

**PART 2 ANNEXURE SCHEDULE – LOAN CONDITIONS – CONSUMER CREDIT CONTRACT
ADDITIONAL CLAUSES 16-31**

16. INTERPRETATION – GENERAL (continued)

Clause 3 (c) of this contract is amended by the addition of the following sub-clauses:

Business day means a day on which trading banks are open for business in Hawkes Bay;

Major transaction has the meaning set out in section 129 of the Companies Act 1993; and

Security document means any security interest or security document given or required to be given in connection with the Loan and/or this contract including any such securities referred to in the Loan Offer.

17. LOAN OFFER AND LENDER’S PRECONDITIONS

(a) Terms of Loan Offer included: The terms contained in the Loan Offer addressed to the Borrower and accepted by you are deemed to be included in this contract. However, if there is any conflict between any of the terms set out in this contract and any of the terms set out in the Loan Offer, the terms set out in the Loan Offer will prevail.

(b) Conditions Precedent: This obligations of the Lender under this contract are subject to the condition precedent that the Lender has received all of the following in a form and substance satisfactory to the Lender:

(i) All security documents, certificates, legal opinions and other documentation that the Lender or the Lender’s solicitors may have notified to you or to your solicitors as being required by the Lender in relation to this contract;

(ii) If any Guarantor is a corporation:

(A) A copy of its certificate of incorporation and constitution (if any) certified correct by a director of the corporation; and

(B) If the entry by that corporation into this contract or into any security document, or the performance of its obligations under any such document, constitutes a major transaction of the corporation, evidence of unanimous shareholder approval of that transaction;

(iii) If any Guarantor is a trust, a copy of its trust deed (together with any deed carrying the trust deed or confirming the valid appointment of trustees); and

(iv) Payment of any costs owing by you under clause 13 of this contract.

18 **COVENANT TO PAY AND TO COMPLY WITH OBLIGATIONS** (continued)

- (a) Clause 4 of this contract shall be amended by inserting the following new clauses 4 (d) and (e) as follows:
- (d) “The interest rates set out in the Loan Offer and this contract are the applicable interest rates for the Principal Sum as at the Effective Date. If such interest rates for the Principal Sum change before the Effective Date, then the Lender will give notice of such change and the changed rates so advised will be the applicable ordinary interest rate and the default interest rate from the interest commencement date (subject to variation in accordance with clause 19 of this contract). If such interest rates change, then we will not have to prepare another contract or disclosure purposes and any notice of change sent to you by the Lender shall be sufficient disclosure of such changes for the purposes of the credit Contracts & Consumer Finance Act 2003.
- (e) Default interest may also accrue and be payable where you have caused the credit limited and/or Principal Sum under this contract to be exceeded and be payable in respect of the amount of any such excess and for such time as the credit limited remains exceeded.”

19. **LENDER’S RIGHT TO CHANGE INTEREST RATES AND REVIEW TERMS AND CONDITIONS**

- (a) **Lender’s Right to Vary Terms:** The Lender may at any time by giving not less than 10 business days’ notice to the Borrower:
- (i) increase or decrease the ordinary interest rate and/or the default interest rate, in which case interest will accrue at the new applicable interest rate or rates specified in the Lender’s notice from the date specified in the Lender’s notice; and/or
- (ii) alter the number, frequency, amount or payment date of any payment to be made, or the intervals at which interest is charged, under this contract; and/or
- (iii) agree to increase the amount of the Principal Sum; and/or
- (iv) following a request from the Borrower, extend the Term Expiry Date; and/or
- (v) following a request from the Borrower, vary any other term or condition of this contract.
- (b) **Variations in Writing:** Any alteration, variation or increase will be recorded in a review letter from the Lender to the Borrower(s) and/or Guarantor(s) and may be subject to payment of administrative or other fees as specified in the review letter. In addition, the Lender may, from time to time, vary or add any fees or charges payable under this contract, or change the name of any interest rate.

20. **RIGHT TO REPAY THE PRINCIPAL SUM** (continued)

Clause 5(a) of this contract shall be deleted and replaced with the following new clause 5(a):

“5.(a) The Borrower may repay all or part of the Principal Sum at any time provided:

- (i) except where the Lender agrees otherwise in writing, the amount repaid is not less than \$5,000 and is a multiple of \$1,000; and
- (ii) the Borrower has paid to the Lender:
 - (A) interest on the amount repaid at the applicable interest rate to the date of repayment;
 - (B) all discharge and other fees payable to the Lender or the solicitor for the Lender relating to the discharge of any security interest;
 - (C) all other moneys then owing under this contract or any other arrangement between you and the Lender, together with any interest owing to the date of repayment calculated at the applicable interest rate; and
 - (D) the administrative costs incurred by the Lender in relation to such repayment.

Interest on the amount repaid will cease to accrue from the date of repayment.

The amount repaid may be available for redrawing at the sole discretion of the Lender.”

21. **WHEN DEFAULT OCCURS** (continued)

(a) Clause 7 of this contract shall be amended by inserting the following new clauses as new clauses 7(e) to 7(l) inclusive:

- “(e) **misleading statements:** any statements made in your loan application are found to be incorrect, misleading or deceptive in any material respect; or
- (f) **material change occurs:** if any Guarantor is a company and, without the Lender’s prior written consent, there is a material change in the control of that company.

There is a material change in the control of a company if:

- (i) Shares carrying between them the right to exercise or control the exercise of 25% or more of the voting power in the company become held legally or beneficially by any person or persons not holding any shares in the company at the date of this contract; or
- (ii) Any one person who at the date of this contract has the right to exercise or control the exercise of 50% or more of the voting power in the company ceases to have that right; or

- (g) **insolvency:** any Borrower or Guarantor is unable to pay its debts or is deemed or presumed to be unable to pay its debts as they fall due; or
- (h) **liquidation:** there is a resolution passed or order made for liquidation of any Borrower or Guarantor or a receiver, liquidator or statutory manager of any Borrower or Guarantor is appointed; or
- (i) **amalgamation:** any Borrower or Guarantor passes any resolution that has not been previously approved in writing by the Lender for amalgamation of any Borrower or Guarantor with another company; or
- (j) **attachment to assets:** any execution, attachment, distress or other process is issued against any of the Borrower's or Guarantor's assets; or
- (k) **invalidity:** all or any part of this contract or any security given by any Borrower or Guarantor is terminated or becomes illegal, invalid or unenforceable or of limited force and effect; or
- (l) **material adverse event:** the Lender notifies you in writing that an event has occurred which in the Lender's opinion may have a material adverse effect on the ability of any Borrower or Guarantor to perform its obligations under this contract or any security given by any Borrower or Guarantor, or any financial condition or business obligation of any Borrower or Guarantor."

22. **RIGHTS AND POWERS OF LENDER ON DEFAULT** (continued)

In addition to the power set out in clause 8 of this contract where a default has occurred, and where the Lender's security comprises a security interest over investment securities issued by Fonterra Co-operative Group Limited ("Fonterra") and where in the sole opinion of the Lender a default or a material adverse change in your financial position or in your ability to perform your obligations pursuant to any agreement between us has occurred or is likely to occur, then the Lender may issue notice(s) to Fonterra so that all capital notes or other investment securities to be issued to you by Fonterra are instead issued in the name of the Lender.

23. **TRANSFER BY LENDER** (continued)

- (a) Clause 11 of this contract shall be amended by inserting the following new sentence at the end of that clause:

"The Lender may give to any potential assignee or transferee any information the Lender has relating to this contract or about you."

- (b) You shall not assign any of your rights, or transfer any of your obligations, under this contract or any security interest to any person without the prior written consent of the Lender.

24. **SERVICE OF NOTICES**

- (a) Clause 12(a) of this contract is amended by inserting the following new sub-paragraph (iv):

“(iv) If the Borrower or any Guarantor has consented to the service of notices electronically and has provided an electronic address for that purpose, by sending it electronically to that electronic address.”

(b) Clause 12(b) of this contract is replaced by the following new clause 12(b):

“(b) **when service effected:** a demand or notice sent:

(i) By ordinary post will be deemed to have been served on the second business day after posting:

(ii) Electronically or by personal delivery will be deemed to have been served at the time of delivery provided that if delivered after 5pm on a business day or on a day that is not a business day, it will be deemed to have been served on the next business day.”

(c) All references to service by registered letter in clause 12 are deemed to be read as service by ordinary post.”

25. COSTS

(a) Clause 13(a) of this contract is amended by inserting the words “and the Lender’s or its Manager’s internal administration costs” after the words “(as between solicitor and client)” in the second line.

26. PROVIDING FINANCIAL INFORMATION

The Lender may at any time give notice to you to provide such information about any Borrower’s and, as the case may be, Guarantor’s business, assets and financial condition as the Lender may specify. Each Borrower and, as the case may be, Guarantor, will provide that information to the Lender as soon as is practicable after receiving the Lender’s notice.

27. METHOD OF MAKING PAYMENTS

(a) Each Borrower and, as the case may be, Guarantor, will pay all amounts payable by it by direct debit authority from its bank account to the bank account nominated by the Lender, or in such other manner as the Lender from time to time directs. Cancellation by you of your direct debit authority with your bank without the written consent of the Lender will constitute a default that will continue until a direct debit authority acceptable to the Lender has been reinstated.

(b) If any payment by you fails due on a day that is not a business day, it shall be made on the next following business day.

(c) Unless otherwise agreed by the Lender, you will make payment to the Lender not later than 4pm on the date for payment. Where you fail to make payment by the requisite time, you will be deemed to have made payment on the next following business day.

(d) All payments by you to the Lender under this contract will be made free and clear of any restriction and, except to the extent required by law, without deduction or withholding of any nature and without set-off or counterclaim.

(e) If the law requires you to make a withholding or deduction, then you:

- (i) Must make sure that the withholding or deduction is for not more than the minimum amount required by that law;
 - (ii) Must make sure that the withholding or deduction is paid to the relevant revenue or governmental agency by the due date for payment;
 - (iii) Must send the Lender; 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
 - (iv) Must increase the amount it pays to the Lender so that the Lender receives the amount it would have received had there been no such withholding or deduction.
- (f) If the law requires the Lender to make a deduction or withholding from any amount received or receivable by it under this contract (excluding any tax on its overall net income), then you must increase the amount you pay to the Lender so that the Lender receives the amount it would have received had there been no withholding or deduction.
- (g) Subject to clause 5(b), the Lender may apply any payment received under this contract as between principal, interest and any other money payable in whatever order the Lender chooses. This applies despite any instruction from you to the contrary.

28. EXCLUSION OF LIABILITY OF TRUSTEE FOR MORTGAGE TRUST

- (a) The liability (if any) of Trustees Executors Limited (the trustee of Midlands Mortgage Trust ("the Trust")) and its custodial company FM Custodians Limited under this contract is as trustee of the Trust and shall extend only to the assets of the Trust that are held by the trustee or its custodial company, from time to time.
- (b) The liability (if any) of the trust in relation to this contract is limited to the assets of the Trust.

29. TRUSTEES (continued)

Clause 15 of this contract shall be deleted and replaced by the following new clause 15:

- "15. (a) If any Guarantor, is a trust (or trustee(s) acting in relation to a trust) then each trustee warrants to the Lender that:
- (i) this contract will bind the trust and each trustee of that trust;
 - (ii) each trustee will also be bound personally, subject to the limitation of liability in clause 15(b) of this contract;
 - (iii) he, she or it:
 - (A) has the power to enter into this contract either under the terms of the relevant trust deed or under the Trustee Act 1956;
 - (B) has properly signed this contract in accordance with the terms of the relevant trust deed; and
 - (C) has a full right of indemnity from the trust's assets;

- (iv) the trustees will ensure that, so long as any moneys are owing under this contract, except to the extent that the Lender consents in writing:
 - (A) the relevant trust deed shall not be amended or revoked;
 - (B) no existing trustee shall be removed or retire as trustee of the trust;
 - (C) no new or additional trustee of the trust shall be appointed;
 - (D) the trustees will duly and punctually comply with all of their obligations under the relevant trust deed;
 - (E) no vesting date under the relevant trust deed is or will be determined;
and
 - (F) no restriction or limitation on the right of indemnity of any trustee of the trust is or will be created.

- (b) The Lender's rights against any trustee will be limited only if the trustee is an independent trustee. In that case, the Lender will only be entitled to recover money owed under this contract from that trustee's personal assets if the Lender is not able to recover such money from the trust's assets because:
 - (i) a warranty given by the trustee in clause 15(a) is incorrect, in which case the Lender will only be entitled to recover from the trustee's personal assets the amount it would have recovered from the trust's assets had that warranty been correct; or
 - (ii) the trustee has committed an act of fraud or dishonesty or an intentional breach of trust.

For the purposes of this clause, a trustee is an independent trustee only if that trustee has no right to or interest in any of the assets of the trust except in his, her or its capacity as trustee of the trust.

- (c) Where a trustee is not an independent trustee, the Lender may seek to recover any money owing under this contract from that trustee's personal assets as well as from trust assets.

30. NEW ZEALAND LAW

The laws of New Zealand apply to this contract. Each Borrower and Guarantor accepts the non-exclusive jurisdiction of New Zealand's courts.

31. SUBSTITUTION CLAUSE

Where this Term Loan Agreement is in substitution of a previous Term Loan Agreement between the Borrower and the Lender, the Borrower and Guarantor expressly acknowledge that the terms of section 199 (1) and (2) of the Insolvency Act 2006 or, as the case may be section 293 (1A) of the Companies Act 1993, this contract is executed and given for valuable consideration received from the Lender and in substitution for such Term Loan Agreement between the same parties.

Borrower/Guarantor initials

