



**FUTURE  
FINANCE**

# **Consumer Loans** **Terms & Conditions**



[futurefinance.co.nz](http://futurefinance.co.nz)

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**APPLICANT(S)**

Borrower's Name (s)

Date of Birth

**GUARANTOR(S)**

Guarantor's Name(s)

Date of Birth

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**PRIVACY WAIVER**

As part of the application for a loan, we require you to sign the following privacy consent and waiver. If the information required below is not provided, we cannot consider your loan further.

**Credit Reporter**

The credit reporter we use is Equifax New Zealand Information Services and Solutions (Equifax) and its address is Level 8, 22 Fanshawe Street, Auckland 1010.

I/We BorrowerNames understand that you Future Finance Limited are asking me for personal information about me so as to use Equifax Advantage's credit reporting service to credit check me/us including to verify my/our identify as you may be required to do by laws such as the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 ('AML Laws'). I understand that:

- Equifax will give you information about me/us for that purpose.
- You will give my/our personal information to Equifax, and that Equifax will hold that information on their systems and use it to provide their credit reporting service.
- When other Equifax customers use the Equifax credit reporting service Equifax may give the information to those customers including for the purposes of assisting customers to verify my/our identity as they may be required to do by AML laws and we authorise Equifax to do so.
- I/We consent to Equifax (or the Ministry of Justice) disclosing to you any information they hold relating to any overdue fines that may be outstanding against me/us.
- You may use Equifax's credit reporting services in the future for purposes related to the provision of credit to me/us. This may include using Equifax's monitoring services to receive updates if any of the information held about me/us changes.
- If I/we default in my/our payment obligations to you, information about that default may be given to Equifax, and Equifax may give information about my/our default to other Equifax customers.
- If you ask me/us to provide you with my/our driver's licence number/s to help you confirm my/our identity, I/we understand that you may pass this information on to Equifax. I/We understand that disclosure of my/our driver's licence number/s to Equifax is voluntary.

**Other Sources and Holders of Information**

1. I/We agree that these terms will apply to the marketing, consideration and provision of finance by Future Finance Limited (the "lender").
2. I/We consent to the personal information provided in support of the application (whether in this document or otherwise) being received, assessed and held by the lender and to the information being used from time to time by the lender for all or any of the following purposes:
  - a. For the lender to decide whether or not to grant a loan or on my application to vary an existing loan agreement.
  - b. Administering the loan.
  - c. Enforcing payment and other legal obligations.
  - d. To check, verify and exchange (both now and in the future) personal, residential, contact, financial and commercial information.
  - e. Supplying the borrower and guarantor with information about services offered by the finance company or which the lender otherwise considers may be of interest to me/us.
3. I/We acknowledge and authorise that the lender may provide and obtain information for the purposes set out in paragraph 2 above to or from any individual or organisation, including but not limited to, Equifax, any financial or insurance institution, bank, Regional and District Council, Government Department or Agency, my/our Employer/s, Accountant and Landlords (both now and in the future), my/our Mortgagees, their respective Solicitors and any Real Estate/Rental Agencies.
4. I/We authorise you to disclose the information to any third party who has or may have in the future a financial interest in my/our loan.
5. I/we hereby authorise the lender to access my driver licence record using the New Zealand Transport Agency's Driver Check Service and for the lender to re-check my/our licence(s) during the term of the loan.

Driver Check allows the user to access the following information about your driver licence:

- The licence classes you hold , eg a class 4 licence to drive heavy trucks
  - The licence endorsements you hold, eg a D endorsement to carry dangerous goods
  - The conditions on your licence, eg the requirement to wear corrective lenses when driving
  - The status of your licence, eg current, expired, suspended, disqualified, revoked or reinstated
6. Each borrower is aware and agrees specifically that the lender provide to the guarantor any information used by the lender which the lender considers should be provided also to the guarantor.
  7. I/We promise that the information given in this application is correct to my/our best knowledge, information and belief.
  8. I/We agree that if I/we provide the lender with electronic contact details (e.g. a mobile number or email address), the lender may send me/us commercial electronic messages.

We note that under the Privacy Act 1993 I am/we are entitled to request access to, and (if required) correction of, any personal information held about me/us by the lender.

# Sign-up Form



Loan Contract Number \_\_\_\_\_

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## **BORROWER(S)** (this is who we call **you** in this Agreement)

Name(s) \_\_\_\_\_

I/We [BorrowerNames] state:

- 1 On the [Document.Date] I have received from Future Finance Limited (“the lender”) a copy of a loan agreement, which is comprised of:
  - a. This finance application.
  - b. Loan and Security Agreement and Disclosure Statement.
  - c. Loan Agreement Terms and Conditions.
  - d. Guaranteed Asset Protection Waiver Agreement Appendix, including the GAP Waiver Benefits and GAP Waiver Terms and Conditions (if I accepted those optional benefits) or a decline document (if I declined those optional benefits).
  - e. Repayment Waiver Agreement Appendix, including the Repayment Waiver Benefits and Repayment Waiver Terms and Conditions (if I accepted those optional benefits) or a decline document (if I declined those optional benefits).
  - f. Guarantee if there is a guarantor.
- 2 I have read the terms of the loan agreement and have particularly noted the Loan and Security Agreement, Disclosure Statement and Guarantee (if there is a Guarantor), (including the Borrower’s Agreements and Acknowledgments) which warns me about some of my obligations and some of the lender’s rights. If I have entered into either type of Waiver Agreement, I note that the cost is shown in the Disclosure Statement.
- 3 I/we (jointly and severally if more than one of us) acknowledge that on receipt of the loan money I/we will owe to the lender the initial unpaid balance set out in the Disclosure Statement and I/we promise to pay that amount plus interest and any other amounts due under the documents listed above and otherwise promise to comply with the terms and conditions of those documents and any variations and acknowledge that those documents bind me/us.

By signing below, you acknowledge and agree that (if this finance application is accepted by the lender) a loan agreement will immediately be formed on the terms of the documents listed above.

Borrower’s Signature \_\_\_\_\_

## **GUARANTOR’S SIGNATURE TO GUARANTEE**

**GUARANTOR(S)** (this is who we call **you** in this Agreement)

Name(s) \_\_\_\_\_

I/We [GuarantorNames] state that on [Document.Date] I have received a copy of each of the documents listed in paragraph 1 above. I have read the terms of the loan agreement and have particularly noted the Loan Agreement, Disclosure Statement (including the Guarantor’s Agreements and Acknowledgments), the Terms and Conditions and the Guarantee which warns me about some of my obligations and some of the lender’s rights.

In consideration of Future Finance Limited making the above described loan to the borrowers I guarantee payment of the loan and performance of the obligations of the borrower(s) in accordance with the terms of the documents referred to above. If I own the collateral and/or land specified in the documents referred to above, I agree to grant a security interest and/or mortgage in that property to the lender (meaning that the lender may have become entitled to repossess and sell that property).

By signing below, you acknowledge and agree that (if this finance application is accepted by the lender) a loan agreement will immediately be formed on the terms of the documents listed above (including the guarantee).

Guarantor’s Signature \_\_\_\_\_

Witness Signature (where applicable) \_\_\_\_\_

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# Loan & Security Agreement, Guarantee & Disclosure Statement



Loan Contract Number \_\_\_\_\_

This contract is made BETWEEN Future Finance Limited (together with its successors and assigns called “the lender” or “we”) AND the borrowers and the guarantors (also referred to as “you”) (in each case together with their executors and administrators) described below.

## BACKGROUND

The lender has agreed to lend to the borrowers the initial unpaid balance shown in the disclosure statement and any subsequent advances agreed from time to time. The borrowers (and guarantors if any) shown as the owners of the collateral and/or land have agreed to grant a security interest and/or mortgage in that property 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 disclosure statement and promise to pay that amount and any other amounts due under this contract in the manner set out in the disclosure statement and other terms of this contract and any variations of them and otherwise promise to comply with the terms and conditions of this contract.

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## PARTIES TO THIS CONTRACT

**LENDER** (we are the person making the Loan to you)

Future Finance Limited

Level 1, 100 McLeod Street, Hastings 4120

P O Box 2056, Stortford Lodge, Hastings 4153

Email: docs@futurefinance.co.nz

Phone: 0800 25 10 30

Fax: 0800 25 10 40

**BORROWER(S)** (this is who we call **you** in this Agreement)

Name:

Physical Address:

**GUARANTOR(S)** (also called **you** in this Agreement)

Name:

Physical Address:

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## THE BORROWER'S AGREEMENTS AND ACKNOWLEDGEMENTS

By signing this loan agreement you make the following promises and acknowledgements to us:

- 1 I have been advised that by signing the loan and security agreement I become liable for repayment of the loan in full.
- 2 I have been advised to obtain independent legal advice as to my obligations and the lender's rights contained herein. I have been asked to take the time to obtain advice before signing the loan agreement.
- 3 I promise to the lender that I have the financial ability to pay any instalments due under the loan agreement and to make the final payment. I have thought about this carefully.
- 4 I acknowledge that the borrower and guarantor are both liable to repay the money secured and to carry out the obligations in this contract. This means the lender may claim the money secured including the total amount payable from one of us or all of us.
- 5 I understand that if I provide personal property as collateral (e.g. a car or other goods or company shares) as security and if I do not pay, that car or goods or other collateral may be seized (if the lender does not already hold it) and sold to pay the debt.
- 6 I understand that if I provide land as security, the lender may lodge a caveat against the title to that land and may also register a mortgage and may sell that land if I do not pay the money secured.

## THE GUARANTOR'S AGREEMENTS AND ACKNOWLEDGEMENTS

By signing this agreement, each guarantor makes the same promises and acknowledgements to the lender as if he or she is a borrower (1-6 above) and as set out in the Guarantee.

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# DISCLOSURE STATEMENT FOR CONSUMER CREDIT CONTRACT

The date of the Statement

The information in this disclosure statement is provided as at the date the loan is advanced to you.

**This is important.** This document sets out important information about your consumer credit contract. You should read it very carefully.

**If you do not understand anything in this document you should seek independent advice.**

You should keep this disclosure statement and a copy of your credit contract in a safe place.

The law gives you a limited right to cancel the consumer credit contract (see below for further details). **Note that strict time limits apply.**

## FULL NAME AND ADDRESS OF LENDER (called **we** or **us** or **the lender** – this is the person providing you the credit)

You can send notices to us under this Agreement by:

- writing to us at our postal address
- sending a fax to the number specified
- sending an email to our email address

Name	Future Finance Limited
Physical Address	Level 1, 100 McLeod Street, Hastings 4120
Postal Address	P O Box 2056, Stortford Lodge, Hastings 4153
Fax	0800 25 10 40
Email	docs@futurefinance.co.nz

## CREDIT DETAILS

**INITIAL UNPAID BALANCE** (this is the amount you owe us on the date of the statement, including any fees we charge you).

## TOTAL ADVANCES

This is the total amount of all advances made, or to be made to you.

## PAYMENTS

You need to make each payment of the amount specified and by the time specified.

Payment Dates & Frequency	Number of Payments	Amount of Each Payment	Total Amount of Payments
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## INTEREST

### Annual Interest Rate

% fixed for the whole term of the contract.

### Total Interest Charges

\$ - this is the total amount of the interest charges payable under this 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 your account weekly.

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## CREDIT FEES

The following credit fee(s) and charge(s) (which are not included in the initial unpaid balance) are, or may become, payable under, or in connection with the contract.

Your credit contract may allow the lender to vary these fees and charges.

- Monthly facility fee \$7.00 per month is charged to your account as long as the loan account is in debit to cover the administrative costs of keeping the loan account active.
- Statement fee of \$20.00 will be charged to the loan account when an additional statement is requested and supplied (outside of the six monthly statements).
- Refinance Establishment Fee of up to \$375.00 is charged for processing an application to refinance (including top up) the current loan contract including taking the application, approval and acceptance. This fee is added to the contract when the refinance is effected.
- A variation fee of up to \$200.00 if we agree to any other variation of the agreement at your request.
- If the lender requires a solicitor to prepare any document associated with this loan, the fees charged by that solicitor.
- Full prepayment fee if you prepay the unpaid balance in full – this is disclosed under the full prepayment heading below.
- The other costs, expenses and other liabilities listed in the standard terms incurred while you are not in default.

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## CONTINUING DISCLOSURE

The lender may be required to provide you with regular statements. The statements will give you information about your account. Statements will be provided at least every 6 months and will also be provided upon request.

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## WHAT COULD HAPPEN IF YOU FAIL TO MEET YOUR COMMITMENTS?

This is secured credit. If you fail to meet your commitments under the contract, then the lender may be entitled to repossess and sell this property.

### Description of Security Interest(s):

Property which is (or will be) subject to a security interest:

### Description of Security Interest(s):

A security interest as defined in section 17 of the Personal Property Securities Act 1999 (securing payment of all the money secured and performance of all your obligations under this contract to the extent of the value of the collateral) in

## VEHICLE

Make:	VIN Number:
Model:	Registration No:
Year:	Chassis/Serial No:

## LAND

An all obligations mortgage (which may be registered or may be supported by a registered caveat) (securing without limited payment of all the money secured and performance of all your obligations under this agreement to the extent of the value of your interest in the land) over:

Address:

Legal Description:

Owned By:

If the lender repossesses and sells the secured property but the proceeds of the sale do not cover the full amount you owe the lender, you may continue to owe the lender money. It will be a default under this contract if you allow someone other than the lender to create a security interest over the collateral or the land, and the lender can then carry out the actions described in the terms and conditions (including repossessing and selling the collateral or the land).

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## DEFAULT INTEREST CHARGES AND DEFAULT FEES

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

Default interest is 10% greater than the annual interest rate provided for in the INTEREST section above calculated daily at the rate of one 365<sup>th</sup> of the annual default interest rate charged on the due but unpaid amount from the time that you fall into financial default until you are no longer in financial default. Default interest shall compound [frequency].

The default interest rate is 10% p.a. which will be charged to your account [frequency] on the same date as your scheduled instalment.

### Default fees:

#### We will also charge to your account:

- 1 Dishonour fee of \$8.00 debited if any scheduled payment to the lender is made late after the date due, or is reversed or is not made.
  - 2 Reminder fee of \$21.00 whenever we send you a notice when your account has been in arrears five days or more.
  - 3 Repossession warning notice fee of \$34.00 whenever we send you a notice advising you of our intention to seize consumer goods that are security for your loan.
  - 4 Repossession fee of \$85.00 whenever your account enters the stage of Repossession.
  - 5 Repossession warrant fee of \$247.00 when it is necessary to issue a Repossession Warrant (i.e. documents to be produced on entry to premises for repossession purposes).
  - 6 Post Repossession notice fee of \$99.00 whenever we send you a notice after we have seized consumer goods that are security for your loan.
  - 7 Notice of Intent to Dispose fee of \$101.00 when we issue you with a Notice of Intent to Dispose of the goods that have been seized.
  - 8 Statement of Account After Sale fee of \$111.00 when we issue you with a Statement of Account After Sale following the sale of the consumer goods that have been sold.
  - 9 In the case of enforcement, including (but not by way of limitation) Court or Disputes Tribunal proceedings and seizure and sale of collateral or land, we will charge to your account all court and tribunal costs and actual solicitors fees and disbursements (assessed on a solicitor client basis) and debt collection agency commissions, fees and disbursements and the costs and disbursements of repossession agents, valuers, auctioneers, process servers and any agents of the lender in effecting such enforcement plus any other necessary disbursements as those costs are ascertained. We will also charge you for any dealings (we have while you are in default) with other persons with respect to the debt or any security you (may) provide. In addition the lender will charge you the cost of doing anything which you have failed to do and which has been completed. You will also be charged for the costs expenses, and other liabilities listed in clause 13(iv) of the standard terms arising out of your default.
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## FULL PREPAYMENT

If you pay the unpaid balance in full before the final payment is due (**full prepayment**), you may be required to pay a fee or charge to compensate the lender for any loss resulting from the full prepayment. The lender may have suffered a loss if the lender's current interest rate is lower than the interest rate applying to your original consumer credit contract. You may also have to pay the lender's administrative costs relating to the full prepayment.

The amount you may have to pay to compensate the lender for the loss is calculated using the formula prescribed in regulation 9 or regulation 11 of the Credit Contracts and Consumer Finance Regulations 2004.

Administrative Costs/fees **\$43.00** for our staff's work associated in receiving and processing the full prepayment and in discharging or releasing any security.

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In the following sections of this disclosure statement, the lender is referred to as "the creditor".

### YOUR RIGHT TO CANCEL

You are entitled to cancel the consumer credit contract by giving notice to the creditor.

#### Time limits for cancellation

If the disclosure documents are handed to you directly you must give notice that you intend to cancel within 5 working days of the statement date at the top of this disclosure statement.

If the disclosure documents are sent to you by electronic means (for example, email) you must give notice that you intend to cancel within 7 working days after the electronic communication is sent.

If the documents are mailed to you, you must give the notice within 9 working days after they were posted.

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

#### How to cancel

To cancel, you must give the creditor written notice that you intend to cancel the contract by—

- giving notice to the creditor or an employee or agent of the creditor; or
- posting the notice to the creditor or an agent of the creditor; or
- emailing the notice to the creditor's email address (if specified on the front of this disclosure statement); or
- sending the notice to the creditor's fax number (if specified on the front of this disclosure statement).

You must also, within the same time, return to the creditor any advance and any other property received by you under the contract

#### What you may have to pay if you cancel

If you cancel the contract, the creditor can charge you the amount of any reasonable expenses the creditor had to pay in connection with the contract and its cancellation (including legal fees and fees for credit reports, etc).

If you cancel the contract, the creditor can also charge you interest for the period from the day you received the advance until the day you repay the advance.

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## WHAT CAN YOU DO IF YOU SUFFER UNFORESEEN HARDSHIP?

If you are unable reasonably to keep up your payments because of illness, injury, loss of employment, the end of a relationship, or other reasonable cause, you may be able to ask us to vary the terms of this Agreement (we call this a **Hardship Variation**). To apply for a Hardship Variation, you need to:

(a) make an application in writing; and

(b) explain your reasons for the Hardship Variation; and

(c) request one of the following:

- an extension of the term of this Agreement - this means we would reduce the Payment Amount due on each new Payment Date and increase the Number of Payments; or
- a postponement of certain Payment Dates; or
- both of the above – that is, postpone some payments and pay smaller amounts over a longer time period; and

(d) give the application to the lender.

Do this as soon as possible. If you delay for too long in making an application, we may not have to consider your request.

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## ELECTRONIC COMMUNICATION

You consent to receiving communications from us electronically and you agree that all agreements, notices and disclosures satisfy any legal requirement that such communication be in writing. You agree for the purposes of the Electronic Transactions Act 2002 to be bound by any agreement reached through electronic means

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## IF THERE IS A DISPUTE ABOUT THIS AGREEMENT

We are a member of the following dispute resolution scheme: Financial Services Complaints Limited

It is free to make a complaint to this independent dispute resolution scheme. The scheme can help you to resolve any disagreement you have with us.

Contact details of our dispute resolution scheme:

Phone: 0800347257 or 04472FSCL (04 472 3725)

Website: [www.fscl.org.nz](http://www.fscl.org.nz)

Business Address: Financial Services Complaints Limited, P O Box 5967, Lambton Quay, Wellington 6145.

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## REGISTRATION ON FINANCIAL SERVICE PROVIDERS REGISTER

Our Financial Service Providers Register Number is FSP4261 and our registration name is Future Finance Limited.

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# Consumer Credit Contract

## Terms & Conditions



The following terms and conditions apply to your Consumer Credit Contract. We strongly recommend that you obtain legal advice on these terms and conditions before you sign this agreement.

You the borrowers acknowledge the debt to the lender of the initial unpaid balance and agree:

### Meaning

- 1 The expression "borrowers" or "you" means the person(s) shown as borrower(s) in the disclosure statement and includes their/your executors, administrators and successors in title.  
"Collateral" means the goods and any other personal property (if any) described in the disclosure statement in the box headed "**WHAT COULD HAPPEN IF YOU FAIL TO MEET YOUR COMMITMENTS**" "A. Personal Property (Collateral)" section and includes an interest in such goods or other personal property, and in addition includes any other personal property that we agree with you at any time is (or will be) security for your obligations under this agreement.  
"CCCFA" means the Credit Contracts and Consumer Finance Act 2003.  
"Default" under this agreement means that you as borrower do something you are required not to do or fail to do something you are required to do.  
"Default Fees" and "Default Interest" are listed under "Default interest charges and default fees" in the disclosure statement.  
"Financial default" means that you have failed to pay and still fail to pay an instalment or other amount when due or demanded as the case may be.  
"Guarantor" means the person shown as guarantor in this agreement and the attached guarantee and includes his or her executors, administrators and successors in title.  
"Land" means the land (if any) shown in the disclosure statement in the box headed "**WHAT COULD HAPPEN IF YOU FAIL TO MEET YOUR COMMITMENTS**" "B. Land" section and includes an interest in such land, and in addition includes any other land that we agree with you at any time is (or will be) security for your obligations under this agreement.  
"Money secured" means the unpaid balance (being all amounts outstanding under this agreement at any time, including principal, interest, fees and charges).  
"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.  
"Working day" has the same meaning it does in the Credit Contracts and Consumer Finance Act 2003.  
Each gender shall include other genders.  
All obligations on your part are joint and several.  
Any expression not described or defined in this agreement shall have the meaning ascribed to it in the PPSA or the Credit Contracts and Consumer Finance Act 2003 unless the context requires otherwise. Unless the context prevents it, the singular shall include the plural and the plural include the singular.

### Repayment Waiver

- 2 If you have signed the Finance Application acknowledging and agreeing to the optional Repayment Waiver Agreement Appendix, including the Repayment Waiver Benefits and Repayment Waiver Terms and Conditions, to the standard terms of the consumer credit contract and you have paid the repayment waiver fee referred to in the credit details of the disclosure statement the clauses in the Repayment Waiver Agreement Appendix apply. The Repayment Waiver Agreement Appendix states the level of Repayment Waiver that has been selected.

### GAP Waiver

- 3 If you have signed the Finance Application acknowledging and agreeing to the optional Guaranteed Asset Protection Waiver Agreement Appendix, including the Repayment Waiver Benefits and Repayment Waiver Terms and Conditions, to the standard terms of the consumer credit contract and you have paid the GAP Waiver fee referred to in the credit details of the disclosure statement the clauses in the GAP Waiver Agreement Appendix apply.

### Grant of security interest in collateral

- 4 In exchange for the lender lending you the initial unpaid balance (of which you are acknowledging receipt) and any subsequent advances, you grant to the lender a security interest over any collateral registered in your name or of which you are the owner. The security interests are to secure payment to the lender of the money secured and also to secure your performance of all other terms of this agreement. You promise to the lender that you own the collateral and that there is no security interest in the collateral other than that granted by this agreement which you have not disclosed in writing to the lender.

### Agreement to mortgage land

- 5 In exchange for the lender lending you the initial unpaid balance (of which you are acknowledging receipt) and any subsequent advances, you or such of you who own the land (if applicable) 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 so as to incorporate memorandum number 2011/4301 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) twice the total amount of payments shown in the PAYMENTS section of the disclosure statement plus interest or (b) twice the total advances plus \$50,000 plus interest whichever is the greater or such lesser amount as the lender may decide. 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 and/or mortgagors who own the land hereby charge that land accordingly. The lender may choose not to register a mortgage but may choose to register a caveat.

### Service

- 6 This clause 6 is subject to all mandatory requirements of law (including, where applicable, Part 3A of the CCCFA). Subject to sections 352 to 359 of the Property Law Act 2007 any notice (including a bankruptcy notice), demand (including a statutory demand), letter or other document ("such document") for service on you shall be deemed to be properly served, in any court proceeding or otherwise, if served in accordance with the wording of section 83ZQ of the CCCFA read as if sub-section 1 did not include the words "required or authorised by this Part" and excluding sub-section (7). This consent applies although the CCCFA may not apply to the collateral. In addition, service on you or any of you shall be deemed to have been effected if such document is handed to any person in apparent occupation of any address of any of you shown in this agreement or of the property belonging to the land shown in this agreement or by attaching the document to an external door at such address. In addition if your address is a flat or apartment or room in a building and if the lender or its agents are unable to obtain access to such flat, apartment or room by virtue of the security system of the building or for some other reason, then service will be deemed to have been effected on you if the document is posted at 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 you if the document is clearly addressed to you and affixed to what appears to be the principal external



entry to the building for the purposes of obtaining access to the address provided by you or if the document is given to any building manager or receptionist for the building and directed to be given to you. Further, if any borrower has provided an email address or a facsimile number or a mobile phone number in any loan application form, or anywhere in this agreement, or if a borrower is in default and has a public address, including an internet social media address or an address at any other internet communication system (such as, without limitation, Facebook, Skype or Trademe), that address shall be an information system specified by that borrower for the purpose of service and general communication.

#### Electronic communications

7 You and the lender consent to using, providing and accepting information in electronic form and the parties agree that the Electronic Transactions Act 2002 applies. You further consent to accessing the disclosure statement and operative terms of this agreement plus any other agreements between you and the lender by electronic means (including, subject to the requirements of the CCCFA and other applicable law, your linking to the lender's website or otherwise obtaining the information by means of the Internet).

#### No discharge

8 You shall not be released from your obligations under this or have your liability reduced by any lack of legal capacity or other reason which would result in the Agreement not being enforceable against or any moneys not being recoverable from any other person nor by virtue of any security becoming all or partly void or unenforceable for any reason whatsoever.

#### Further information

9 You irrevocably authorise any person to provide the lender with such information about you and your affairs as the lender may request as part of its administration and enforcement of this agreement and further irrevocably authorise the lender to hold all information it so obtains and obtains from you and use it (which may include providing it to any third party including any guarantor) for the purposes of such administration and enforcement and for supplying you and the guarantor with information about services offered by lender. You must provide the lender with ongoing information and any associated document requested by the lender relating to your financial status or to any collateral or land.

10 You further promise 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 you or on your behalf to enable the lender to decide whether or not to lend to you is true and correct.

#### Governing Law

11 This agreement is governed by New Zealand law and the parties irrevocably submit to the jurisdiction of the New Zealand courts. Should you wish to dispute the lender's rights or powers or any action of the lender in connection with this agreement, you may do so only in the New Zealand courts. This does not limit the lender's rights to enforce this agreement against you or any judgment against you or against your real and personal property in any country where you or that property may be.

#### Payments

12 You must make all payments as shown in the PAYMENTS section of the disclosure statement when due without any deduction or withholding for any purpose whether by way of set-off or counter-claim or otherwise and in such manner as the lender requires. This may mean that you must allow the lender to directly debit your bank account or that you set up automatic payments. The lender may also use any direct debit authority to pay itself any credit or default fee or default interest due and owing in accordance with this agreement. If you make any part prepayment the lender may accept the part prepayment and credit it in accordance with the schedule of payments showing in the PAYMENTS section of the disclosure statement. The lender may also decline to accept any part prepayment but, if it accepts it, the lender may charge you administrative costs associated with the part prepayment. These costs are set out in the disclosure statement in the "CREDIT FEES AND CHARGES" section.

- 13 You must pay to the lender forthwith upon demand or when otherwise due and in any event the lender may debit your account with:
- (i) the lender's credit fees shown in the "CREDIT FEES AND CHARGES" section of the disclosure statement,
  - (ii) any early repayment fee provided for in the "FULL PREPAYMENT" section of the disclosure statement and any part repayment fee charged,
  - (iii) the lender's default fees and default interest shown in the "WHAT COULD HAPPEN IF YOU FAIL TO MEET YOUR COMMITMENTS - default interest charges and default fees" section of the disclosure statement, and
  - (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 (or any other) security agreement or any financing statement or other registration 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 land; and
    - c Your breach of this Agreement, any negotiation communication, dealing (including any loan settlement that does not proceed) (or if you are in default, dispute) with any of you or with any guarantor;
    - d If you are 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 including the conduct of any Court or tribunal proceedings and any further checks and investigations necessitated by your breach or in pursuance of the enforcement; and
    - f The lender's doing anything you should have done but which you have not done;
    - g If the borrower (or any person on his behalf) makes a demand under section 162 of the PPSA (such demand being a breach of this agreement) the lender's obtaining of an order under section 167 of that Act.
- 14 If you fail to pay one or more instalments in full so that you are in default but otherwise are paying on time, the lender, at its absolute discretion may add the unpaid amount to the loan thus extending the term and varying the final payment or payments. The lender may but is not bound to do this more than once.

#### Default

- 15 If:
- a you commit any act of bankruptcy, enter into the No Asset Procedure or without the lender's consent become subject to a summary instalment order;
  - b any chattels included in the collateral are at risk, as defined in section 83E of the CCCFA;
  - c you breach clause 10 or clause 32 of this agreement;
  - d you default in payment of any money for 5 working days after it is due; or
  - e you continue any other default for 8 working days after the posting of any notice of that default to you (or 5 working days if such notice is sent by electronic means),
- it will be a default under this agreement and the lender may accelerate repayment of the loan and require you to pay the money secured to the lender forthwith. The lender may call up that money even although the time for payment has not yet been reached.
- 16 If you are in financial default (but subject to sections 40(2A) and (2B) of the CCCFA) you shall pay to the lender default interest on **the due but unpaid amount** from the date you fell into financial default until you are no longer in financial default. Default interest shall compound Acc.InterestCycle. This is further described in the "DEFAULT INTEREST CHARGES AND DEFAULT FEES" section of the disclosure statement.

17 If you fail to do anything which you must do or do anything you must not do, the lender may do or pay anything to remedy the default and may add that cost to the money secured and if you do not pay the cost of such remedy on demand, you will be in financial default and the lender may charge you default interest on the due but unpaid amount. The lender may take any such action in your name or otherwise.

18 Subject to the lender's statutory obligation to disclose and notwithstanding anything else in this agreement, it is your responsibility to ascertain from the lender the amount of any default interest and default fee or credit fees incurred by you from time to time and to pay them.

#### **Set-off**

19 To the extent allowed by law, the lender may from time to time without notice set off against any claim or demand which you may have any debt owed by you or claim or demand which the lender may have against you.

#### **Commission**

20 The lender may receive commission on any insurance or repayment waiver included in this agreement or subsequently arranged.

#### **Appropriation of payments**

21 The lender may appropriate any payment received from you or money which is proceeds of the sale of any collateral or land against any debt secured by that collateral in any manner that the lender may reasonably decide, notwithstanding any appropriation you claim to have made.

#### **Early full repayment**

22 In accordance with section 50 of the CCCFA you may repay the money secured in full before it is due. However, you must also pay the lender the administrative costs arising from the full prepayment. The lender may also charge you a fee representing a reasonable estimate of its loss arising from the full prepayment. The lender may be required to deduct from the amount required for full prepayment a proportionate rebate in respect of any relevant credit-related insurance or repayment waiver. The lender's method of calculating its loss is set out in the "FULL PREPAYMENT" section of the disclosure statement.

23 If the lender accepts any payment or banks any cheque, which you have made or forwarded in purported full settlement of the money secured or in terms connoting any 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.

#### **Undertakings**

24 You must maintain a landline or cellular telephone connection or subscription. If for any reason we are unable to speak to you directly at the latest telephone number provided by you (whether landline or cellular), you authorise us to advise any person who answers **any** telephone number we have for you who we are, that we are trying to communicate with you and that we wish you to contact us and to leave messages with that person.

25 You must not change your name, physical or email address or your landline or cellular telephone number without first giving the lender five working days written notice of your intention to do so and of the replacement name, address or landline or cellular telephone number. The lender may write to you at the last address provided by you to us.

#### **Amendments and waivers**

26 Except as described in clause 276 below, 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.

27 The lender can at any time (without your prior agreement) change the amount, frequency, time for payment, or method of calculation of any fee or charge payable under this agreement, by giving you notice as required by law.

#### **Security Interest in Collateral**

28 You must store any collateral which is goods at the address shown as that of its owner in the disclosure statement or at the most recent address provided by you under in clause 24 and in any event you may not move any collateral goods from one address to another while you are in default without the written consent of the lender. You must not allow any collateral goods to be stored elsewhere nor any collateral to be taken out of New Zealand. You must also care for and maintain collateral in good saleable condition and comply with any laws relating to its ownership and use and you must not use it in any dangerous or illegal activity or for any purpose for which it was not intended. If any collateral is a motor vehicle you must additionally repair damage to panels, bumper lights, windows and other exterior and interior surfaces and to paint work when such damage occurs and must ensure that the vehicle is at all times 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. You may 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 24 hours written notice and you shall make such collateral available for inspection at the address that you have provided as the place where the owner lives. The lender need not give notice if the collateral is at risk as defined in section 83E of the CCCFA 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 your agents.

29 If you obtain consumer goods in future and those consumer goods are replacements for consumer goods specifically identified in this agreement as collateral, you must appropriate those goods to the lender's security interest and must provide any serial numbers for those goods as may be necessary to enable or assist registration.

30 You 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. Further you must not grant any other security interest over collateral nor allow any lien to be created over it nor dispose of nor allow the disposal of collateral by sale or gift or lease or in any other way nor cause nor allow collateral to be taken out of the possession of the borrower who owns it, nor destroyed, damaged, endangered, disassembled, removed from the place where you are required to keep it nor concealed from the lender. You must not obtain any personalised registration plate on any collateral motor vehicle nor otherwise alter or remove any collateral serial number unless you first obtain the lender's consent in writing. In any event, if any of these acts or omissions occur, you must immediately advise the lender in writing.

31 Any accessions (including replacements and accessories) which are attached to collateral goods shall become part of the collateral. This includes the borrower's interest in any personalised motor vehicle registration plates.

32 The lender may take possession of the collateral for the purposes of perfecting its security interest under the PPSA.

33 You must insure or procure the insurance of the collateral or the property belonging to any land shown in this agreement to its full insurable value (in the case of buildings or improvements for full replacement value if possible) and keep them insured against fire, accident, theft, flood and storm (and any other risks as the lender may require) both in the names of the lender and in the names of the owners for the lender's and the owners' respective interests, all payments, in the event of a claim, to be made to the lender (and the lender will account to you for any amount received by it in excess of the money secured or otherwise payable by you). You 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. You 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 money secured even though it has not yet fallen due.

- 34 You must not use any collateral or land for any criminal purpose including, without limitation, the commission of an offence under the Misuse of Drugs Act 1975 or any replacement Act.
- 35 To the maximum extent permitted by law, You indemnify the lender and will keep it indemnified against any claim from any person relating to any collateral or land or the use thereof. If the lender incurs any loss, liability or expense in respect of any collateral or land or this agreement as a result of any act or omission of yours then the amount of such loss, liability or expense plus goods and services tax if any shall be added to the money secured and payable by you to the lender on demand.
- 36 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 borrowers and the lender may be or have been in credit or settled.
- 37 The lender shall not be obliged to marshal in your favour or in favour of any other person.
- 38 You waive your right to receive a verification statement following registration of any security interest and if any of the collateral is not consumer goods, none of sections 133 or 134 of the PPSA will apply to any dealings with that collateral under this agreement and you waive any rights with respect to that collateral under sections 116, 120(2), 121, 125 (if the debtor is in possession), 127, 129 and 131 of the PPSA.

#### **Assignment**

- 39 The lender may assign its right, title and interest in any collateral or land and its right, title and interest in this agreement or any of them at any time, provided such assignment is not likely to cause you detriment. You have no such right.

#### **Repossession**

- 40 This clause 40 is subject to all mandatory requirements of law (including, where applicable, Part 3A of the CCCFA). Subject to clause 15 hereof as to acceleration of payment of the money secured, if you default under this agreement the lender may, without notice save that required by statute, seize the collateral and for such purposes you irrevocably give to the lender the right and licence for its agents to enter any premises and if necessary to break into any building where the lender may reasonably believe the collateral may be situated (whether or not you or any other person is present) or where you are 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 you or to any third party 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 or sale of the collateral and you will indemnify the lender against such damage or loss. 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. You will 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 make 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.

#### **Purpose**

- 41 If you are borrowing money from the lender for any purpose, you must apply the money to that purpose and the lender may pay the money directly to the seller of any property if a purpose of the loan is that purchase. The lender may impose such conditions on the payment or on the application of the money as it sees necessary to protect any security interest it may have or to ensure that the loan is applied in accordance with your advice to the lender.

