

MEMORANDUM OF MORTGAGE

These are the terms and conditions
which form part of your mortgage.
As this is an important document,
please store it in a safe place.

Memorandum of Mortgage 2026/4378



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MORTGAGE

Granting a Mortgage.

From the time this mortgage is registered against the title to the Land you will be bound by the terms of this mortgage.

Usually, you will need to sign an authority and instruction for an electronic transaction form, authorising a legal practitioner to register an electronic mortgage against the Land.

Terms and conditions.

These terms form part of your mortgage. Some terms used in these terms and conditions have special meanings. These are set out in clause 6. If, at any time, the Secured Parties have a 'Customer Commitment', the Commitments in that 'Customer Commitment' don't apply in relation to your mortgage.

1. What is covered by the mortgage

1.1 Operative clause.

In consideration of the Secured Money (defined in clause 1.2 below), you, as the mortgagor:

- Mortgage all of your estate and interest in the Land;
- transfer and assign absolutely, by way of security, all of your rights, title, and interests (present, future, legal, and equitable) in and to the Assigned Property; and
- charge any resource consent issued under the Resource Management Act 1991 in respect of the Land,

to Westpac NZ, for the benefit of the Secured Parties.

1.2 Secured Money.

The Secured Money secured by the mortgage is all money which you (whether alone or with one

or more others) may Owe to the Secured Parties now or in the future for any reason. When Secured Money is used in relation to a particular Secured Party, it means the Secured Money that is Owing to that Secured Party. Except as set out at the end of this clause 1.2, the Secured Money includes:

- all further advances by way of financial accommodation (as defined in section 93 of the Property Law Act 2007) to you;
- all money that you contingently Owe a Secured Party now or in the future (including under a guarantee);
- all amounts needed to reimburse a Secured Party for:
 - any amounts that it has paid or may in the future pay; and
 - any amounts that it is or becomes liable to pay, to any person at your request or direction, or on your behalf;
- amounts you have agreed to pay us in the future if particular events occur. These might include:
 - if you must pay us a fee because you do something under a loan document. One example is breaking a fixed interest rate loan early
 - any amounts you must pay us because we have had to pay an expense as a result of you breaching an agreement with us
 - any amounts you Owe us because you have breached any term, including a warranty, in an agreement with us
 - any amounts you must pay us because we made a payment on your behalf (for example under a letter of credit issued at your request).
- all money you now or in the future Owe under a right or claim against you which a Secured Party has taken over, or at any future date takes over, from somebody else. To the maximum extent permitted by law, this will be the case even if your obligation to pay that money was unsecured before the Secured Party took over the right or claim.

Where there is more than one of you, the Secured Money includes amounts Owed by any one or more of you and amounts Owed by all of you.

However, unless each of you agree that this mortgage will apply to it, the Secured Money does not include money you owe to the Secured Parties under any agreement (like a loan or guarantee) where the money lent is used wholly or predominantly for personal, domestic or household purposes (but not for investment purposes).

We refer to an agreement where:

- the money lent is used wholly or predominantly for personal, domestic or household purposes (but not for investment purposes); and
- you have not each agreed that this mortgage will apply to it,

as an 'excluded consumer credit agreement'.

This means that the Secured Parties will not exercise any rights against the Mortgaged Property to pay or satisfy any of your obligations under clauses 2.2, 2.3, 2.5 and 2.6 below if they relate to any excluded consumer credit agreement.

1.3 Priority.

The stated priority limit for the purposes of section 92 of the Property Law Act 2007, being the maximum amount for which the mortgage has priority in relation to any subsequent mortgage, is the amount that is stated in the registered mortgage instrument.

2. What you must pay

2.1 Payment.

You must pay the Secured Money to the Secured Parties on time.

The Bank Documents will usually set out when and how you need to pay the Secured Money to the Secured Parties.

If the Bank Documents don't set out when you must pay an amount, you agree the Secured Parties can demand you pay it to them at any time.

If the Secured Parties demand you pay an amount you must pay the amount promptly following the demand or, if later, at the time they specify.

2.2 Expenses.

You must reimburse the Secured Parties, each Officer, each Receiver and each Attorney, on demand, for their reasonable expenses in relation to:

- the Mortgaged Property;
- the Secured Money;
- the preparation, execution and completion of each Bank Document, and any subsequent consent, approval, waiver, amendment or release;
- any valuation, inspection or report of or concerning the Mortgaged Property; and
- any enquiry by a governmental agency concerning you or related to a Bank Document.

This includes expenses incurred in any review or environmental audit, in reimbursing or indemnifying any Officer, employee, Receiver or Attorney, or in retaining consultants to evaluate matters of concern to the Secured Parties.

It will include, in each case, legal fees and expenses on a full indemnity basis plus goods and services tax on those amounts. When we say 'full indemnity basis' we mean you must reimburse us for the full amount of any relevant legal costs.

The Secured Parties won't ask you to reimburse anyone under this section for any expenses which arise from a Secured Party's, Officer's, Receiver's or Attorney's fraud, negligence or wilful misconduct.

2.3 Costs.

You indemnify the Secured Parties and each Receiver and Attorney, on demand, against any losses, liabilities, claims, costs or expenses (including amounts charged by lawyers) in connection with any of the following:

- you being in default, or something happening which would result in you being in default if not fixed within any applicable remedy period set out in clause 4.2; or
- any exercise, contemplated exercise, attempted exercise, or defence, of any Power.

2.4 Interest.

The following will apply except to the extent that you and the Secured Parties agree otherwise:

- interest will accrue on all parts of the Secured Money at the same rate as applies to the Secured Money under the relevant Bank Document. If there is no such rate, interest will accrue at the rate Westpac NZ applies to unarranged overdrafts. If the rate that applies to unarranged overdrafts changes, the new rate will apply from the day of the change. You can find the current rate Westpac NZ applies to unarranged overdrafts on Westpac NZ's website;
- interest will accrue on a daily basis based on a year of 365 days. It will be calculated on the outstanding balance of each sum included in the relevant Secured Party's Secured Money, up to the date of actual payment from (and including) the date when that sum became owing by you. That date, in the case of an amount payable to cover a sum paid by a Secured Party to you or anyone else, will be taken to be the date when the Secured Party paid that amount;
- no set off is allowed, for the purpose of calculation of interest, for credit balances in any account held by you with a Secured Party
- accrued interest is payable by you on demand;
- a Secured Party may, at the end of any period determined by that Secured Party, debit any of your accounts with unpaid interest. That interest shall bear interest as provided in this clause; and
- the obligations in this clause apply after as well as before any judgment of a court.

2.5 Government charges.

You must pay any government duties, taxes and other charges in relation to this mortgage.

If we pay any of these, you agree to pay us back when we demand it.

2.6 Payments in the wrong currency.

If, for any reason a Secured Party receives or recovers an amount under a Bank Document in a currency other than the currency in which it should have been paid the Secured Party can convert the currency when it chooses, and conversion will be at Westpac NZ's published rate of exchange applicable to such transactions on that day. If, after that Secured Party has converted that other currency to the correct currency, there is not enough to pay off the full amount then due under

the Bank Document, you must pay that Secured Party the full amount of the shortfall.

2.7 Deductions from payments.

You must not make any payment subject to any condition, restriction or claim you may have against the Secured Parties. You may only make a withholding or deduction from money you pay to a Secured Party under the mortgage if that withholding or deduction is required by law. If the law requires you to make a withholding or deduction then 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 government authority by the due date for payment;
- c. you must send the relevant Secured Party, within 30 days of the withholding or deduction, a receipt showing that the withholding or deduction has been paid to the relevant revenue or government authority; and
- d. A Secured Party may ask you to increase the amount you pay to the relevant Secured Party so that the Secured Party receives the amount it would have otherwise received if either of the following happens:
 - A law requires you to make a withholding or deduction from any amount you pay to that Secured Party
 - That Secured Party is required to pay an amount of tax (other than tax on the Secured Party's overall net income) in relation to any amount you pay to that Secured Party.

If you are required to increase your payment to a Secured Party under clause 2.7(d), the relevant Secured Party can sometimes claim a tax credit for the relevant taxes. If the relevant Secured Party claims a tax credit and has benefitted from it, then the relevant Secured Party will pay you an amount so that the Secured Party is no better off after tax than it would have been if you had not increased your payment in the first place.

3. What you must do

You undertake to the Secured Parties as follows, except to the extent that the Secured Parties consent in writing or as expressly permitted in a Bank Document:

- a. Title. Only you own the Mortgaged Property or will do so on completion of any purchase financed under the mortgage. You must make sure at all times that no other party has any interest in the Mortgaged Property that is registered, or able to be registered, on the title to the Land (other than an interest a Secured Party has consented to). You must also make sure no other person acquires any:
 - interest in; or
 - rights over or to use, the Mortgaged Property.that could reasonably be expected to materially increase the Secured Parties' risk other than an interest a Secured Party has consented to.
- b. Maintenance. You must look after the Mortgaged Property and protect and maintain it in a good state of repair.
- c. Outgoings. You must promptly pay all outgoings relating to the Mortgaged Property. These include rates and taxes.
- d. Insurance. You must make sure that all buildings and improvements that are on the Mortgaged Property, or include the Mortgaged Property, are insured at all times to the Secured Parties' satisfaction:
 - with a New Zealand insurer approved by the Secured Parties;
 - against fire, earthquake, flood, explosion, weather damage and other risks as is prudent for a residential property owner to insure against or, if you are a Commercial Party, as is prudent in accordance with best commercial practice to insure against;
 - if you are a Commercial Party, against third party liability in an amount reasonable for the nature and size of your business.
 - for an amount at least equal to their full replacement cost or on another basis acceptable to the Secured Parties; and
 - in your name as owner and in Westpac NZ's name as interested party.

You must give the policy or a certificate of currency to the Secured Parties on request.

You must pay the insurance premiums when due and, if requested by the Secured Parties, provide evidence of payment to the Secured Parties.

You must do everything reasonably necessary (including anything requested by a Secured Party) to enable the Secured Parties to claim under any insurance policy and to collect or recover money due.

You must hold any proceeds of any insurance policy on trust and pay them to a Secured Party (for the benefit of the Secured Parties). The Secured Parties will at their option:

- apply them towards payment of the Secured Money, including principal, even though the Secured Money may not yet be due for payment; or
- pay them into an interest bearing account from which they can apply them (and interest credited to the account) in restoring the Mortgaged Property.

You must not do, fail to do, or permit, anything which might prejudice the insurance cover or settle any claim under any insurance policy.

You must provide the Secured Parties with such information in relation to insurance as the Secured Parties may from time to time require.

- e. Building and alterations. You must not cause or permit any buildings, fixtures, or improvements forming part of the Mortgaged Property to be removed, dismantled, or altered, in whole or part where this would materially increase the Secured Parties' risk.

You must make sure all building work and alterations on the Mortgaged Property are completed properly.

- f. Business. If you conduct any business or other activity from the Mortgaged Property, you must make sure that business or other activity is carried out in a prudent, proper and efficient manner.

- g. Change of use. You must not change the use of the Mortgaged Property, including by making any material change to the type of activity or, in the case of farming, the type of farming, conducted on the Mortgaged Property. The

exception to this is if the change of use does not materially increase the Secured Parties' risk.

h. Law. You must comply with all laws that relate to you and the Mortgaged Property, including that you must:

- make sure there is nothing on, or relating to, the Mortgaged Property that does or is likely to give rise to a claim against you or the Secured Parties;
- make sure that everything that has been or will be built and done on the Mortgaged Property complies with the law; and
- comply with any notices issued under any law which affects the Mortgaged Property.

The only exception to the above is where your non compliance with the law does not materially increase the Secured Parties' risk.

i. Environmental law. If you are a Commercial Party you must maintain procedures which, considering the nature of your business and good practice in your industry, are adequate to monitor:

- your compliance with Environmental Law; and
- circumstances which may give rise to a claim, to a requirement of substantial expenditure by you, or to a requirement that you cease or materially change your activities.

The Secured Parties may have an audit conducted of the Mortgaged Property, your procedures and any circumstances in relation to the Mortgaged Property where the Secured Parties reasonably suspect that:

- you are not complying, or are likely to not comply in future, with an Environmental Law or this clause 3(i); and
- such non-compliance materially increases the Secured Parties' risk.
- You must do everything necessary to facilitate that audit and it will be at your expense. Where the monitoring procedures or the audit referred to above reveal any non-compliance with Environmental Law or any circumstances requiring remedial action, you must remedy any non-compliance or take the necessary remedial action as soon as reasonably practicable and at your cost.

j. No dealings. You must not:

- lease any of the Mortgaged Property. If consent is given, you must use reasonable efforts to make sure that the lessee pays the rent and complies with the terms and conditions of the lease, and you must not agree to change, waive or accept any surrender of all or any part of the lease; or
- sell or dispose of the Mortgaged Property or any interest in it;

k. Leases and cross leases. If the Mortgaged Property is leased to you, you must:

- pay the rent and comply with the terms and conditions of the lease;
- make sure that all renewals or extensions of the lease or new leases of the Mortgaged Property are obtained promptly, and immediately mortgaged to Westpac NZ, for the benefit of the Secured Parties, with the same priority as the mortgage;
- use reasonable efforts to make sure the lessor complies with the terms and conditions of the lease; and
- not agree to change or waive all or any part of any such lease.

l. Licence to occupy. If the Mortgaged Property is a registered licence to occupy under the Land Transfer Act 2017 you must:

- comply with the terms and conditions of the licence to occupy and the constitution of the flat or office owning company;
- pay all contributions levied by the flat or office owning company when due and, if requested by the Secured Parties, provide evidence of payment to the Secured Parties;
- deliver to the Secured Parties your copy of the share certificate issued for the shares to which the licence to occupy relates, and if requested by a Secured Party, your copy of the licence to occupy;
- not sell or dispose of the shares to which the licence to occupy relates
- not agree to change or waive all or part of the licence to occupy;

- use reasonable efforts to make sure the licence to occupy is not cancelled, surrendered, revoked, rescinded, or forfeited, and that no new licence to occupy is issued;
 - not concur or agree to any dealing with the building or the property of which the Mortgaged Property forms part, or to any amendment to the constitution of the flat or office owning company (unless this does not result in a material increase in the Secured Parties' risk);
 - not make or permit to be made any material alteration to the Mortgaged Property other than a material alteration permitted under clause 3(e) above;
 - promptly give the Secured Parties a copy of any notice received from the flat or office owning company; and
 - grant the Secured Parties the right to attend company meetings as proxy of the mortgagor, and if a Secured Party is present, to vote at those meetings instead of you.
- m. Other obligations. Unless inconsistent with the terms of this mortgage, you must comply with all obligations which relate to the Mortgaged Property or your interest in it.
- n. Unit title. If the Mortgaged Property includes any stratum estate under the Unit Titles Act 2010 you must:
- use reasonable efforts to make sure the body corporate complies with the Unit Titles Act 2010;
 - give to a Secured Party a copy of any notice received from the body corporate if the notice concerns matters that could reasonably be expected to materially increase the Secured Parties' risk;
 - request from the body corporate, and give to a Secured Party, such information and documents as a Secured Party reasonably requests; and
 - not vote, or abstain from voting, in relation to a body corporate resolution to amend the body corporate rules, or which requires a unanimous vote or special resolution, without the Secured Parties' written consent (and then you must vote only in accordance with such consent).

Your voting rights under the Unit Titles Act 2010 and the rules of the body corporate (whether at a meeting or by entry in the minute book or otherwise) may be exercised by the Secured Parties, at your expense.

Unless you are in default, the Secured Parties will only exercise your voting rights in relation to matters that could reasonably be expected to materially increase the Secured Parties' risk.

- o. Protect security. You must do everything reasonably necessary or which a Secured Party reasonably asks you:
- to better secure the mortgage; and
 - to maintain, preserve and protect:
 - > the Mortgaged Property and its value; and
 - > your title and the Secured Parties' interest.

In particular, if anyone, other than the Secured Parties, lodges a caveat with the Registrar-General of Land, you must do everything in your power to remove it.

p. Notify events of default. You must notify the Secured Parties if you are in default as soon as you reasonably can, giving full details of the default and any action taken (or to be taken) in respect of it.

q. Information. Subject to the Privacy Act 2020, you must give the Secured Parties promptly any information that the Secured Parties reasonably request.

4. What the Secured Parties can do

4.1 Generally.

The Secured Parties and any Receiver, Attorney or Officer may do any one or more of the following at your cost:

- inspect the Mortgaged Property and your records;
- do what you expressly or impliedly agree to do in any Bank Document but fail to do;
- pay amounts that they understand to be due and unpaid by you under other mortgages, charges, security interests or encumbrances

over the Mortgaged Property, and other liabilities relating to the Mortgaged Property;

- obtain a valuation of the Mortgaged Property; and
- notify anyone of the mortgage.

4.2 Default.

If certain things happen, you'll be 'in default'. When you're in default the Secured Parties have extra rights to protect their interests. If the Secured Parties use these rights, it can be very serious and may lead to your insolvency.

One of these rights is that the Secured Parties can enforce the mortgage and sell the Mortgaged Property.

You can also be in default if things happen to, or in relation to, a Guarantor.

You'll be in default if any of the following things happen unless a Secured Party has given its written consent to them happening in advance.

This section explains when you're in default and sets out the extra rights the Secured Parties have.

All defaults apply to Guarantors as well as you.

All of the things in this section that would result in you being in default are also a default if they happen in relation to a Guarantor.

Immediate defaults.

You'll immediately be in default if any of the following things happen. These are all very serious circumstances, and the Secured Parties can act immediately and without giving you prior notice if they happen.

- a. You don't pay any of the Secured Money when due. The exception would be if the reason the amount hasn't been paid is because of a technical or administrative error and the amount is paid within 2 Business Days of the due date.
- b. The Secured Parties consider any information you provided to them is deliberately deceptive or if you are involved in any other deliberately deceptive conduct towards a Secured Party.
- c. Without the written consent of a Secured Party, your direct or indirect ownership or

management changes and this change affects who has the power to do any of the following:

- Determine your management or policies
- Control your board (or other governing body) membership
- Control the casting of more than one half of the maximum number of votes that may be cast at your general meeting.

If you are a limited partnership, either one of the following happens:

- A general partner is removed, replaced or added to the limited partnership
 - The partnership agreement is amended or revoked and this materially increases the Secured Parties' risk.
- d. You are insolvent.

A person is insolvent if either of the following applies:

- They are unable, or they say they are unable, to pay their debts when they fall due
 - They are 'deemed' or 'presumed' to be insolvent under the law.
- e. An Insolvency Event happens to you.

An Insolvency Event is when one of the following things happens to (or in relation to) a person or if a formal step is taken in anticipation of that thing happening:

- a distress, attachment or other execution is levied or enforced on, or commenced against, any of its assets, or a judgment is obtained against it that is not satisfied within 10 days (unless it contests the execution or judgment in good faith by appropriate proceedings, to the Secured Parties' satisfaction);
- Liquidation, receivership, statutory management, administration, winding up, moratorium, dissolution, protection from creditors under any statute, arrangement or compromise with creditors
- Being declared to be a corporation at risk under a statutory management regime
- If it is a limited partnership, a terminating event under the Limited Partnerships Act 2008

- Bankruptcy, any act of bankruptcy, the no-asset procedure or a debt repayment order
- A registrar of competent authority gives a direction prohibiting it from carrying on any activity or suspending its constitution or its officers' powers.

Any similar procedure or occurrence to something listed above including in any country.

- f. Compulsory acquisition. All or any part of the Mortgaged Property is compulsorily acquired or any step is taken for its acquisition.

Other defaults.

The following things can also result in you being in default if certain circumstances apply. Some of these things can be less serious than the immediate defaults in the above section. Because of this, the following things will only be a default if they result in a material increase in the Secured Parties' risk.

See section 6.2 Definitions below for what 'material increase in the Secured Parties' risk' means.

Usually if the matter or circumstances can be fixed, and you fix it within 10 Business Days (or any other period that the Secured Parties specify below), then you won't be in default. The exception would be if the Secured Parties need to give you a shorter period (or no period) to protect their position.

- a. You don't comply with obligations under the mortgage or any other Bank Document.
- b. You are in default, or the equivalent to being in default happens to you, under any other Bank Document.
- c. Any information you provide to a Secured Party is untrue or misleading in any material respect (including if it is misleading because other information is not provided). However you will not be in default if the matter can be fixed and you fix it within 30 Business Days of our request.
- d If you are a company or a limited partnership, one of the following things happens in relation to you:
- Loss or suspension of registration – for example if you lose your registration as a company or a limited partnership
 - A change to the country you are located in – for example if you change to being a company domiciled in a different country.

- e. Any of the following things happen in relation to a Guarantor:
- A Guarantor gives a notice stopping any of its obligations to a Secured Party
 - A Guarantor who is a natural person dies or no longer has full legal capacity.
- f. One of the following happens in relation to your arrangements with someone other than a Secured Party:
- You don't pay any material debt Owed when it's due (or within any relevant grace period)
 - A facility or agreement to provide a loan to you or underwrite a debt of yours, where the amount of the loan or debt is a material debt, is terminated early.

A material debt is a debt exceeding \$20,000. If you are a Commercial Party and the debt relates to the purchase price of an asset or service purchased as part of your usual business, it will only be considered a material debt if it is not paid within 90 days of the due date or if the seller or service provider takes a step to recover the asset, withdraws the service or otherwise enforces the debt.

- g. Any other mortgage, charge, encumbrance or security interest over the Mortgaged Property is enforced or becomes enforceable.

Note that the Mortgaged Property includes not only the Land but also the Assigned Property.

- h Your mortgage, any Bank Document, or any part of those documents or a Security Interest under them:
- Is illegal
 - Is invalid
 - Is unenforceable
 - Has a lesser effect than was intended.

Except you will not be in default in relation to the above if the circumstances are a result of a Secured Parties' fraud, negligence or wilful misconduct.

- i. Flat or office owning. The flat or office owning company, which granted any licence to occupy comprising the Mortgaged Property, suffers an Insolvency Event (as that term is used in clause 4.2).
- j. Without the written consent of a Secured Party, you amalgamate with another company.

- k. Any material lease of the Mortgaged Property becomes liable to forfeiture. A lease is a material lease if it is significant to your business' performance or operational capability that it remains in place.

4.3 What the Secured Parties can do if you are in default.

If you are in default, the Secured Parties can do any or all of the following:

- require you to immediately pay all or any of the Secured Money;
- terminate any obligation to make available any financial accommodation or product a Secured Parties may have under any Bank Document; and

Westpac NZ may do all or any of the following:

- take possession of the Mortgaged Property;
- sell the Mortgaged Property in one or more lots or with or without other property;
- do anything you could do in relation to all or part of the Mortgaged Property including (but not limited to) receive rents and/ or other income payable in respect of the Mortgaged Property;
- exercise any Power; and
- appoint one or more Receivers who alone or together can do anything as set out above and can exercise any other right conferred on receivers and/or managers by law, remove any Receiver and fix the remuneration of any Receiver, such remuneration to be payable by you and to form part of the Secured Money. To the extent permitted by law, every Receiver appointed is your agent and you alone are responsible for their acts and defaults.
- If you're in default, you will have no right to withdraw (and the Secured Parties will have no obligation to repay) any of your money held in any account with the Secured Parties.

4.4 Power of attorney.

You appoint the Secured Parties, each Officer and Receiver severally as your Attorney to do any of the things listed in clause 3(n), clause 3(o) and clause 4.1 and, at any time you're in default, clause 4.3 of

the mortgage. Each Attorney may also delegate its powers (including delegation). This appointment is made for valuable consideration and you may not revoke it.

4.5 Use of money.

Any money received or recovered by the Secured Parties, any Receiver or any Attorney under the mortgage may be used to pay off any part of the Secured Money which the Secured Parties choose.

The Secured Parties may open a separate or new account and credit payments received to that new account so that you will remain liable for the full amount despite that payment.

4.6 Amounts contingently due.

If any of the Secured Money is contingently owing to a Secured Party at the time of any application of any amount under clause 4.5, that Secured Party may retain any of that amount. If it does, it will place the amount retained on short term interest bearing deposit until the relevant Secured Money becomes actually due or ceases to be contingently owing, and it shall then pay to itself the amount which becomes actually due to it.

4.7 Money you owe.

The Secured Parties can take any amounts you owe (including losses or expenses you're responsible and liable for) from any of your accounts to cover or put towards what you owe. To do that the Secured Parties are allowed to:

- Move money from one of your accounts to another
- Treat all your accounts as one
- Convert money in one currency into a different currency
- Break any deposit or other investment.

The Secured Parties can do the above in any order. If the relevant Secured Party can contact you, it will let you know afterwards. The Secured Parties can also use money from your joint accounts and share why it has used that money with other joint account holders.

The Secured Parties can use a collection agency to recover any amounts you owe that are overdue and

you will be responsible and liable to the relevant Secured Party for the costs.

If an amount payable by you to the Secured Parties under any Bank Document is unable to be quantified or is contingent and not yet due, the Secured Parties may retain any of your money in an account with the Secured Parties until the amount is quantifiable and falls due.

To the maximum extent allowed by law, you give up any right to set off any amounts the Secured Parties Owe you against the Secured Money including amounts you Owe under the mortgage.

4.8 Authority to debit.

The Secured Parties may debit any of your accounts with any amount of the Secured Money that is Owed to the Secured Parties from time to time. The Secured Parties may exercise this right even if the account concerned is already in debit, and even if the amount debited takes the debit balance of the account over any approved limit.

4.9 Assignment.

Westpac NZ can transfer the mortgage and the Secured Parties can transfer any Bank Document and all or part of the Secured Money to someone else, and may disclose information about you to any potential transferee. If Westpac NZ transfers the mortgage, the mortgage will apply to the transferee as if it were Westpac NZ. If the Secured Parties transfer all or part of the Secured Money, the mortgage and any transferred Bank Document will apply to the transferee as if it were a Secured Party and the mortgage will continue to apply to the other Secured Parties in respect of any Secured Money that is not transferred by the Secured Parties.

To the maximum extent allowed by law, any transfer will be free of set off, equity or cross claim which you would have had against Westpac NZ or the Secured Parties, as the case may be, or transferees of any Bank Document, but for this clause.

4.10 Rights and powers separate.

The Secured Parties can, but need not, do anything under the mortgage at once or after a time or more

than once. The Secured Parties can exercise all other rights and powers that they have under law even if they overlap with the above. If the Secured Parties do not do something when they are able to, that does not mean they are giving up that right and cannot do it later.

4.11 Exercise of Powers.

When the Secured Parties exercise discretion under this mortgage, including where you ask them to do something, they'll act in a reasonable way.

5. General

5.1 Obligations continue.

Your obligations under the mortgage continue after you die or you suffer an Insolvency Event (as defined in clause 4.2) and after the Secured Parties learn of it.

5.2 Secured Parties' enquiries and inspections.

You agree that if the Secured Parties or their representatives inspect any building work on the Mortgaged Property, they are doing so for themselves and not you. You should not rely on that inspection.

The Secured Parties and their representatives are not responsible to you if the building work has not been properly done, even if a Secured Party or a representative has said it is satisfied as to the work, and provides finance against the work.

The same applies to any search, enquiry, inspection or valuation which is checked, carried out or obtained by the Secured Parties or their representatives with respect to any other aspect of the Mortgaged Property.

In particular, if you are buying the Mortgaged Property, you or your lawyer (if any) are responsible for making sure you get good title. You should not rely on the Secured Parties or their representatives.

5.3 Notices.

This section sets out the ways that notices can be given under or in relation to this mortgage. By

'notices' we mean any notice, letter, statement or other information.

Any notice you or a Secured Party gives must be in writing.

The Secured Parties can provide you with notices in any of the following ways:

- By handing the notice to you
- Direct communication, like a letter or email
- By sending a message on online services
- By displaying information in Westpac NZ's branches
- By publishing the notice on Westpac NZ's website – westpac.co.nz
- By SMS (Text Alert)
- By notice in the media, including a public notice

The Secured Parties can also provide you with a notice in any way that is permitted by any law that applies to that particular type of notice.

If a Secured Party sends you a notice by post, email or SMS, it can send it to the post, email address or mobile number that you have most recently provided. If you have a registered office the Secured Parties can also send the communication to your registered office.

When a Secured Party provides you with a notice, it will do it in a way that is reasonable in the circumstances. For example, if a notice is personal to you and does not apply to other customers the Secured Party will not publish the notice on its website.

You can provide the Secured Parties with notices in any of the following ways:

- By handing the notice to us or
- By post or email to Westpac NZ (contact details are available at westpac.co.nz/contact-us/) or your relationship manager (if you have one)

If a notice is sent by post, the recipient is considered to have received it four days after it is sent.

If a notice is given by hand or published on a website it is considered to have been received on the day that this occurs.

If a notice is sent by email or SMS, it is considered to have been received at the time set out in the email or SMS as the time it was sent.

Any Officer can sign a demand, certificate or other document for a Secured Party.

A notice given, or required to be given, under the mortgage to, or by, the Secured Parties is validly given if it is given to, or by, one Secured Party only.

You are entitled to rely on such notice given by one Secured Party as being authorised by both the Secured Parties and will have no obligation to enquire as to whether any instructions have been given to that Secured Party or as to the terms of any such instruction.

5.4 Waiver.

No waiver by the Secured Parties of any right arising under this mortgage, or relating to this mortgage but arising under any other Bank Document, will be effective unless it is given in writing and is signed by a Secured Party.

5.5 Contract and Commercial Law Act 2017.

For the purposes of the Contract and Commercial Law Act 2017, each Receiver and each Attorney is a designated person pursuant to Part 2, Subpart 1 of the Contract and Commercial Law Act 2017.

They are entitled to enforce against you every provision of the mortgage which confers a benefit on them. The Secured Parties and you may agree to vary or discharge any such provision without the consent or agreement of any such designated person.

5.6 Certificate of amount of money.

You agree that a certificate from us that sets out the amount that you owe us under the mortgage is proof that you owe that amount, unless you establish that the certificate from us is incorrect.

5.7 Survival of indemnities.

Each indemnity and reimbursement obligation in the mortgage will survive discharge of the mortgage.

5.8 Saving of mortgage.

If any clause in the mortgage is not enforceable in any country because of the laws of that country, then that will not affect:

- the other clauses in the mortgage; or
- the enforceability of that clause in any other country.

5.9 No merger.

No Power and nothing in the mortgage or any Bank Document, is adversely affected merely because of the existence of any other Bank Document, or by any judgment, right or remedy against any person which a Secured Party or someone claiming through a Secured Party may have at any time.

5.10 Protection of third parties.

No person who is party to a dealing, and no person asked to lodge a dealing for registration with the Registrar-General of Land, is affected by express notice that the dealing is unnecessary or improper, nor is that person bound to enquire whether the mortgage has become enforceable, whether the dealing is valid or whether any Receiver or Attorney is properly appointed.

For the protection of any person who is party to a dealing or a person lodging for registration of a dealing, the dealing will be taken to be authorised by the mortgage and it will be valid, even if there is something wrong with the dealing.

In this clause, a dealing includes any dealing with the Registrar-General of Land, payment, or any delivery or handing over of an asset to, or any acquisition, incurring of debt, receipt, sale, lease, disposal or other dealing by a Secured Party, any Receiver, any Officer or Attorney or any person who purports to be one.

If a Secured Party, any Officer or any Receiver or Attorney (or any person who purports to be one) gives a receipt for any money or assets, that will save the person paying that money or handing over that asset from being concerned as to its application, or being liable or accountable for its loss or misapplication.

5.11 Protection of officers.

To the extent permitted by law, neither the Secured Parties nor any Officer, Receiver or Attorney, will be liable in respect of any conduct, omission, delay or breach of duty in the exercise of, or failure to exercise, a Power or for any loss (including consequential loss) which results. However, such party will be liable where liability arises from their own fraud, negligence or wilful misconduct.

5.12 More than one mortgagor.

If you sign, or otherwise consent to or authorise the registration of the mortgage with one or more others, its terms apply to each of you individually and to all or any number of you as a group.

Each of you is individually liable for the full amount of the Secured Money. The Secured Parties can make a claim or demand on any one or more of you.

5.13 Trustee.

There are special obligations and confirmations you must give the Secured Parties if you are a trustee of a trust.

If you grant this mortgage as a trustee of a trust, you are bound by all the terms in this document and in relation to the mortgage as the trustee of that trust. This is the case even if you were not properly authorised under the trust to grant this mortgage.

Also, unless you are an 'independent trustee', you are personally bound by all the terms in this document and in relation to this mortgage. This means you might need to pay the Secured Parties amounts from your personal assets (for example if the trust doesn't have enough assets to meet all your obligations in relation to this mortgage).

When this document states 'independent trustee' it is referring to a trustee that has no right to, or interest in, any property of the trust (except for an interest that only relates to them being a trustee). For example, if you are a named beneficiary of the trust then you're not an independent trustee. See below under 'Your liability as an independent trustee' for more information.

If you're granting this mortgage as trustee of a trust, the Secured Parties rely on you making sure you always have a right of indemnity from the trust assets.

You agree to comply with your obligations under the trust deed.

You also agree that you won't take any step towards doing any of the following unless you have the Secured Parties' prior written consent:

- Amend or revoke the trust deed for the trust
- Appoint or remove any trustee (including yourself) as trustee of the trust
- Determine a vesting date under the trust deed until the Secured Money has been repaid in full.

If any of the above happen for any reason, including for reasons outside of your control, you must let the Secured Parties know as soon as possible.

The Secured Parties also rely on you confirming the following:

- The terms of the trust give you the power to grant this mortgage
- You've properly granted this mortgage in accordance with the terms of the trust
- You have a right of indemnity from the trust property.

To the best of your knowledge, you are not aware of any circumstances that may exclude or limit your right of indemnity from the trust property under the terms of the trust, the Trusts Act 2019, or under any other law.

Your liability as an independent trustee.

If you are an independent trustee, the Secured Parties can only recover Secured Money from your personal assets in the following circumstances:

- If the Secured Parties incur losses or costs because of your dishonesty, wilful misconduct, or gross negligence in breach of your duties as trustee
- If you lose (or never had) a right of indemnity from the trust property for any reason.

5.14 Governing law.

The law of New Zealand applies to the mortgage. You accept the non-exclusive jurisdiction of its courts.

5.15 Continuing security.

The mortgage is a continuing security until a final discharge has been given by Westpac NZ despite any payment or anything else.

You will not be entitled to a final discharge of the mortgage until the Secured Parties are satisfied that all Secured Money has been repaid in full, and that no payment may be voided, voidable or required to be repaid by the Secured Parties under any law. In any event, you acknowledge that (subject to any law to the contrary) any request for a discharge must give the Secured Parties 10 Business Days' notice.

If any payment or other transaction under the mortgage is void, voidable, or required to be repaid by any law, that payment or other transaction will be deemed not to have affected your liability to the Secured Parties even if the mortgage has already been released. In those circumstances, the Secured Parties will be restored to the position they had been in prior to that release, payment or other transaction. If that happens, you must do all things and sign all documents as may be necessary to restore the Secured Parties to that position.

6. Reading the mortgage

6.1 Materially increase the Secured Parties' risk.

Something **materially increases the Secured Parties' risk** if a Secured Party has determined that it is likely that one or more of the following is materially increased:

- The risk that you or a Guarantor might not comply with your or their financial obligations to the Secured Parties under a Bank Document;
- The risk that the Secured Parties might not be able to fully recover everything Owed under the Bank Documents; and
- The risk that the Secured Parties' reputation may be harmed or that they might not comply with a law that applies to them.

If something happens that means it is difficult or impossible for the Secured Parties to assess one of the above, that can also be a **material increase in the Secured Parties' risk**.

6.2 Definitions.

The following definitions apply unless the context requires otherwise:

Assigned Property means documents and consents in relation to the Land (other than any resource consent issued under the Resource Management Act 1991 in respect of the Land) and rights to payment that arise in connection with an interest in the Land, including, without limitation, rights to rental payments under a lease of, or licence to occupy, the Land, the proceeds of any insurance (including in respect of loss of earnings or income), sale proceeds of crops, trees, and other produce, damages and the proceeds of any profit á prendre or forestry right.

Attorney means a person appointed as attorney under the mortgage.

Amalgamation has the meaning it bears under the Companies Act 1993.

Bank Document means a document or agreement:

- to which the Secured Parties and any one or more of you and/or any Guarantor are or become parties, or purport to be or become parties; or
- under which obligations arise or are intended to arise from any one or more of you and/or any Guarantor to the Secured Parties, in each case whether or not other parties are involved or it arises as a result of an assignment or transfer. It includes the mortgage.

This does not include any document or agreement that expressly states that the relevant loan, credit, or financial obligations under the document or agreement is unsecured.

Business Day means any regular working day, Monday to Friday. Weekends and national public holidays aren't classed as Business Days.

Commercial Party means you, if you are the mortgagor under this mortgage and you do not use the Mortgaged Property primarily for personal, domestic or household purposes.

Environment includes the natural physical surroundings of humankind (whether affecting individuals or groupings of individuals) and any human made changes to them and any buildings.

Environmental Law means a provision or law which relates to an aspect of Planning, the Environment or the health, safety and the welfare of humans individually and collectively.

Guarantor means anyone who provides any guarantee or other security in relation to all or any part of the Secured Money.

Land means:

- the land described in the mortgage; and
- all buildings, fixtures and improvements on that land.

Mortgaged Property means:

- the Land;
- the Assigned Property; and
- any resource consent issued under the Resource Management Act 1991 in respect of the Land, or any part thereof.

Officer includes an employee of a Secured Party whose title includes the word Manager, or occupying an office whose title includes the word Manager or Legal Counsel or any person (who need not be an employee) authorised by a Secured Party.

Owe, in relation to money, means to owe that money or to be liable to pay that money, and Owed, Owes, and Owing shall have corresponding meanings.

Planning includes any obligation or requirement to apply for, renew, hold or comply with any authorisations relating to the conduct of, any activity in or the use of any part of the Environment or any restrictions on such activity or use.

Power means a power, right, authority, discretion or remedy which is conferred on the Secured Parties, an Officer, a Receiver or an Attorney by a Bank Document or by law in relation to a Bank Document.

Receiver means a receiver, receiver and manager or manager appointed under the mortgage.

Secured Money has the meaning given in clause 1.2.

Secured Parties means Westpac NZ and Westpac Banking Corporation ABN 33 007 457 141, incorporated in Australia (and includes any transferee referred to in clause 4.9) and Secured Party means either of them.

Security means any Security Interest that secures any of your or a Guarantor's obligations to us in relation to your Mortgage.

Security Interest means a mortgage, charge, pledge, lien, encumbrance, or other similar arrangement that secures any obligation of any person.

Subsidiary has the meaning given to it in the Financial Reporting Act 2013.

Westpac NZ means Westpac New Zealand Limited, company incorporation number 1763882 and includes any transferee referred to in clause 4.9.

you means the person who is granting the mortgage over the Mortgaged Property. If there is more than one person, 'you' means each person granting the mortgage as well as all of them together. 'You' also includes any of your successors, anyone you transfer your obligations to and executors or administrators of your estate (as relevant). **Your** has a similar meaning.

We recommend you seek legal advice if you are unsure about anything in these definitions - or about how it affects you in relation to your Mortgage.

6.3 General.

Headings are for convenience only. They do not affect interpretation.

The following rules apply unless the context requires otherwise:

- singular includes the plural and converse;
- a gender includes all genders;
- reference to law includes present or future common or customary law and any statute, statutory instrument, subordinate legislation, regulation, by-law, order or other legislative measure, or any judgment or judicial or administrative order or determination or decision, in any jurisdiction;
- reference to a person includes a natural person, company, corporation, trust, partnership, firm, joint venture or governmental agency, in each case whether or not having separate legal personality, and any association of entities;

- an example does not limit what else might be included; and
- a reference to any legislation or to a provision of any legislation includes any amendments and re-enactments of it, a legislative provision substituted for it, and a regulation, rule, order, or instrument made under or issued pursuant to it.

6.4 Statutory implied terms.

Clauses 3(2), 8(2) and 18 of Part 1 of Schedule 2 to the Property Law Act 2007 do not apply to this mortgage.

The rest of Part 1 of that Schedule applies to this mortgage except to the extent to which it is inconsistent with the express terms of this mortgage or any other Bank Document.



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