overruns, variations, contingencies, retentions and bonding from sources other than the Loan. You agree that we have no obligation to fund these costs;
- (c) pay to all third parties for their work on the Owner-Occupied Development unless that third party breaches its obligations and as a result of such breach you are entitled, pursuant to a contract with them, or as you are instructed or advised, to withhold such payment;
- (d) notify us in writing within one business day if:
 - (i) the contractor gives notice suspending work on the Owner-Occupied Development; or
 - (ii) any dispute between you and the contractor is referred to adjudication within the meaning of the Construction Contracts Act 2002.

14. CHANGES TO YOUR AGREEMENT

- 14.1 **Fixed Interest Periods:** You may ask us (and we may agree at our discretion) to quote a fixed interest rate for a further period or periods beyond the Fixed Interest Period. If we both agree to a new fixed interest rate and period in writing, that agreed rate will apply during that further fixed rate period or periods.
- 14.2 **Changes to this Agreement:** You may ask us to amend this Agreement, including the Loan Term (as defined in clause 3 of your Loan Summary) and we may agree at our discretion (unless you are making a hardship application – see clause 14 of the Loan Summary, in which case we must consider your application). If we agree to amend the Loan Agreement, we will require you and any Guarantor to enter into a deed confirming this. All of the terms set out in this agreement will continue to apply to the Loan. A Variation Fee may be payable in respect of this (see our Fees and Charges Brochure).
- 14.3 **When we make changes:** If we are permitted at law to vary a term in this Agreement and we choose to do so without getting your agreement, we will provide you with 14 days' prior notice of any change in one or more of the following ways:
- (a) writing to you at the last physical or email address you have provided us;
 - (b) advertising in the media (including public notices);
 - (c) display in our Auckland Branch;
 - (d) display on our website; or
 - (e) in any other way we are permitted at law to do.
- 14.4 Except as otherwise provided for in this Agreement, no change to any Bank Document will be effective unless it is agreed in writing and signed by all parties to that Bank Document.

15. HOW WE COMMUNICATE WITH YOU

- 15.1 Any notice, certificate or other correspondence in connection with this Agreement, the Loan and/or any other Bank Document to be given, provided or sent by us to you or to a Guarantor shall be sent to your address or the Guarantor's address, as the case may be, or to such other address as may from time to time be given by notice from you or the Guarantor to us. You agree that this may include us sending you an email to the most recent email address you have provided to us, with a copy of a statement and/or other information (including your Loan Summary and the Terms) or service, attached to the email in PDF form.

- 15.2 Any such notice, certificate or other correspondence shall be deemed to have been duly given or sent, in the case of a communication by letter on the day after being posted by fastpost, correctly addressed and stamped or, if given by hand, when actually delivered by personal delivery to the addresses specified in this clause. You agree that electronic communication is treated as being received by you at the time it leaves our information system.
- 15.3 If more than one person is named as the Borrower or Guarantor, service on one of those persons is service on all of them.
16. **OTHER GENERAL MATTERS APPLYING TO YOUR LOAN AGREEMENT**
- 16.1 **Disclosure:** You authorise us to disclose and discuss your financial statements and financial affairs at any time with both our and your respective accountants, auditors, legal and financial advisers, any guarantor of your indebtedness or other obligations to us and our parent, subsidiary or related companies. Nothing in this clause requires us to provide any of your information to any person.
- 16.2 **Merger:** If an amount you must pay becomes merged in a court order, you must, as a separate obligation, pay interest on that amount from the date the amount became payable until it is paid. The rate of interest is the Interest Rate or the rate in the court order, whichever is higher. The interest is calculated daily and is payable on demand. If it is not paid on time it is immediately capitalised. This obligation is not affected by the court order.
- 16.3 **Consent:** We may give or withhold a consent under this Bank Document at our discretion and may give consent on any conditions we like.
- 16.4 **Use of money received from you:** Except as otherwise provided for in this Agreement, we can apply any money in any account with us or another money received from you as we see fit as between principal, interest and other amounts owing under your Agreement. This applies despite any instructions from you to the contrary.
- 16.5 **Evidence of Amount Secured:** A certificate signed by us concerning the amount owing under any Bank Document or anything else arising out of it is conclusive evidence of what it states, except in the case of obvious error. You will not object to its admission in legal proceedings.
- 16.6 **Other Rights Not Affected:** Our rights and remedies under each Bank Document are in addition to any other rights and remedies we may have at law or under any other document either you or a Guarantor may have signed.
- 16.7 **Extension of Obligations:** If this Agreement imposes an obligation on you not to do something, you must make sure that no one else does it either. You must immediately do anything that we request to bind you to this Agreement or to protect our rights under it.
- 16.8 **Assignment:** We may assign any of our rights under any Bank Document. We may disclose, on a confidential basis to a potential assignee, transferee or other person with whom we have or may contemplate having contractual relations in connection with the Agreement or any Bank Document, any information we have about you whether or not that information was obtained in confidence and whether or not that information is publicly available. If we do assign or transfer to another person we will disclose to you relevant information as required by law. You may only assign your rights under any Bank Document with our prior written consent which we may withhold or grant in our sole discretion.
- 16.9 **Waiver:** The fact that we fail to do, or delay in doing, something we are entitled to do under this Agreement does not amount to a waiver of our right to do it. A waiver by us is effective only if it is in writing.
- 16.10 **Completion of this Document:** You irrevocably authorise us to date this Agreement and each Security Document and to fill in any blanks herein.
- 16.11 **Entire Agreement:** This Agreement contains everything we have agreed upon in relation to the matters it deals with. To the extent permitted by law, you cannot rely on an earlier document, or on anything we have said or done (or that has been said or done by any of our officers, agents or employees) before you signed this Agreement.

- 16.12 **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of New Zealand. You, and each Guarantor, submit to the non-exclusive jurisdiction of the courts of New Zealand.
- 16.13 **Partial Invalidity:** If, at any time, any provision of this Agreement becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction then that provision shall be severed from this Agreement and the legality, validity or enforceability of the remaining provisions of this Agreement under the law of any jurisdiction shall not in any way be affected or impaired thereby.
- 16.14 **Joint and Several Obligations:** Where you and/or a Guarantor consist of more than one person, your obligations and/or the obligations of the Guarantor (as applicable) shall be joint and several.
- 16.15 **Terms of this Agreement to Prevail:** To the extent that any provision of:
- (a) This Agreement or any other Bank Document and any previous correspondence relating to the Loan conflict, the relevant provision of this Agreement shall prevail.
 - (b) The Loan Summary and the Terms conflict, the relevant provision of the Loan Summary shall prevail.