

## PART B – GENERAL TERMS

### 1. Definitions

- In this Agreement, unless the context otherwise requires:
- Agreement means this agreement, which comprises the Part A - Key Terms and Execution, Part B - General Terms and any annexures.
- CCFCA means the Credit Contracts and Consumer Finance Act 2003;
- Demand means a written notice from us to you where we require you to do something. This notice may be an email;
- Insurer means the insurance company set out in the "Security Interest" section of Part A;
- Interest means interest you will need to pay at the annual interest rate set out in the "Loan Details" section of Part A;
- Payments means the payments of the amounts and at the times set out in the "Payments" section of Part A;
- Policy means the insurance policy issued to you by the Insurer and set out in the "Security Interest" section of Part A;
- PPSA means the Personal Property Securities Act 1999;
- Premium means the annual premium payable for the Policy as set out in the "Loan Details" section of Part A;
- Rothbury Group means Rothbury Group Limited and any subsidiary or associated entity, but does not include us;
- Total Advances means the total advances set out in the "Loan Details" section of Part A, and
- Unpaid Balance means the amount you owe us under this Agreement at the relevant time.

### 2. Interpretation

- The singular includes the plural and the other way around.
- Headings do not affect interpretation.
- If there is more than one borrower, then "you" or "your" means each borrower jointly and severally.
- A reference to a party includes people that this Agreement is transferred to in any way and for any reason if that transfer is allowed under this Agreement.
- A reference to any legislation includes any amendment to, or replacement of, that legislation and any regulations made under that legislation.

### 3. Loan

When we believe that you have met all our initial requirements under this Agreement, we will pay the Total Premium to Rothbury Group for you. The Total Premium may only be used to pay all or part of the Premium. You instruct us to pay the Total Premium to Rothbury Group. You cannot withdraw this instruction.

### 4. Security interest

- To secure payment of the amount which you owe us under this Agreement (including any future advances), you:
  - 4.1 grant to us a fixed charge in and over your present and future rights in relation to the Premium, and
  - 4.2 assign to us by way of security your present and future rights in relation to the Premium.
- If you default on your obligations, the Policy can be cancelled and we can take possession of, and retain any refunds or rebates in relation to the Premium and use it to reduce the amounts you must pay us under this Agreement as set out in clause 12. If the amount you owe is more than the amount of any refunds or rebates in relation to the Premium we receive under clause 12, you will need to pay us the rest of the amount you owe us.
- If you grant security over your present or future rights in relation to the Premium to someone other than us, you will breach this Agreement. If you did so, we would have the right to take possession of and retain any refunds or rebates in relation to the Premium as set out above.

### 5. Repayments

You agree to repay the Total Advances, plus interest by making the Payments at the times and in the amounts set out in the "Payments Section" of Part A. If a Payment is dishonoured, you will need to pay us the dishonour fee set out in the "Fees and Charges" section of Part A.

### 6. Affordability

You confirm that you have the ability to repay the loan based on your current and future foreseeable financial position. If your circumstances change and you encounter unforeseen hardship you may be able to apply to us for a hardship variation, refer to the "Unforeseen hardship" clause contained in this PART B – GENERAL TERMS.

### 7. Part Prepayments

Except as set out in clause 8, we can decide whether or not to accept any part of the Total Advances that you repay early.

### 8. Full Prepayments

- You may at any time repay the Total Advances in full. If you do so, you will need to pay us the total of the following amounts:
- 8.1 the Unpaid Balance at the time of the prepayment;
- 8.2 a fee of \$50 in respect of the administration costs we incur in connection with the prepayment, and
- 8.3 a fee or charge that does not exceed our loss arising from the prepayment. This amount is calculated using the formula set out in regulation 9 of the Credit Contracts and Consumer Finance Regulations 2004.

### 9. Calculation of interest

Each payment must be received by us by 5pm on its due date, except for in the case of full prepayments under clause 8, which must be received by us by 4pm. Any payments received after these times will be treated as having been received on the next day for the purpose of calculating interest.

Interest is calculated by multiplying the unpaid daily balance on each day by a daily interest rate.

The daily interest rate is calculated by dividing the Annual Interest Rate by 365.

### 10. Fees and Charges

The following fees and charges may become payable in connection with the loan:

- Cancellation Fee (payable on cancellation or termination of the Loan) \$50.00
- Dishonour Fee (payable if payment is dishonoured) \$30.00
- Default Interest Rate: Annual Interest Rate + 5%
- Full Prepayment Fees may be charged for any loss resulting from a full prepayment. Refer Clause 8.

### 11. You may not cancel the Policy

You must not cancel the Policy or do anything to make it fully or partly invalid unless we give you consent in writing to do so, or this Agreement expressly allows you to do so. You must comply with your Insurer's instructions and requirements in order to keep the Policy valid. You must notify the Insurer of the terms of clauses 4, 11, 12 and 13 of this Agreement. A cancellation fee of \$50 may apply if you cancel the Policy.

### 12. Cancellation of your Policy on a breach of Agreement

If you fail to meet any of your obligations under this Agreement, then you must, immediately when we Demand, cancel the Policy and instruct the Insurer to pay any Premium refund or rebate to us.

We will use this amount to reduce amounts you must pay us under this Agreement. Without limiting clause 14, you authorise us to:

- give any such instruction to the Insurer on your behalf, and
- instruct the Insurer to follow any such instruction from us.

You cannot withdraw this authorisation. Our right to recover any loss or payment shortfall from you will not be affected by the cancellation of the Policy. Unless we have said otherwise in clause 10, a cancellation fee of \$50 may apply. In addition, we may take possession of, and retain any refunds or rebates in relation to the Premium and use them to reduce the amounts you must pay us under this Agreement.

### 13. Refunds or rebates of Premium

You must instruct the Insurer to pay us any refunds or rebates of all or part of the Premium which are otherwise payable to you. We will use any such amounts we recover to repay the amount you must pay us under this Agreement.

### 14. Power of Attorney

You appoint us and each of our officers, separately, as your attorney. You cannot withdraw this appointment. This appointment is to give us the power to execute and perform anything you have undertaken to do or which would be necessary or beneficial for us to do to protect our rights under this Agreement. If we spend any money on your behalf, then you must repay that money when we make a Demand. Until a Demand is made, any such money will form part of the Unpaid Balance under this Agreement and you must pay us interest on that amount at the annual interest rate described in Part A. When using our powers under this clause, we will only take actions that are within the range of actions that a reasonable lender in New Zealand might take in similar circumstances.

### 15. Payments in cleared funds

- All Payments must be made:
  - 15.1 in cleared funds which means that payments will not have any restrictions or conditions upon them;
  - 15.2 without any tax deductions or withholdings (except to the extent required by law); and
  - 15.3 without any set-off or counterclaim or similar.
- We may use all payments you make under this Agreement to repay or reduce any of the amounts outstanding under this Agreement or any other credit contract between us in any way we think fit unless a law requires us to use it differently.

### 16. Events of Default

If any of the following events occur the Unpaid Balance, and all other amounts you owe under this Agreement, will be immediately due when we make a Demand. These events are:

- 16.1 you do not pay any amount due under this Agreement on its due date; or
- 16.2 you do not comply with any of the terms of this Agreement; or
- 16.3 if you are an individual, you die or are made bankrupt; or
- 16.4 if you are an incorporated entity (like a company), you do not meet the solvency test in the Companies Act 1993, or you go into liquidation, have a receiver, administrator or manager appointed, or enter into a compromise with any of your creditors; or
- 16.5 any statement you made regarding this Agreement was false or misleading in a significant way; or
- 16.6 the Policy, or any part of it, is cancelled or ended without our prior written consent; or
- 16.7 you grant a security interest in or over your present or future rights in relation to the Premium.

In addition, we can exercise our other rights under this Agreement, including clauses 12 and 17.

### 17. Default interest

If you fail to make any Payment due under this Agreement, you must, when we make a Demand, pay default interest to us on any amounts unpaid and due. Your default interest rate is Annual Interest Rate + 5%. Default interest is calculated from the due date for the overdue amount until the relevant overdue amount is paid. If we ask you to repay an amount before its original due date, we will only calculate default interest from the date on which an unpaid amount was originally due.

### 18. Costs

We will pay us all costs, losses and expenses (including solicitor costs) which we may incur in enforcing our rights under this Agreement on an indemnity basis unless a law requires otherwise.

### 19. Methods of Disclosure and Service of Notices

You consent to any continuing disclosure under this Agreement, to be made on our website [www.rothbury.co.nz](http://www.rothbury.co.nz). You also consent to any disclosures and notices being made to you by email to the email address set out in Part A (or any other email address you give us).

We do not consent to you giving us any notices in electronic form.

### 20. Electronic Communications

- You acknowledge and agree:
- (a) we are able to receive information and any signatures from you in electronic form;
- (b) we can send information in electronic form to you such as by email or text message, including any disclosure required by the Credit Contracts and Consumer Finance Act 2003; and
- (c) anything completed electronically is as valid and enforceable as if it were undertaken other than by electronic means.

### 21. PPSA

21.1 You waive your right to receive any verification statement for any financing statement or financing change statement for the security interest created under this Agreement.

21.2 You and we agree that, to the extent permitted by law, you and we contract out of sections 114(1)(a), 133 and 134 of the PPSA;

(b) you contract out of your right to receive notice of our proposal to retain personal property under section 120(2) of the PPSA and to object to our proposal to retain any personal property under section 121 of the PPSA.

This clause 21.2 applies to this Agreement and each security interest created under it.

21.3 Where we have additional rights to those in the PPSA, those rights will continue to apply and are not limited or affected by any right under this Agreement or another law.

### 22. No waiver

We do not waive any of our rights if we fail to act, delay in exercising or attempting to exercise or do not exercise a right under this Agreement or at law.

### 23. Assignment

We may assign any of our rights or transfer any of our rights and obligations under this Agreement to any person at any time. You authorise us to give any such person all relevant information we hold about you. You cannot assign or transfer your rights or liabilities under this Agreement.

### 24. Privacy

- 24.1 By signing this Agreement, you acknowledge that we, and our related companies, may collect personal information about you (or other relevant people associated with you) to assess your application under this Agreement ("Application"). The personal information described in this clause 24 is required for that purpose;
- (a) collect, use or disclose your personal information to assess your Application. If your Application is approved, we may also collect, use or disclose information to administer the Agreement, perform administrative tasks and provide services to you, in relation to the Agreement. Our administrative tasks and services include risk assessment, loan management, modelling, fraud and crime prevention and complying with legislative and regulatory requirements; and
- (c) disclose your personal information to credit reporting agencies, other financial institutions or credit providers, service providers, governmental and regulatory organisations, any person you authorise to operate the Agreement, any organisation that you use to make payments to us or our related companies, and to any other entity that we, or any of our related companies, must, or are allowed by you to, provide your personal information to;
- 24.2 You agree that we can transfer your personal information to organisations overseas for any of the purposes allowed by this Agreement or the Privacy Act 1993.
- 24.3 You agree to us and our related entities giving information about your credit arrangements and credit worthiness to any credit reporting agency or other organisation and us receiving such information from them. We will give or receive that information so that we can assess your application for credit with us or any related company or so that we can collect any overdue payments.
- 24.4 You acknowledge that you may access and correct any personal information we hold about you, at any time.
- 24.5 You can access your personal information that we hold, and can enquire as to the identity of each of our related entities, by contacting our Privacy Officer at the address shown in Part A. This clause 24.5 is subject to the Privacy Act 1993.
- 24.6 You confirm that if you have given us personal information about another person they have consented to this and that you have told or will tell that person about this clause 24.

### 25. Rollover and incorporation of terms into new contracts

If we agree to lend you money for an extended period after the date set out in Part A, we will send you an updated version of Part A setting out the specific terms for that period. The terms and conditions set out in this Part B, or any replacement terms and conditions that we send to you for new contracts, shall be the terms for that extended period. These terms will apply unless you and we agree otherwise in writing. You or we do not need to execute new documentation.

Nothing in this Agreement which refers to, or incorporates provisions of, the CCFCA gives you any rights which you do not have under that Act.

### MORE INFORMATION ABOUT US

We are registered on the Register of Financial Service Providers under the name Rothbury Instalment Services Limited. Our registration number is 244985.

Our dispute resolution scheme is Financial Services Complaints Limited. If we are unable to resolve your complaint, you can refer it to Financial Services Complaints Limited by contacting them at: Phone: 0800 347 257

Website: [www.fscd.org.nz](http://www.fscd.org.nz)  
Email: [complaints@fscd.org.nz](mailto:complaints@fscd.org.nz)  
Mail: PO Box 5967, Wellington 6143

### RIGHT TO CANCEL

If your Agreement is a consumer credit contract, you are entitled to cancel the Agreement by giving us notice.

### Time limits for cancellation

- You must give us notice that you intend to cancel the contract within:
- 5 working days after you receive this Agreement if it was handed to you directly;
- 7 working days after the electronic communication (e.g. email) was sent if your Agreement was sent to you electronically;
- 9 working days after your Agreement was posted if it was mailed to you.

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

### HOW TO CANCEL

To cancel, you must give us written notice that you intend to cancel the contract by:

- giving notice to us or our employee or agent; or
- posting the notice to us or our agent.

You must also, within the same time, return to us any advance and any other property you received under the Agreement.

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

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

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

### Unforeseen hardship

If your Agreement is a consumer credit contract and you are reasonably unable to keep up your payments or other obligations because of illness, injury, loss of employment, the end of a relationship, or other reasonable cause, you may be able to apply to us for a hardship variation.

- To apply for a hardship variation, you need to:
  - (a) make an application in writing; and
  - (b) explain your reason(s) for the application; and
  - (c) request one of the following:
  - an extension of the term of the Agreement (which will reduce the amount of each payment due under the Agreement); or
  - a postponement of the dates on which payments are due under the Agreement (specify the period for which you want this to apply); or
  - both of the above; and
  - (d) give the application to us.
- Do this as soon as possible. If you leave it for too long, we may not have to consider your application.