

It is important that you fully understand our **Terms and Conditions** and procedures before signing this document or drawing down any funds.

## **DEFINITIONS**

“Borrower” means the person(s) named as “Borrower” on the front page of this contract. If there is more than one person so named, “Borrower” means each of them separately and every two or more of them jointly. “Borrower” includes the Borrower’s executors, administrators, successors and assigns.

“Collateral” means the Collateral described in this contract, together with all attachments and accessories, which may at any time form part of the Collateral.

“Costs” includes charges and expenses incurred by Friendly Loans Limited on a solicitor and client basis, together with all other (incidental and direct) costs, including recovery costs and default administration fees which Friendly Loans Limited may incur if the Borrower breaches this contract.

“Friendly Loans” means the lender noted on the front page of this contract, Friendly Loans Limited, and its successors, assigns, representatives and agents.

“Guarantor” means each and every person named in this contract as a Guarantor. If there is more than one person named as a Guarantor, they will be jointly liable and each of them will be individually liable. The executors, administrators, successors and assigns of each Guarantor will be liable as if they were named as Guarantors.

“Laws” means the laws of New Zealand, including the Personal Property Securities Act 1999 (“the PPSA”), and the Credit Contracts and Consumer Finance Act 2003, (“the CCCFA”) and any consolidations, amendments, re-enactments or replacements of those Acts.

“Loan” means the amounts owing by the Borrower to Friendly Loans from time to time, including the amount recorded as the Loan in the Credit Details section of the Payment Schedule and any subsequent advances made by Friendly Loans to the Borrower in reliance on this contract, as well as any interest and/or charges payable on that amount.

“Prepayment” means the early repayment of all or part of the Loan.

“Working Day” means any day apart from Sunday and any public Holiday (including Auckland Anniversary Day).

### **1. Laws**

1.1 This contract is governed by the Laws. The terms of this contract are binding on Friendly Loans and the Borrower except where they may conflict with the Laws.

### **2. Security Interest**

2.1 This collateral secures the Loan and any money owed by the Borrower to Friendly Loans under any other contract for the provision of finance from Friendly Loans to the Borrower or otherwise. Until all such money has been paid Friendly Loans’ security interest in the Collateral will continue and will not be released by Friendly Loans.

2.2 If upon default by the borrower, the unpaid balance of your account exceeds the amount Friendly Loans was able to sell the Collateral for, the Borrower would remain indebted to Friendly Loans for the amount of the shortfall, between the sale proceeds of the Collateral and the unpaid balance of your account.

2.3 Until the unpaid balance of your account is repaid in full to Friendly loans, the borrower is not entitled to grant a security interest over the Collateral to any other party. If a further security interest was granted over the Collateral this would constitute a breach of the contract by the Borrower. If such breach was not rectified within 15 days of written notification by Friendly Loans in accordance with clause 7.1 of these terms and conditions, Friendly Loans would be entitled to repossess the Collateral to recover all amounts due and owing by the Borrower in accordance with clause 8 of these Terms and Conditions

### **3. Payment, Default Interest, Early Repayment**

3.1 The Borrower shall pay each installment specified in the Payment Schedule when it is due.

3.2 All payments must be made to Friendly Loans as specified in the Method of Payment section of the Payment Schedule of this contract or as the Borrower is otherwise notified by Friendly Loans in writing.

3.3 If any of the default events set out in clause 7 of these Terms and Conditions occur, the Borrower must pay interest on the Loan plus default interest on the amount of the Loan that

remains outstanding. The default interest will be payable at the Annual Default Interest rate set out in the Default Interest Charges and Default Fees section of the Disclosure Statement.

The default interest will accrue on a daily basis from the date of the default through to (and including) the date of actual repayment. Any payment made by the Borrower will be applied firstly in payment of the default interest and secondly in payment of interest accrued on the Loan and thirdly in reduction of the Loan.

3.4 All payments by the Borrower shall be made without any deduction, set off or counter claim.

3.5 The Borrower must make payments in accordance with the Payment Schedule. If any payment is received before a date specified in the Payment Schedule, Friendly Loans may credit that payment in accordance with the Payment Schedule and section 46(3) of the CCCFA.

3.6 If any payment is dishonored, default fees and charges may be incurred as set out in the Default Interest Charges and Default Fees section of the Payment Schedule.

3.7 The Borrower may repay the whole or any part of the Loan on any Working day without notice if the Borrower first pays interest on the Loan (at the rate set out in the Interest section of the Disclosure Statement), through to the date of such repayment and any fees and charges applicable in accordance with the Full Prepayment Section of the Disclosure Statement. All payments made shall be applied firstly in payment of all interest to the date of payment and secondly in reduction or repayment of the Loan.

3.8 For the purposes of section 36 of the CCCFA, each Working Day shall end at 6.00pm. Any payment made after 6.00pm shall be deemed to have been made on the following Working Day.

3.9 Friendly Loans is entitled to vary Collateral (if requested by Borrower and approved), default interest rates, charges payable under this contract and vary/amend parts of the contract in the case of inability by borrower(s) to pay loan payment arrears by adding the missed payments to the end of the loan facility, as long as it provides notice to the Borrower in accordance with clause 11.1 of these Terms and Conditions.

3.10 Friendly Loans may consent to a refinance of this Loan. If consent is provided a further establishment fee may be charged at time of the refinance.

#### 4. Maintenance of Collateral

4.1 The Borrower agrees to keep the Collateral in good order and repair (fair wear and tear excepted).

4.2 If repairs become necessary, the Borrower must have the Collateral repaired by someone nominated or approved by Friendly Loans. If this is not practicable in the circumstances, the repairs shall be carried out in a proper workmanlike manner.

4.3 The Borrower will pay for all repairs carried out to the Collateral (unless these are carried out under any warranty or insurance cover given by the manufacturer of the Collateral or any insurance provider) and will not allow any security to be created over the Collateral for any work done on the Collateral.

4.4 If the Borrower fails to pay for any repairs carried out or work done to the Collateral, Friendly Loans may pay for those repairs and recover the cost from the Borrower.

#### 5. The Borrower's Covenants

5.1 The Borrower agrees:

a. not to remove the Collateral from the Borrower's residential address (as specified on the front page of this contract) without first notifying Friendly Loans in writing and shall not remove the Collateral from New Zealand without first obtaining Friendly Loans' written consent;

b. to notify Friendly Loans immediately if the Collateral is taken out of the Borrower's possession for any reason, and to provide full details of the address (if known) to which the Collateral has been removed;

c. not to dispose of, part with possession of, modify or alter the Collateral except with Friendly Loans' prior written consent;

d. to immediately advise Friendly Loans in writing of any change of the Borrower's residential address;

e. to keep the Collateral insured for the maximum insurable value of the Collateral (including replacement value if required by Friendly Loans) against fire, accident, theft and such other risks as Friendly Loans reasonably requires. If required by Friendly Loans, the Borrower must insure the

Collateral in the names of the Borrower and Friendly Loans (including Friendly Loans' assignees) for their respective rights and interests with an insurer approved by Friendly Loans.

The Borrower will punctually pay all premiums for the insurance and will (if Friendly Loans requires) deliver the insurance policies and the premium receipts to Friendly Loans. Friendly Loans is entitled to receive all money payable under any of such policies or payable by any other person in respect of damage to or loss of the Collateral. For this purpose, the Borrower assigns, by way of security to Friendly Loans, all of the Borrower's rights, title and interests in and all benefits relating to such insurance policies, the proceeds thereof and any money otherwise payable by any person in respect of damage to or loss of the Collateral. All money payable under any such insurance policy shall be paid to Friendly Loans and Friendly Loans may apply that money at its sole option either in repairing the Collateral or towards payment of the Loan (whether or not the Loan is due to be paid);

f. not to do or omit to do anything whereby any right of lien or security on the Collateral shall arise;

g. not to permit the Collateral to become affixed to any land or goods without first obtaining an acknowledgement or waiver in such form as Friendly Loans requires, acknowledging Friendly Loans' interest to the Collateral as separate and paramount;

h. to permit Friendly Loans and anyone authorised by Friendly Loans to have access to the Collateral and all records, insurance policies and other documents relating to the Collateral, and at all reasonable times to test or inspect them;

i. to comply with the provisions of all laws affecting the Collateral or the use or possession of the Collateral and to keep the Collateral registered or licensed as required. The Borrower shall indemnify Friendly Loans against any claims resulting from the use or installation of the Collateral causing damage to any property.

## 6. Representations

### 6.1 The Borrower represents and warrants that:

a. The Borrower has the power to enter into and exercise its rights and perform and comply with its obligations under this contract;

b. this contract constitutes the Borrower's legal, valid and binding obligations;

c. financial information given, or to be given, by the Borrower to Friendly Loans does, and will, fairly and accurately represent

the Borrower's financial position at that time;

d. the Borrower is the lawful and sole owner of the Collateral; and

e. except as disclosed to and acknowledged in writing by Friendly Loans, there are no other security interests over or in relation to the Collateral.

## 7. Default

### 7.1 The Borrower defaults under this contract if:

a. the Borrower fails to make payment as and when due for payment of any amount payable under this contract:

b. the Borrower:

1) commits or suffers an act of bankruptcy;

2) is deemed under any relevant legislation to be unable to pay its debts.

c. the Collateral is seized or removed in order to satisfy any other debts;

d. any insurance proposal made by the Borrower in respect of the Collateral is declined or any insurance policy in respect of the Collateral is cancelled;

e. the Borrower fails to observe or perform any of the terms contained or implied in this contract and fails to rectify such default within 15 day (or any lesser period permitted by law) of receipt of written notice from Friendly Loans requiring the Borrower to rectify such default; or

f. the Borrower's actions (or inaction) jeopardises Friendly Loans' rights in respect of the Collateral or under this contract.

## 8. Enforcement

8.1 If the Borrower defaults under this contract and any notice period Friendly Loans is required by law to give to the Borrower expires without the Borrower rectifying the default then (subject to the provisions of the PPSA and CCCFA):

a. the Loan shall immediately become due and payable (whether or not the due date has arisen); and

b. Friendly Loans may take and keep possession of all or part of the Collateral.

8.2 If Friendly Loans believes on reasonable grounds that the Collateral is at risk of being removed, destroyed or damaged then (subject to the provisions of the PPSA and CCCFA) Friendly Loans may take and keep possession of all or part of the Collateral. Friendly Loans will comply with its obligations to notify the borrower prior to repossession under the CCCFA.

8.3 To enable Friendly Loans to exercise its rights of repossession and enforcement, the Borrower irrevocably permits Friendly Loans (or its agents) to enter and, if reasonable, to break into:

a. any buildings the Borrower occupies; and/or

b. any other premises where the Collateral is held or where Friendly Loans believes on reasonable grounds the Collateral to be held,

whether or not the occupier is present, for the purpose of repossessing the Collateral or for any other purpose relating to the Collateral. Although Friendly Loans will take reasonable care not to damage any goods or property during the repossession, the Borrower will not hold Friendly Loans liable in any way to the Borrower or anyone claiming through the Borrower for any such damage, including any claims for consequential loss or damage.

8.4 Friendly Loans' Costs shall be payable by the Borrower and may be recovered by Friendly Loans as part of the Loan.

8.5 The exercise by Friendly Loans of its rights and remedies under clause 8 shall include, and be subject to, the provisions of the PPSA, and the CCCFA, unless lawfully excluded in this contract.

## 9. Attorney

9.1 The Borrower irrevocably appoints Friendly Loans (and its managers and directors), severally to be the Borrower's attorney (each an "Attorney") to do anything on the Borrower's behalf which the Borrower agrees to do in terms of the provisions of this contract or which, in the Attorney's opinion, is necessary or expedient to give effect to any right, power or remedy conferred on Friendly Loans by:

a. this contract;

b. the laws; or

c. otherwise (including signing deeds, direct debit amendment forms, and instituting, conducting and defending legal proceedings to the extent permitted by law).

9.2 Each Attorney may:

a. delegate its powers (including this power of delegation) to any person for any period, and revoke a delegation; and

b. exercise or concur in exercising its powers even if the Attorney has a conflict of interest in exercising its powers or has a direct or personal interest in the means or result of any exercise of powers.

9.3 The Borrower hereby approves and agrees to approve anything done in accordance with this clause by the Borrower's Attorney or any delegate.

## 10. Contracting Out

10.1 The Borrower agrees that:

a. nothing in sections 114 (1)(a), 133 and 134 of the PPSA will apply to this contract and the Borrower waives the Borrower's rights:

1) to object pursuant to section 121 of the PPSA to any Friendly Loans proposal to retain any personal property;

2) to receive a copy of the verification statement confirming registration of a financing statement or a financing change statement relating to the security interest created by this contract;

b. The Borrower will pay the costs of registering a financing statement, financing change statement or discharge of financing statement.

c. The Borrower will pay the costs of a security valuation.

10.2 Nothing contained in this clause shall affect Friendly Loans' rights under clause 7 and 8.

## 11. General

11.1 Notices under this contract shall be given and served in accordance with Section 184 to 189 (both inclusive) of the PPSA or Section 59A of the CCCFA, as applicable.

11.2 Friendly Loans has the full right of assignment of Friendly Loans' rights, title and interests under this contract, and all of Friendly Loans' rights and powers under this contract may be exercised by any assignee of this contract as fully and effectually as they might have been exercised by Friendly Loans. Friendly Loans will advise the Borrower in writing of any transfer of Friendly Loans' rights under this contract but the terms of the contract will not change (other than the identity of the lender). Subject to the PPSA and the CCCFA, the Borrower may not assign its rights and interests under this contract without the written consent of Friendly Loans.

11.3 Any indulgence or concession by Friendly Loans to the Borrower relating to Friendly Loans' entitlements pursuant to this contract, will not constitute or be deemed to constitute a waiver of Friendly Loans' rights, and shall not operate or be deemed to operate as a variation of this contract. A waiver by Friendly Loans will not be effective unless in writing and signed by a signatory authorised by Friendly Loans.

11.4 If any provision of this contract is or becomes illegal, invalid or unenforceable in any respect, that illegality, invalidity or unenforceability shall not affect Friendly Loans' ability to enforce the provisions (or, as the case may be, the remaining provisions) of this contract.

11.5 The Borrower will pay the costs of completing this contract, and any other fee or charge specified in the Payment Schedule. The Borrower authorises Friendly Loans to pay the fees and charges specified in the Payment Schedule by deduction from the credit provided.