



Loan Terms and Conditions

General

These Loan Terms set out the terms and conditions that apply to your Loan, and together with the Disclosure Document and the Credit Fees and Charges Schedule form your Loan Contract with us. The Loan Terms describe your obligations under the Loan and what Wairarapa Building Society (also referred to as **WBS**, **we**, **our** and **us**) can do if you do not fulfil those obligations.

Terms which are capitalised in these Loan Terms have a specific meaning. The meaning of these terms is set out in clause 24.

These Loan Terms can be amended from time to time by notice on our website (www.wbs.net.nz).

Consumer Credit Contracts

You will see a number of these Loan Terms will only apply if your Loan is a "Consumer Credit Contract" as defined in section 11 of the CCCFA. Generally, the Loan will be a Consumer Credit Contract if the Borrower is an individual and the Loan is being used solely or mainly for personal use (for example, buying a residential property). If the Borrower is a company (or other incorporated entity or group of persons) or a trustee of a family trust, or the Loan will be used solely or mainly for business or investment purposes, then the Loan will not be a Consumer Credit Contract.

Please note that the above summary is provided to assist you to determine what provisions of these Loan Terms apply to your Loan. It does not constitute, and is not a substitute for, legal advice. If you are unsure whether your Loan is a Consumer Credit Contract, we recommend that you obtain separate legal advice.

General Terms and Conditions

Your Loan is also subject to any applicable General Terms and Conditions. Copies of these terms and conditions are available on our website (www.wbs.net.nz) or free of charge on request.

1. AVAILABILITY OF LOAN

- 1.1. **Requirements:** Before we make the Loan available to you, we must have received or be satisfied with the following (in the form acceptable to us):
- a. signed copies of the Disclosure Document, any Security and all other documents we require set out in the Disclosure Document (including any applicable certificates);
 - b. evidence that the conditions precedent set out in the Disclosure Document, or any other correspondence from us to you (including any pre-approval letter) have been satisfied;
 - c. evidence that all Secured Property has been insured on terms acceptable to us;
 - d. no Event of Default has occurred or is likely to occur following the advance of the Loan, or any instalment of the Loan (as applicable);
 - e. any Guarantor who is providing us with a Guarantee of your Loan must have satisfied all of our conditions and requirements in relation to the Guarantee; and
 - f. evidence that all fees and costs payable by you have been paid or will be paid.

2. ADVANCES

- 2.1. **Availability:** If you have met the requirements in clause 1.1, WBS will make the Loan available to you on the Date of Availability and drawdowns will be made available to you at the times set out in the Disclosure Document.
- 2.2. **Re-advances:** If the Loan is
 - a. a Revolving Credit Loan or a Development Loan, you may throughout the Term, provided no Event of Default has occurred and subject to clause 8, redraw an amount equal to the Credit Limit less any amounts borrowed at that time.
 - b. an Interest Only Loan or Construction Loan you may throughout the Term, provided no Event of Default has occurred, request a redraw of funds (such request to be approved by WBS at its sole discretion). Any such re-advance will be subject to the terms and conditions of the Loan Contract and any other conditions imposed at the time the re-advance is approved by WBS.

3. TERM

- 3.1. **Demand:** The Amount Outstanding must be repaid on Demand. WBS will only make demand following the occurrence of an Event of Default.
- 3.2. **No Demand:** If no Demand is made, the Loan is available to you for the Term.

4. PAYMENTS AND INTEREST

- 4.1. **Payment of the Loan:** You must pay the Amount Outstanding in accordance with the terms set out in the Disclosure Document and clause 4.8.
- 4.2. **Interest:** Interest will accrue on the Loan at the Interest Rate, and depending on the Loan type will be payable in accordance with clause 4.7. If a Fixed Interest Rate Period applies the Interest Rate will be fixed for that period. At the end of the Fixed Interest Rate Period, the Interest Rate will change to the floating rate (unless re-fixed by agreement with us).
- 4.3. **Default Interest:** If you fail to make any payment by any of the terms of the Loan Contract, then you must pay default interest at the Default Rate on any such payment that is not paid when due. Such default interest will be calculated daily from the time that the payment should have been made until the day that it is actually paid by you.
- 4.4. **Judgment:** In addition to clause 4.3, if WBS obtains judgment against the Borrower for any sum payable pursuant to the Loan Contract, the Borrower shall pay to WBS interest on the sum for which judgment is obtained at the Default Rate from the date of judgment until the date of payment of such sum, calculated on a daily basis as set out in clause 4.3.
- 4.5. **Alteration of Rates:** WBS will not alter the Interest Rate applicable to a Loan during any Fixed Interest Rate Period. Where the Interest Rate is a floating rate, we may from time to time by giving not less than 14 days written notice alter the Interest Rate and/or the Default Rate to reflect market interest rates (and because of such change, alter the Instalment amount) and we will comply with any timing and notice requirements set out in the CCCFA, if applicable.
- 4.6. **Calculation of Interest:** Interest will be calculated daily at the Interest Rate from (and including) the Date of Advance. Interest will be added to the Loan on the last day of each month (or such other date as we elect).
- 4.7. **Timing of Interest and Principal payments:** Subject always to clause 4.8, if the Loan is:
 - a. a Table Loan, you will pay the consecutive Principal and Interest payments on each Date for Payment during the Term.
 - b. an Interest Only Loan, you will pay all Interest charged on the Loan on the 10th day of the month during the Term.
 - c. a Revolving Credit Loan or a Development Loan, unless otherwise stated in the Disclosure Document or these Loan Terms, you will make sufficient payments of Principal and Interest during the Term to ensure that the Loan does not exceed the Credit Limit.

- d. a Construction Loan, you will pay:
 - i. all Interest charged on the Loan on the 10th day of the month during the Interest Only Period; and
 - ii. following the Interest Only Period, you will pay consecutive Principal and Interest Payments on each Date for Payment during the remainder of the Term.
- 4.8. **Date of repayment:** The Amount Outstanding must be paid on the earlier of:
 - a. the Final Payment Date; and
 - b. the date on which Demand is made.
- 4.9. **Mode of payment:** All payments due under the Loan Contract must be made direct to WBS by electronic transfer or will be deducted from the Repayment Account (as applicable).
- 4.10. **Repayment Account:** The initial Repayment Account for your Loan is set out in the Disclosure Document. You can request that your Repayment Account is changed to another account. Following such request, we will notify you whether or not we agree to change your Repayment Account.
- 4.11. **Order of payments:** We will apply any payments you make to us in relation to your Loan in any order we choose. Generally, we will apply payments first in payment of any Credit Fees and Charges and costs, second in payment of any interest, including default interest, and third in repayment of the Principal amount of the Loan.
- 4.12. **Payments:** Each payment under the Loan Contract is to be made free of any restriction and without any deduction whatsoever (whether in respect of tax, set-off, counterclaim, charges or otherwise).
- 4.13. **Early repayments:** Subject to clause 4.14 you may at any time prior to the end of the Term repay all or part of the Loan. You must give us five Business Days prior written notice of such repayment.
- 4.14. **Repayment fees:** If the Loan or part of the Loan is subject to a fixed rate and is repaid prior to the end of the fixed period either in part or in full, we may charge you an Early Repayment Charge as follows:
 - i. the Early Repayment Charge comprises the "Early Repayment Administration Fee" disclosed in our Credit Fees and Charges Schedule and the "Early Repayment Recovery Fee";
 - ii. the Early Repayment Recovery Fee is calculated for all Loans, whether a Consumer Credit Contract or not, using the formula prescribed by the Consumer Regulations (regulations 9 and 11);
 - iii. in practice, the Early Repayment Recovery Fee is a relatively complex mathematical calculation. To assist you, a working example of the formula prescribed by the Consumer Regulations is available on our website or on request.

5. CONSTRUCTION LOANS

- 5.1. **Application:** This clause applies to Construction Loans only.
- 5.2. **Drawdowns:** The Construction Loan will be made available to the Borrower from the Date of Availability and will be disbursed to the Borrower upon presentation of invoices or a claim satisfactory to WBS which directly relate to the Construction Work and will be made in accordance with the WBS Construction Guide.
- 5.3. **Code compliance certificate:** The Borrower covenants with WBS that it will deliver to WBS promptly upon issue a copy of the code compliance certificate in respect of the Construction Work and in any event no later than:
 - a. 12 months from the Date of Availability where the Loan is for a Full Build Construction;
 - b. 12 months from the Date of Availability where the Loan is for a Relocatable Home Construction; and
 - c. 6 months from the Date of Availability where the Loan is for a Transportable Home Construction.

- 5.4. **Valuation:** Within three months of the code compliance certificate in respect of the Construction Work being issued, the Borrower shall deliver to WBS (in the form and substance satisfactory to WBS) an updated Valuation of the Property addressed to WBS (at the Borrower's cost and expense).
- 5.5. **Relocatable Home Construction or Transportable Home Construction:** Where the Loan is for a Relocatable Home Construction or Transportable Home Construction, the Borrower
- a. acknowledges that in addition to the requirements set out in clause 1.1, before we make the Loan available:
 - i. the Borrower shall enter into a relocatable/transportable home agreement to be approved by WBS (acting reasonably); and
 - ii. the relocatable/transportable home located on the Property shall be on piles and connected to all essential services as required by the relevant authority, including permanent water, waste and electricity.
- 5.6. **Redrawing:** The Construction Loan cannot be redrawn, except as set out in clause 2.2(b).

6. DEVELOPMENT LOANS

- 6.1. **Application:** This clause applies to Development Loans only.
- 6.2. **Drawdowns:** The Development Loan will be made available to the Borrower on the Date of Availability and such payments will be disbursed to the Borrower upon presentation of invoices or a claim satisfactory to WBS which directly relate to the Development.
- 6.3. **Provision of financial and other information:** The Borrower shall deliver to WBS (in each case in form and substance satisfactory to WBS):
- a. as soon as they become available, and in any event within 100 days of the end of each financial year of the Borrower, the Borrower's financial statements;
 - b. monthly progress reports on the development including cash forecasts or outgoing and incoming funds for the project, including comparison of actual cash flows compared to forecast each month.
 - c. no later than 10 working days after they are entered, copies of the sale and purchase agreements between the Borrower and respective purchasers of the lots within the Development; and
 - d. promptly upon request from WBS:
 - i. budget information for material elements of the Development, including copies of relevant quotes, tenders and/or contracts that WBS may require (acting reasonably); and
 - ii. all GST returns filed by the Borrower which relate to the Development.
- 6.4. **Net Sale Proceeds:** The Borrower shall, immediately upon receipt, apply any Net Sale Proceeds (including all deposits which are released to the Borrower) in repayment of the Loan. All such repayments will not permanently reduce the Credit Limit unless provided for in the Special Conditions.
- 6.5. **Distributions:** The Borrower covenants not to make, declare or authorise any dividends, related party loans or other distributions without the prior written approval of WBS during the Term or while there are any moneys outstanding or payable to WBS.
- 6.6. **Redrawing:** The Development Loan may be redrawn as set out in clause 2.2(a).

7. INTEREST ONLY LOANS

- 7.1. **Application:** This clause applies to Interest Only Loans only.
- 7.2. **Drawdowns:** The Interest Only Loan will be made available to the Borrower on the Date of Availability and such payments will be disbursed to the Borrower upon presentation of invoices or a claim satisfactory to WBS which directly relate to the Development.
- 7.3. **Redrawing:** The Interest Only Loan cannot be redrawn, except as set out in clause 2.2(b).

8. CREDIT LIMIT

- 8.1. **Application:** This clause only applies to Revolving Credit Loans and Development Loans.
- 8.2. **Changing your Credit Limit:** You can ask us to reduce the Credit Limit of your Revolving Credit Loan or Development Loan at any time. We will notify you once we have reduced your Credit Limit.
- 8.3. **We may reduce your Credit Limit:** We may, at any time, by providing notice to you, reduce the Credit Limit on your Revolving Credit Loan, or Development Loan. We do not have to give you any reasons for reducing your Credit Limit. You must, immediately following any such reduction, make any payment required to bring the unpaid balance of your Revolving Credit Loan or Development Loan within the reduced Credit Limit.

9. FEES AND COSTS

- 9.1. **Fees:** The fees payable by you in connection with your Loan Contract are set out in your Disclosure Document and in our Credit Fees and Charges Schedule.
- 9.2. **Costs:** You will pay our costs or losses that we incur (including any legal and other professional advisers' costs) that relate to or are incidental to:
- the preparation, completion and registration of the Loan Contract and any Security;
 - any subsequent withdrawals, releases, variations and consents given or requested in respect of your Loan Contract or any Security; and
 - obtaining payment of any amounts payable under the Loan Contract or any Security or enforcing or attempting to enforce any of our rights, powers or remedies under your Loan Contract or any Security.
- 9.3. **Debit:** You agree that we may debit the amount of any Credit Fees and Charges and costs and losses that we incur from any account you have with us.

10. SECURITY

- 10.1. **Required security:** The security that we require in relation to your Loan is set out in the Disclosure Document.
- 10.2. **Consequences of security:** Any Security that you or any other person (including a Guarantor) has given to us or will give to us, whether in relation to your Loan or any other agreement between you and us, subject to any limitation in the relevant Security, secures all amounts you owe to us (and all of your obligations) under your Loan Contract and all other agreements you have with us.
- 10.3. **Vehicles as security:** Where that security is a vehicle, WBS does not use disabling devices

11. REPRESENTATIONS AND WARRANTIES

- 11.1. **Borrower representations:** The Borrower represents confirms and acknowledges that:
- the Loan Contract is conditional upon the satisfaction of the conditions (if any) as set out in clause 1.1;
 - the Loan Contract (including these Loan Terms) is binding on the Borrower, and if the Borrower is a company, the Borrower is duly established and validly existing under the laws of New Zealand and has the power to enter into and perform its obligations under the Loan Contract and each Security;
 - it is solvent and able to pay its debts as they fall due;
 - it is not under default under any agreement relating to money, any guarantee or any other agreement whatsoever;
 - the information supplied to WBS in connection with the Loan Contract was true and accurate when provided and remains so, and may be relied upon by WBS, and the Borrower has disclosed all material matters it knows of which affects its ability to perform its obligations under the Loan Contract or the Security;

- f. WBS may cancel the Loan Contract at any time prior to settlement in the event of the discovery of any errors or omissions which in the opinion of WBS materially affects its decision to provide the Loan to the Borrower;
- g. it has received a copy of the Loan Contract and each Security and has been advised by WBS to seek independent legal advice in relation to the Loan Contract and Security;
- h. except as notified in writing to WBS, no litigation, arbitration or administrative proceedings exist or are pending against the Borrower, and the Borrower does not know of any which is threatened that may have a material adverse effect on the Borrower's ability to perform its obligations under the Loan Contract or Security or affect the Borrower's business, assets or financial condition;
- i. if the Borrower is a company or incorporated Society, all necessary resolutions and certificates have been duly passed or completed such that the execution of the Loan Contract is done with sufficient authority to ensure that the Loan Contract is validly executed binding and enforceable; and
- j. by entering the Loan Contract and any Security and carrying out its obligations under them, it will not contravene:
 - i. any law, government requirement, authorisation, licence or exemption that is applicable to the Borrower;
 - ii. if the Borrower is a company, its constitution;
 - iii. if the Borrower is a partnership, its partnership agreement, or any other partnering document; or
 - iv. if the Borrower is a trustee, any trust deed or other agreement constituting or affecting the trust.

12. EVENTS OF DEFAULT

12.1. **Enforcement:** If at any time an Event of Default occurs, then:

- a. the Amount Outstanding is due and payable immediately;
- b. each Security will become immediately enforceable; and
- c. WBS may:
 - i. terminate the Loan Contract with immediate effect;
 - ii. to the extent permitted by law, take possession of and sell the Secured Property (and for this purpose, WBS or its agents may enter the premises where the Secured Property is held and repossess the Secured Property);
 - iii. at any time, do anything that the Borrower could do in relation to the Secured Property and the Borrower's business and its operations generally; and
 - iv. exercise all of its other legal rights in relation to the Secured Property.

12.2. **Events of Default:** An Event of Default occurs if any of the following occurs:

- a. the Borrower fails to pay any Amount Outstanding under this Loan Contract when due;
- b. if there is any breach of or default by the Borrower in the due performance or observance of any obligation contained or implied in the Loan Contract or any Security and, if capable of remedy, such failure is not remedied within 14 days after notice of such failure is given by WBS to the Borrower;
- c. if the Borrower substantially changes the nature of its business (if applicable) from that carried on as at the date of the Loan Contract, or a change of control in the Borrower occurs without WBS's prior written consent;
- d. if a judgment of any Court against the Borrower remains unsatisfied for more than 7 days;
- e. any legal action is taken in relation to any asset of the Borrower (other than action which WBS is satisfied is without foundation or is immaterial) or any Security Interest over any of the Borrower's assets becomes enforceable;

- f. the Borrower:
 - i. if a natural person, is subject to bankruptcy proceedings;
 - ii. if a company, is insolvent or unable to pay its debts as they fall due or is deemed to be so under any law;
 - iii. stops payment of any of its debts or threatens to do so; or
 - iv. if a company, makes any arrangements with its creditors with a view to avoiding insolvency;
 - g. if, in the opinion of WBS, an unsatisfactory feature develops in the Borrower's affairs or if the Borrower does not continue to conduct its affairs to WBS's satisfaction;
 - h. if there is any material adverse change in the financial condition of the Borrower which, in the opinion of WBS, could result in the Borrower defaulting under the Loan Contract or not being able to meet its obligations upon Demand;
 - i. if the Borrower, being a company, makes any distribution at a time when any monies under this Loan Contract are overdue to WBS;
 - j. if the Borrower, being a company, without the prior written consent of WBS enters into a "major transaction" (as defined in section 129 Companies Act 1993, whether or not that Act applies to the company at that time);
 - k. if the Borrower uses any monies advanced under this Loan Contract for a purpose that has not been agreed with WBS;
 - l. if the Borrower has made a statement or provided information to WBS which is materially untrue or incorrect;
 - m. if this Loan Contract or any Security is invalid or unenforceable;
 - n. if the Borrower assigns or attempts to assign any of the Borrower's rights or obligations under the Loan Contract without WBS' consent;
 - o. if WBS becomes entitled to enforce any Security;
 - p. if the Borrower fails to comply with its obligations under clause 19;
 - q. where the Loan is a Construction Loan, if the Borrower fails to comply with its obligations under clause 5;
 - r. where the Loan is a Development Loan, if the Borrower fails to comply with its obligations under clause 6;
- 12.3. **Guarantors:** An Event of Default is also deemed to occur in relation to the Borrower if such Events of Default are committed by the Guarantor. In addition, if any Guarantor gives notice terminating or reducing the Guarantor's liability to WBS, then (subject to compliance with any legal requirements relating to notices required to be given including under the Property Law Act 2007), WBS may terminate the Loan Contract immediately by notice in writing to the Borrower, and declare all amounts payable under the Loan Contract to be immediately due and payable, and WBS may exercise its rights and remedies under any Security granted to it.

13. PERSONAL PROPERTY SECURITIES ACT

- 13.1. **Waiver:** Where Security has been provided in relation to the Loan, you agree to waive your right to receive a copy of a verification statement confirming registration of a financing statement or a financing change statement under the PPSA and agree, to the extent permitted by law, that:
- a. you shall have no rights under section 114(1), of the PPSA (this means WBS does not need to notify you if it intends to sell the Secured Property);
 - b. the provisions of Part 9 of the PPSA regarding enforcement of Security Interests, or which place obligations on WBS, shall apply only if they have to by law or if WBS agrees to their application (at its discretion);
 - c. where WBS has rights in addition to those in Part 9 of the PPSA, those rights shall continue to apply; and

- d. where you register a change demand under section 162 of the PPSA, WBS may charge a fee for complying with the change demand.

14. CHANGES TO THE TERMS AND CONDITIONS OF YOUR LOAN CONTRACT

- 14.1. **Requested changes:** We may agree to changes to the Loan Contract requested by you. In such case, where the Loan is a Consumer Credit Contract we will confirm to you the new terms of the Loan Contract before the changes take effect in accordance with the timeframes set out in the CCCFA.
- 14.2. **We may make changes:** We may also change these Loan Terms, or the terms and conditions set out in your Disclosure Document, at any time without your consent (for example, we may change the floating interest rate or Credit Fees and Charges applicable to your Loan). We will notify you of:
 - a. any new terms and conditions specific to your Loan (for example any changes to the interest rates) in accordance with any legal requirements applicable to the Loan (for example if the Loan is a Consumer Credit Contract in accordance with the variation disclosure requirements set out in the CCCFA); and
 - b. any changes to these Loan Terms at least 14 days before any change takes effect.
- 14.3. **Form of notice:** Where we change the floating interest rate applicable to your Loan during any floating rate period or we change any of our fees and charges, we may notify you of this change directly (for example, by sending you an email) or we may notify you of this change by displaying it on our website, at our branches and/or advertising it in a major daily newspaper.

15. HARDSHIP

- 15.1. **Hardship application:** If your Loan Contract is a Consumer Credit Contract and you are unable reasonably to keep up your payments or other obligations under your Loan because of illness, injury, loss of employment, the end of a relationship, or other reasonable cause, you can apply to us to vary your Loan.
- 15.2. **Requirements:** Any application made under clause 15.1:
 - a. must be in writing, be given to us and explain your reason(s) for the application;
 - b. must request one of the following:
 - i. an extension of the Term of your Loan (which will reduce the amount of each payment due under your Loan);
 - ii. a postponement of the dates on which payments are due under your Loan (specify the period for which you want this to apply); or
 - iii. both of the above; and
 - c. should be made as soon as possible. If you leave it for too long, we may not have to consider your application.

16. REQUESTED INFORMATION

- 16.1. **Obligation to provide information:** You must, at your cost, provide to us any information about you, the Loan Contract and/or your financial position that we reasonably require.

17. COMMUNICATIONS

- 17.1. **Making contact:** If we need to provide you with any information in relation to or about your Loan or the Loan Contract, you agree that we can provide that information to you in any one (or more) of the following ways:
 - a. personally by providing you with a notice or letter;
 - b. posting a notice or letter to your address;
 - c. sending you an email to your email address;

- d. making the information available on a website maintained by us and which is available to you;
 - e. displaying a notice on our website and at our branches; and/or
 - f. publishing a notice in a major daily newspaper.
- 17.2. **Requirements:** Certain laws require us to disclose some information in a specific manner (for example certain variations to your Loan under the CCCFA). We will comply with any legal requirements when providing you with any information in relation to the Loan Contract.
- 17.3. **Receipt:** Where we have provided notice or information to you, it will be deemed received by you:
- a. the day it was given, or emailed to you;
 - b. three Business Days after it was posted to you;
 - c. the day the information was made available by us on any website maintained by us and available to you; and
 - d. the day any notice was displayed on our website, at our branches or published in a major daily newspaper.

18. INFORMATION WE HOLD

- 18.1. **WBS may hold information:** You agree and acknowledge that we can collect information about you, your Loan, any Security and/or Secured Property from anyone else, including any insurer and that we can use any information we hold at any time for the purpose of establishing, maintaining and managing our relationship and your Loan, and to exercise or use any of our rights under the Loan Contract and any Security.
- 18.2. **Authority to disclose information:** You agree that we may share and disclose any information we hold about you to anyone we consider necessary, including any credit reporting agencies, any insurer, any debt recovery agency and any person we may or are looking to assign or transfer our rights and obligations to under the Loan Contract.
- 18.3. **Permitted disclosure:** Under the CCCFA, we are required to provide certain information about you and your Loan to any Guarantor. You agree that we can provide information about you, your Loan, Loan Contract, and any Security, including any changes to your Loan Contract and/or Security, any transactions under your Loan Contract and/or Security and any breach of your Loan Contract and/or any Security, to any person that has given us security for your Loan, including any Guarantor.

19. GST

- 19.1. **Borrower GST registered:** Where the Borrower is registered with the Inland Revenue Department for GST pursuant to the Goods and Services Tax Act 1985 on the date the Loan Contract is entered or is later registered during the Term, the Borrower covenants that:
- a. all or part of the assets owned by the Borrower which form part of the Security will be subject to GST if sold; and
 - b. they will notify WBS immediately in writing if they are no longer registered for GST.
- 19.2. **Borrower not GST registered:** Where the Borrower is not registered with the Inland Revenue Department for GST pursuant to the Goods and Services Tax Act 1985 on the date the Loan Contract is entered, the Borrower covenants that:
- a. all or part of the assets owned by the Borrower which form part of the Security will not be subject to GST if sold; and
 - b. if during the Term, they are registered for GST they will immediately notify WBS in writing.

20. COMPLAINTS

- 20.1. **Making a complaint:** If you wish to make a complaint or have any problems in relation to your Loan or any other matter, we have a free internal dispute resolution process which you can access by:
- a. calling our team on (06) 370 0070;

- b. emailing us on complaints@wbs.net.nz; or
- c. visiting us or writing to us at 125 Queen Street, Masterton, 5810.

21. MULTIPLE BORROWERS

- 21.1. **More than one Borrower:** You agree that where there is more than one "Borrower" under your Loan, any of you can ask us to make changes to your Loan and we are authorised to act on any request or instructions from any one of you. Subject to any mandatory disclosure requirements in the CCCFA, any disclosure provided, or notice sent to one of you will be deemed to have been received and provided to all of you.

22. TRUSTEES

- 22.1. **If you are a trustee:** Where you are party to the Loan Contract or any Security as a trustee of a trust:
- a. you must comply with the trust deed in connection with the Loan and any Security. We are not required to check that anything you do in connection with the Loan or Security is in accordance with the trust deed;
 - b. you must not, without our written consent (not to be unreasonably withheld) resign as a trustee, or appoint a new trustee; and
 - c. you must use your best endeavours to make sure that, on the appointment of any new trustee, you and the new trustee(s) enter into any new Loan or Security documents we require;
- 22.2. **Liability:** Subject to clause 22.3, if you have entered into your Loan Contract as the trustee of a trust, you are personally liable for all amounts payable to us under the Loan Contract.
- 22.3. **Independent trustees:** If you are an Independent Trustee, your liability under your Loan Contract shall be limited to an amount equal to the value of the assets of the relevant trust available from time to time plus:
- i. any amount by which the value of those assets have been reduced by any breach of trust caused by your wilful default or dishonesty; and
 - ii. any amount we cannot recover due to you having acted in breach of trust and/or having lost your right of reimbursement out of the trust assets.

23. GENERAL

- 23.1. **Set-off:** You waive any rights you have to set-off any amounts we owe you against amounts you owe us under the Loan Contract unless we specifically agree that you can set-off such amounts.
- 23.2. **Debit your accounts:** If any amount under your Loan Contract is due and owing to us, including Principal, Interest and fees and charges, you agree that we can take any such amounts from any account you have with us. To allow us to do this, you agree that we can break any term deposit you have with us and that we can charge any reasonable break fees.
- 23.3. **Assignment:** You may not assign or transfer any of your rights and obligations under the Loan Contract without our consent. We can assign or transfer any of our rights and obligations under the Loan Contract without your consent. If we assign or transfer some or all of our rights and obligations under the Loan Contract, the person we have assigned or transferred the Loan Contract to will have the same rights as they would have had if they had been a party to the Loan Contract.
- 23.4. **Conflict:** In the event of any conflict between the terms of the Disclosure Document, these Loan Terms and/or any other agreement you have with us, we will decide which terms will apply.
- 23.5. **Jurisdiction:** The Loan Contract is governed by New Zealand law and any dispute in relation to it must be brought before a New Zealand court.
- 23.6. **No waiver:** You must meet your obligations under the Loan Contract in a timely manner, but no failure or delay by WBS to exercise any right under the Loan Contract or any Security shall operate as a waiver of that right and the partial exercise by WBS of any right, shall not prevent any further exercise of that right.

- 23.7. **Electronic Technology:** You agree that all correspondence and interactions between you and WBS, and all record keeping obligations that WBS is subject to, may be effected by use of electronic technology to the fullest extent permitted by law, including under the Contract and Commercial Law Act 2017. Without limiting the foregoing, you agree that:
- a. providing your email address to WBS (or notice of any other mutually agreed information system you may specify) constitutes your consent to receiving correspondence electronically under the Credit Contracts and Consumer Finance Act 2003; and
 - b. all documentation entered into with WBS may be executed in a manner acceptable to WBS, including digitally (if so agreed in writing).

24. DEFINITIONS AND INTERPRETATION

- 24.1. **Definitions:** Terms used in these Loan Terms have the following meaning:

Amount Outstanding means, at any time, the aggregate principal amount of the Loan at that time together with all unpaid interest, costs, fees and other amounts payable under the Loan Contract;

Business Day means any day other than a Saturday or Sunday on which we are open for business;

CCCFA means the Credit Contracts and Consumer Finance Act 2003;

Construction Loan means a Loan repayable in accordance with clause 4.7(d) and includes all Loans advanced for the following purposes:

- a. Full Build Construction;
- b. Major renovations or other construction work;
- c. Transportable Home Construction; and
- d. Relocatable Home Construction;

Construction Work means, in respect of a Construction Loan, the works undertaken on the Property or the relocatable/transportable home on the Property (as applicable) by the Borrower;

Consumer Credit Contract has the meaning given in section 11 of the CCCFA;

Consumer Regulations means the Credit Contracts and Consumer Finance Regulations 2004;

Credit Fees and Charges means any fees and charges that may be charged by us as set out in your Disclosure Document or our Credit Fees and Charges Schedule;

Credit Fees and Charges Schedule is a document outlining our standard credit fees and charges, as amended from time to time;

Credit Limit means, in relation to a Revolving Credit Loan and Development Loan the maximum credit limit set out in the Disclosure Document, which may be reduced in accordance with these Loan Terms;

Default Rate means the default interest rate set out in the Disclosure Document; **Date for Payment** means in relation to:

- a. Table Loans; and
 - b. Construction Loans that are no longer subject to the Interest Only Period,
- each date on which both Interest and Principal payments are due under the Loan Contract as set out in the Disclosure Document, other than the Final Payment Date;

Date of Advance means the date on which the Loan is first advanced either in full or in part to the Borrower;

Date of Availability means the date on which the Loan is first made available to the Borrower to be drawn down either in full or in part as set out in the Disclosure Document;

Demand means a written demand made by WBS to you following the occurrence of an Event of Default;

Development Loan means a Loan repayable in accordance with clause 4.7(c) which is specifically made available to the Borrower to complete the Development;

Development means, in respect of a Development Loan or Interest Only Loan, the subdivision of land and/or development of the Property;

Disclosure Document means either:

- a. the initial disclosure statement as required by section 17 of the CCCFA detailing the specific terms of your Loan where the Loan is a Consumer Credit Contract; or
- b. the loan schedule between you and us detailing the specific terms of your Loan where the Loan is not a Consumer Credit Contract;

Early Repayment Charge means:

- a. the Early Repayment Administration Fee; plus
- b. the Early Repayment Recovery Fee;

Early Repayment Administration Fee means the "Early Repayment Administration Fee" disclosed in our Credit Fees and Charges Schedule;

Early Repayment Recovery Fee means the fee described in clause 4.14(ii);

Event of Default means any event set out in clause 12.2;

Final Payment Date means the date on which the final payment is due under the Loan Contract, as set out in the Disclosure Document or as otherwise determined in accordance with the Loan Contract;

Fixed Interest Rate Period means any period set out in the Disclosure Document as a fixed interest rate period, or any other period which the Borrower and WBS agree in writing shall be a fixed interest rate period;

Full Build Construction means where a Construction Loan is made available to the Borrower for the purpose of financing both the acquisition of land and construction of a building on that land;

General Terms and Conditions means our website terms and conditions, our myWBS terms and conditions, our WBS privacy policy (as amended from time to time) each available on our website (wbs.net.nz) and any other terms and conditions relating to a specific product or service that we provide to you from time to time;

GST means goods and services tax under the Goods and Services Tax Act 1985;

Guarantee means any document, agreement or deed under which a person agrees to guarantee your obligations to us;

Guarantor means each person named as a guarantor in the Disclosure Document that has guaranteed your obligations by entering into a Guarantee. Where there is more than one person named as a Guarantor in the Disclosure Document, the term "Guarantor" refers to each of them separately and all of them together;

Independent Trustee means a trustee of a trust that has no right to, or interest in, any of the assets or property of the relevant trust (other than as trustee);

Interest Rate means the interest rate applicable to your Loan set out in the Disclosure Document;

Interest means interest charged on the Loan in accordance with the Loan Contract;

Instalments means any payment of Principal and/or Interest set out in the Disclosure Document;

Interest Only Period means, in relation to a Construction Loan, the period of time set out in the Disclosure Document where only Interest is payable in respect of the Loan;

Interest Only Loan means a Loan repayable in accordance with clause 4.7(b);

Loan means any loan from us to you on the terms and conditions set out in a Loan Contract;

Loan Contract means these Loan Terms, the Disclosure Document, the Credit Fees and Charges Schedule and any letter or notice varying the terms and conditions of your Loan;

Loan Terms means the terms and conditions set out in this document, as amended from time to time;

Net Sale Proceeds means, in relation to a Development Loan, the sale proceeds after deducting the Borrower's reasonable legal costs, GST payment obligations, marketing costs and sale commissions, in each case derived from the sale or disposal of the Property and any part of the Property (including lots within the Property) by the Borrower;

Principal means that part of the Loan made available on the Date of Availability, and any amounts added to the Loan in accordance with the Loan Contract;

Property means, in respect of a Loan, the land specified in the Disclosure Document as "the property" and includes any land which:

- a. is comprised in a record of title or titles which is or are issued as a result of the subdivision or consolidation of the Property (or any collapse, consolidation or cancellation of the certificates of title relating thereto);
- b. becomes subject to the Security as a result of the operation of section 242 of the Resource Management Act 1991; or
- c. becomes subject to the Security for any other reason;

PPSA means the Personal Property Securities Act 1999;

Relocatable Home Construction means where a Construction Loan is made available to the Borrower for the purpose of financing the acquisition and/or construction of a relocatable home, and all transport, service and driveway costs.

Repayment Account means the account with us specified in your Disclosure Document as the "repayment account", or such other account selected by us or that you request and we agree, from which regular repayments of your Loan will be deducted (as applicable depending on the type of Loan product you have);

Revolving Credit Loan means a Loan repayable in accordance with clause 4.7(c) which is not a Development Loan;

Security means:

- a. any agreement under which you give us a Security Interest;
- b. any Guarantee, and any agreement under which a Security Interest is given to us by a Guarantor,

and includes each security listed in your Disclosure Document under the heading "Security";

Security Interest means any mortgage, charge, trust, encumbrance, lien or other security interest (however described) and includes any 'security interest' under the PPSA. Under a Security Interest, we receive rights in relation to property you or a Guarantor owns, which secure the performance of your or a Guarantor's obligations to us, including, for example, our right to sell your or their property;

Secured Property means any property the subject of any Security granted to us;

Table Loan means a Loan repayable in accordance with clause 4.7;

Term means the term of your Loan as set out in the Disclosure Document;

Transportable Home Construction means where a Construction Loan is made available to the Borrower for the purpose of financing the acquisition and/or construction of a transportable home, and all transport, service and driveway costs.

Valuation means a valuation detailing the "as is" fair market value of the Property, prepared by a Valuer and addressed to WBS;

Valuer means a registered valuer satisfactory to WBS, who is to provide the Valuation

You or the **Borrower** means the person or persons named as "Borrower(s)" in your Disclosure Document. Where there are two or more persons, "you" means each person individually and all persons jointly, and each person must comply with the Loan Contract and is individually responsible for paying all amounts payable under your Loan Contract.

24.2. **Interpretation:** Unless the context otherwise requires:

- a. references to clauses and schedules are clauses of and schedules to these Loan Terms;
- b. derivatives of any defined word or term shall have a corresponding meaning;
- c. the headings to clauses shall be ignored in construing these Loan Terms;
- d. the word including and other similar words do not imply any limitation;
- e. all moneys to be paid in terms of these Loan Terms shall be paid in New Zealand;
- f. any party to the Loan Contract or any other agreement includes its successors and permitted assignees and transferees;
- g. any legislation includes the legislation as amended, re-enacted or substituted and any regulation, order-in-council and other instrument from time to time issued or made under that legislation; and
- h. the plural includes the singular and vice versa;