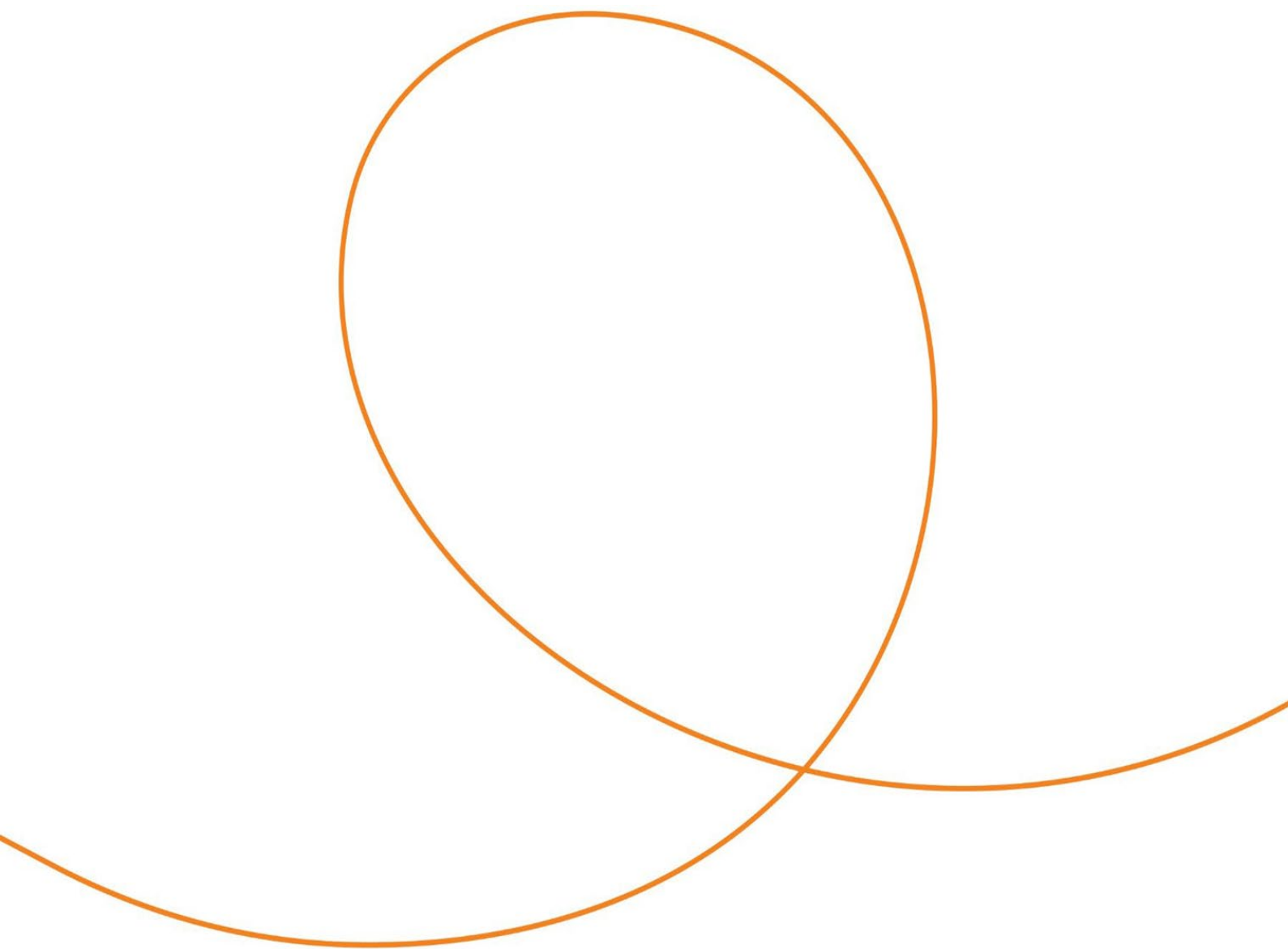


Standard Loan Terms



Summary – Key general terms and conditions

See the table below for a summary of the key general terms of your Facilities with Rabobank. The information in this table is intended to give you an overview of key general terms and conditions of the Standard Loan Terms (or “SLT”). It does not describe these terms and conditions in detail.

Please ensure you read and understand the SLT (and the other documents that comprise our agreement with you) in full and not just this summary. The clause references to the SLT are provided in the right hand column of the table below.

If you are unsure about any aspect of the terms and conditions, please ask us or your legal adviser. We strongly recommend that you seek legal advice before entering into the Contract.

	Summary information of key general terms and conditions	SLT reference
Specific terms and conditions	<p>This document sets out the key general terms and conditions applicable to the Facilities.</p> <p>For specific terms of our agreement with you including the Loan Period, the applicable Interest Rate, the Loan Limit and other special conditions, please refer to the ‘Letter of Offer’.</p>	N/A
Pre-settlement conditions	<p>The terms and conditions (and also the Letter of Offer) specify that certain things need to occur before you can first access and draw down on your Facility.</p>	2
Undrawn loan amounts	<p>Any amount of your Loan Limit that is not drawn down is called the ‘Undrawn Amount’ in the SLT. You can be charged a fee for the Undrawn Amount.</p> <p>We may reduce the Loan Limit by up to the Undrawn Amount by giving you three months’ notice before the date the reduction takes effect.</p> <p>You are able to do the same by giving us three Business Days’ notice.</p>	3.3
Applicable interest rate	<p>The Interest Rate applicable to a Facility:</p> <ul style="list-style-type: none"> • can be a fixed Interest Rate or a variable Interest Rate; • for any amounts that exceed the ‘Loan Limit’, interest will be charged at the applicable “variable rate” plus 6% per annum; and • different rates can apply to your loan at the same time (for example, if part of your loan has its interest rate fixed). 	4
Fixed interest rates	<p>For fixed Interest Rates (called a ‘Fixed Interest Option’ in the SLT), you can choose to have a fixed rate apply immediately or at an agreed time in the future. However, please be aware that if you choose to fix your rate (whether immediately or in the future) and you later change your mind, you may be liable for Break Costs that can be substantial.</p>	5 and 6
Facility Reviews	<p>We can conduct reviews of your loan terms at times specified in the Letter of Offer as the “Facility Review Date”. As a consequence of a Facility Review, we can change the terms of the Facilities offered to you. For example, we may, among other things, require full or partial repayment of the Facility if we exercise our discretion to do so, or we may vary some or all of the terms (including pricing) applying to the Facility. If such changes are made as a consequence of a Facility Review, we will provide you with three months’ notice prior to any change taking effect.</p>	8.1 and 8.2
Amendments	<p>You will only have one Letter of Offer at any one time. Whenever any of the terms in the Letter of Offer are varied (including additional Facilities or variations to existing Facilities), they will generally be documented by issuing a new Letter of Offer which, when signed by each party, will supersede and replace any existing Letter of Offer.</p> <p>We may also make unilateral changes to the terms applicable to the Facilities in certain circumstances.</p>	8.5

	Summary information of key general terms and conditions	SLT reference
Debiting of interest and repayments	You are required to repay any outstanding Debit Balance for your Facility in full at the expiry of the relevant Loan Period. Other repayment requirements may also be specified in the Letter of Offer. Aside from this, there are no regular payments specified in the SLT. However, please note that you are required to keep the Debit Balance below the Loan Limit and interest is debited to your account on the 'Interest Payment Date' (specified in the Letter of Offer).	10
Representations, warranties and undertakings	If we agree to provide you with a Facility, we do so on the basis of certain conditions listed in clause 11. These generally fall into the following categories: <ul style="list-style-type: none"> • you represent and warrant to us about certain things at the time you enter into the Facility and as long as the Facility remains active (clause 11.1); and • you undertake to do certain things (clause 11.3). 	11
Bank Guarantees	We can also agree to provide a Bank Guarantee under an All In One facility. If we do provide such a Facility, the conditions upon which we agree to provide a Bank Guarantee are specified in the SLT.	12
Events of Default	Please carefully read about the matters in the SLT that would be an 'Event of Default' and what action we can take as a result. If you breach the terms of the Contract and the breach is of a kind that is specified as an 'Event of Default', the terms and conditions generally require us to notify you of the breach and give you an opportunity to remedy that breach (unless the default relates to a "monetary" default). However, if the breach is not remedied, unable to be remedied, or other exceptions apply, we are entitled to demand full repayment of Amounts Owing and take other action necessary in order to protect our interests.	13
Market Disruption	We have rights to suspend, cancel or vary the Facility terms where an event described as a market disruption event in the SLT occurs. A market disruption event refers to events involving changes in external circumstances. For example, a dramatic deterioration in market conditions or our access to funding. Please review the SLT for the full list of events or circumstances.	14.3(c)
Indemnities	You agree to 'indemnify' us in certain circumstances. This means that if certain things happen, you agree you will be responsible for bearing those costs and, in some cases, compensating us for the fees, loss or damages we have incurred. Please ensure you understand what these circumstances are.	14.1
Fees and costs	You are responsible for certain matters described in the terms and conditions. These include costs we incur to external parties (e.g. legal fees) when we do something or change something on your request, or costs we reasonably need to incur when you are in default (or we suspect you may be in default). Please refer to the SLT for a complete list.	15

Standard Loan Terms

These Standard Loan Terms are incorporated into and form part of any document which refers to or annexes these Standard Loan Terms, including any Letter of Offer.

May 2023

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1. Definitions and interpretation

1.1. Definitions

In these Standard Loan Terms and the Letter of Offer, unless the context otherwise requires:

Account means an account held with the Bank in the name of the Borrower.

All In One Facility means a Facility on an Account known as an "All In One Account".

Amounts Owning means, on any date, the Debit Balance, interest (including default interest), Break Costs, fees and all other costs and expenses, and all other moneys owing to the Bank under the Contract on such date together with all contingent liabilities of the Bank under any Risk Management Facility Bank Guarantee, or other document of surety.

Bank means Rabobank New Zealand Limited, a company registered under the Companies Act 1993 (company number 2874), and its successors and assigns.

Bank Guarantee means a bank guarantee or like document issued by the Bank to a third party at the request of the Borrower (whether for the benefit of a Borrower or another person).

Borrower means the person(s) specified as borrower(s) in the Letter of Offer.

Break Costs means the costs described in clause 9.

Business Day means any day other than a Saturday, Sunday or a nationwide New Zealand public holiday.

Co-operative Dairy Company has the same meaning as it has in section 34 of the Co-operative Companies Act 1996.

Contract means these Standard Loan Terms, each applicable Letter of Offer, any Specific Facility Conditions, each applicable Equipment Finance Offer, each Financial Market Transactions Master Agreement, each applicable Security, the General Terms and Conditions and all other terms and conditions applying to the relevant Facility including any other document that:

- (a) may be required to be executed by either a Relevant Person and/or the Bank as part of or as a condition of any Facility provided or to be provided by the Bank to the Borrower; or
- (b) incorporates by reference these Standard Loan Terms, in each case as amended or replaced from time to time.

Debit Balance means:

- (a) all amounts advanced to the Borrower under a Facility and not yet repaid;
- (b) any amount otherwise debited to the Account; and
- (c) all amounts paid by the Bank pursuant to a Bank Guarantee (but not including any contingent liability in relation to a Bank Guarantee);

less

- (d) all amounts credited to the Account; and
- (e) to avoid doubt, includes any Excess.

Default Interest Rate means the ordinary Interest Rate stated in the Contract as applying to the relevant Facility plus any additional margin added to that Interest Rate, as determined by the Bank from time to time.

Distribution has the meaning given to it in the Companies Act 1993 or the Limited Partnerships Act 2008 (as applicable) and, in addition, includes any form of financial assistance given by a company to any person (whether or not a shareholder in the company) to enable that person to purchase shares in the company (or equivalent in relation to a limited partnership).

Drawing means each utilisation of the relevant Facility including, but not limited to:

- (a) a drawdown; and
- (b) a debit to the Account otherwise authorised by the Borrower.

Excess means the amount (if any) by which the Debit Balance exceeds the Loan Limit or, as appropriate, the fact of such an excess.

Equipment Finance Facility means an uncommitted facility for equipment finance, as documented under the Contract.

Equipment Finance Offer means an offer of finance in respect of a specific item of equipment, issued to the Borrower under the Equipment Finance Facility.

Establishment Fee means the fee described as such in the Letter of Offer.

Event of Default means any of the events listed in clause 13.

Facility means any facility provided at any time to the Borrower by the Bank, including but without limitation the following types of credit contract, financial transactions or indebtedness:

- (a) any loans, credits, advances or other financial services including any All In One Facility, Bank Guarantee, Equipment Finance Facility, Equipment Finance Offer or Risk Management Facility made or given to, for the accommodation of, or at the request of the Borrower;
- (b) any goods or services supplied by the Bank to, or at the request of, the Borrower;
- (c) any payment made by the Bank for, or at the request of the Borrower for, goods or services acquired by the Borrower or any other person;
- (d) the Bank:
 - (i) entering into any lease, hire purchase or conditional purchase agreement or other similar agreement in respect of any real or personal property as lessor or vendor with the Borrower or any other person at the request of the Borrower;
 - (ii) acquiring such property for such purpose; or
 - (iii) at the request of the Borrower taking an assignment (whether absolute or by way of security) of any such lease, hire purchase, conditional purchase or other agreement and of any property relating to those agreements;
- (e) any indebtedness arising out of any guarantee, indemnity, bond or other obligation given or undertaken by the Bank to the Borrower or given or undertaken by the Bank for or at the request of the Borrower;
- (f) any/all interest, commission, costs and charges payable by the Borrower to the Bank or incurred by the Bank in relation to the Contract or any indebtedness secured by these Standard Loan Terms including all those incurred by the Bank in the exercise or attempted exercise of the Bank's rights powers and remedies pursuant to these Standard Loan Terms; and
- (g) any other indebtedness whatsoever of the Borrower to the Bank.

Facility Review means a review and possible variation of the terms and conditions applicable to the Facilities pursuant to clause 8.

Facility Review Date means each date for a Facility Review, as specified in the Letter of Offer.

Financial Market Transactions Master Agreement means the Bank's Master Agreement for Financial Market Transactions and each financial market transaction entered into under that document.

Fixed Interest Option means the option under the Contract for the Borrower to select a Fixed Rate Period to apply to a Drawing.

Fixed Rate Period means a period over which the Interest Rate applicable to all or part of the Debit Balance is or may be fixed.

General Terms and Conditions means the Bank's General Terms and Conditions applicable to all Accounts, as amended or replaced from time to time.

Guarantee means a document, under which a third party guarantees the indebtedness of the Borrower to the Bank.

Guarantor means any person specified as guarantor in the Contract or who otherwise provides a Guarantee in favour of the Bank.

Interest Payment Date means the date specified as such in the Contract.

Interest Rate means the rate or rates described in the Letter of Offer, as amended from time to time pursuant to clause 4 (as is applicable).

Letter of Offer means the letter from the Bank offering a Facility to the Borrower or offering to vary or extend the same upon the terms of these Standard Loan Terms and any other terms of the Contract.

Limited Partnership means a partnership established in accordance with the provisions of the Limited Partnerships Act 2008.

Loan Limit means, as the context requires:

- (a) in respect of an All In One Facility, the loan limit specified in the Letter of Offer, less any Withheld Amount and subject to any reduction in the loan limit made in accordance with these Standard Loan Terms;
- (b) in respect of an Equipment Finance Facility, the limit specified in the Letter of Offer or Equipment Finance offer;
- (c) in respect of any other type of Facility, the specified loan limit; and
- (d) the aggregate of those limits.

Loan Period means the period during which the relevant Facility is available to the Borrower, as specified in the Contract.

Loan Purpose means the purpose or purposes for which the proceeds of a loan must be applied by the Borrower as described in the Contract and any other purpose approved by the Bank, in writing, at any time.

Material Adverse Effect means something that may have a material adverse effect on:

- (a) the ability of the Borrower or any Security Provider to perform its obligations under the Contract;
- (b) the security position (including in relation to any Guarantee) of the Bank; or
- (c) the financial condition or business of the Borrower or any Security Provider.

On Demand means on a demand being made by notice in writing signed on behalf of the Bank by any officer, employee, or agent of the Bank served upon the Relevant Person either personally or by posting it in a letter addressed to that Relevant Person's usual or last known place of business or residence or by such other means as is agreed by the Relevant Person, provided in the Contract or permitted by law.

Payment Dates means:

- (a) the last day of each month;
- (b) where such last day is not a Business Day, the next Business Day after such day; or
- (c) such other dates as the Bank may approve (including where recorded in the Letter of Offer or elsewhere in the Contract).

PPSA means the Personal Property Securities Act 1999.

Relevant Person means the Borrower and each Security Provider and Guarantor, including a trustee, executor or administrator, severally, and if the Borrower or any Security Provider is a corporation, each related company of the Borrower or Security Provider.

Risk Management Facility means an uncommitted facility for the purposes of interest rate hedging, foreign exchange, milk price commodity swaps or other derivative product as governed by the Financial Market Transactions Master Agreement or other

documentation as required by the Bank.

Security means all securities granted to the Bank in respect of the Facilities (whether or not specified in the Contract) and includes without limitation any Guarantee or indemnity given in respect of an obligation of the Borrower under the Contract and any Security Interest, legal or equitable mortgage, charge or other security of any nature which secures any obligation or liability of the Borrower or of a Security Provider to the Bank.

Security Interest includes any security interest (as defined in section 17(1)(a) of the PPSA), mortgage, charge, encumbrance, lien, pledge, hypothecation, financial lease, deferred purchase, sale and repurchase, sale and leaseback, title retention or any other arrangement (however described) which in effect is, or has the commercial effect of, a security, but does not include any of the foregoing which arises in the ordinary course of business solely by operation of law and which is discharged within 90 days.

Security Provider means any person who at any time gives a Security to the Bank and to avoid doubt includes a Guarantor.

Shares means, at any date, any shares in any company held by the Borrower including Co-Operative Dairy Company shares.

Specific Facility Conditions means additional terms and conditions specific to a Facility as referenced in the Letter of Offer.

Supplying Shareholder has the same meaning as it has in section 34 of the Co-operative Companies Act 1996.

Tax includes any present or future tax, levy, impost, duty, charge, fee deduction, custom or withholding of any nature and whatever called, imposed by any agency, on whomsoever imposed, levied, collected, withheld or assessed.

Temporary Limit Increase means an increase in the Loan Limit allowed by the Bank for a specified period.

TLI Notice has the meaning given in clause 3.8.

Undrawn Amount means, in relation to a particular Facility, the Loan Limit applicable to the Facility less:

- (a) the aggregate of the Bank's contingent liability under any Risk Management Facility, Bank Guarantee or other document of surety; and
- (b) the Debit Balance.

Undrawn Loan Fee means a fee payable by the Borrower in accordance with clause 3.6.

Variable Rate means the Bank's variable interest rate applicable to the Borrower.

Withheld Amount means any amount of the Loan Limit the availability of which to the Borrower is conditional on satisfaction of conditions contained in the Contract, to the extent and for such time as those conditions remain unsatisfied.

1.2. Interpretation

- (a) A reference to an agreement, deed, terms and conditions, or any other document is to the agreement, deed, terms and conditions or that other document as amended, supplemented, novated, or replaced from time to time.
- (b) Unless the context otherwise requires, a word which denotes:
 - (i) the singular includes the plural and vice versa;
 - (ii) any gender includes the other genders;
 - (iii) a person includes an individual, a body corporate, a firm and a government; and
 - (iv) the whole includes any part.

- (c) References to any specific statute, regulation, order, by-law or other legislation are references to such statutes, regulations, orders, by-laws or other legislation as amended, consolidated, re-enacted, substituted or extended from time to time.

- (d) Where any term is defined in these Standard Loan Terms and that term is used in the Letter of Offer, such definitions apply to the Letter of Offer.

- (e) A reference to a clause is a reference to a clause in these Standard Loan Terms.

- (f) Where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning.

- (g) A date or a time on any date means New Zealand time unless otherwise stated.

- (h) "\$" means the lawful currency of New Zealand.

1.3. Joint and several

Any agreement, warranty, representation, undertaking or obligation, expressed or implied, which binds or benefits two or more persons under the Contract, binds such persons jointly and severally as principal debtors.

1.4. Successors and assigns

Where any Relevant Person is bound to perform any obligation or assumes any liability under the Contract, that obligation or liability also applies to and binds any successor and assign of that Relevant Person.

1.5. Headings and table of contents

Headings and the table of contents must be ignored in the interpretation of the Contract.

1.6. Priority of documents

If there is any inconsistency, the following order of priority prevails in the interpretation of the following:

- (a) the Letter of Offer;
- (b) any Specific Facility Conditions;
- (c) any other specific terms and conditions that apply to the relevant Facility;
- (d) these Standard Loan Terms;
- (e) the General Terms and Conditions; and
- (f) the Security.

1.7. Related Companies

A reference to a company being related to another company has the same meaning as in the Companies Act 1993.

1.8. Relevant Person obligations

Any obligation of a Relevant Person under these Standard Loan Terms includes an obligation of the Borrower to procure that the Relevant Person performs and complies with that obligation.

2. Pre-Settlement Conditions

2.1. First drawing

The first Drawing is subject to, and conditional on, all pre-settlement conditions in the Letter of Offer, and the terms of this clause 2, being complied with, to the Bank's satisfaction, two clear Business Days prior to the date of the Drawing.

2.2. Security

- (a) To effect settlement of the Facility or any variation to the Facility, the Security described in the Contract together with any supporting or associated documents required by the Bank or the Bank's solicitor must be validly executed and in registrable form, where appropriate, and delivered to the Bank or the Bank's solicitor.
- (b) Prior to settlement of the Facility, evidence must also be provided to the Bank or the Bank's solicitor that the Security will rank as set out in the Contract and that no Security Interest has been granted in favour of any other person by the Security Provider other than those previously approved by the Bank.
- (c) Before effect is given to any variation of the Contract, the Bank may require that the Borrower procures that the Security Providers:
 - (i) affirm the existing Security;
 - (ii) warrant that such Security has been validly executed and has not been affected by any dispute, government proposal or notice of any actual or proposed dealing;
 - (iii) warrant that rates, Tax and other outgoings payable have been paid;
 - (iv) if applicable, warrant that there has been no change in the constitution of any trust or the powers of any trustee and there has been no breach of trust; and
 - (v) if applicable and where a Security Provider is a corporation or trustee, warrant to the Bank that the provision of the Security continues to benefit the Security Provider.
- (d) If there is any Security Interest ranking prior to the Bank's Security, then settlement of the Facility or any variation to the Facility is conditional upon the holder of the prior Security Interest subordinating the priority of the Security Interest to that of the Bank's Security, and if there is any Security Interest ranking subsequent to the Bank's Security, then (if specifically required by the Bank) settlement is conditional upon the holder of the subsequent Security Interest subordinating priority to the Bank's Security for fluctuating amounts from time to time on terms required by the Bank.
- (e) At any time before or after a Drawing is made under an Equipment Finance Facility, the Borrower must, if required by the Bank, grant the Bank specific security in the equipment being financed through the Equipment Finance Facility, including execute as a deed the Bank's standard form of specific security document and deliver it to the Bank, even if the Bank already holds other Securities.

2.3. Security provided by third party

If any Security is a Guarantee or otherwise given by a third party, then prior to settlement the Borrower must produce evidence that each individual Security Provider clearly understood their obligations to the Bank and the commercial and financial risks in giving the Security before it was executed, and that each individual executed the Security voluntarily and obtained all necessary legal and other advice.

2.4. Trusts

If a Relevant Person is a trustee, then before settlement the Borrower must produce evidence that the giving of the Security is a proper exercise of the trustees' powers and is for the benefit of the trust, and if necessary has been authorised by the beneficiaries with full legal capacity.

2.5. Executors or administrators

If a Relevant Person is an executor or administrator of a deceased estate, then, prior to settlement, the Borrower must produce evidence that the Relevant Person has authority to bind the estate and that the executor/administrator has capacity to enter into the relevant transaction and (if relevant) charge estate assets as security.

2.6. Searches and enquiries

Prior to settlement of the Facility, the Borrower must, if required by the Bank, provide evidence to the Bank's satisfaction that the assets to be mortgaged or in which a Security Interest is to be granted under the Security are not encumbered or affected in any way which may adversely affect their value (as determined by the Bank).

2.7. Where the Loan Purpose is to purchase land

If the Loan Purpose includes the purchase of land, a copy of the agreement for sale and purchase must, upon request, be provided to the Bank or its solicitor prior to settlement. The terms of such agreement must be consistent with information provided to the Bank in connection with the Borrower's application for the Facility.

2.8. Borrower must open an Account

- (a) Before settlement or the initial Drawing, the Borrower must sign and deliver to the Bank all documentation required by the Bank to open an Account.
- (b) Before settlement or the initial Drawing, the Borrower must nominate an Account to which the Bank may debit all amounts payable (including interest) in respect of that Facility.

2.9. Mortgagor to be in occupation or lease to be satisfactory

The Borrower must satisfy the Bank that the mortgagor under any mortgage Security is, or will be, in exclusive occupation of the land. If the Bank has approved the Facility on the basis of any disclosed tenancy, share farming agreement or similar arrangement, a certified copy of that agreement must be provided to the Bank or its solicitor prior to settlement. The terms of such agreement must be consistent with information provided to the Bank in connection with the Borrower's application for the Facility and acceptable to the Bank in all respects.

2.10. Real and Personal Property Insurance

Unless otherwise specified in the Contract, any property provided to the Bank as Security must be insured for its full replacement value, including earthquake cover, to a value acceptable to the Bank and upon terms and with an insurer approved by the Bank. The Bank's interest must be noted on the relevant policy and a copy of the certificate of currency must be provided to the Bank prior to settlement of the Facility.

2.11. Other insurance

Prior to settlement the Borrower must produce evidence that it has current public liability insurance to a minimum of \$1,000,000, and any other insurance as required by the Bank.

2.12. Establishment Fee and legal costs

- (a) The Establishment Fee is not refundable and must be paid at or prior to settlement, or, if settlement does not proceed then On Demand.
- (b) The Bank's legal costs (on a full indemnity basis) and any valuation, search, registration, agency, local authority or other costs incurred in relation to the Facility, taking the Security and in the process of satisfaction of these pre-settlement conditions must be paid by the Borrower at or prior to settlement or, if settlement does not proceed then On Demand.

2.13. Business purposes

Settlement of the Facilities is subject to the Bank being satisfied that the loan is not a consumer credit contract for the purposes of the Credit Contracts and Consumer Finance Act 2003.

2.14. Other matters

The Borrower must satisfy such other matters as the Bank's solicitors recommend.

3. Loan Limits and Undrawn Amounts

3.1. No obligation to allow Excess

With respect to any Facility, the Bank is not obliged to allow any Drawing that would cause the Facility to go into, or remain in, Excess. Any attempt by the Borrower to make such a Drawing is deemed to be, and will be treated by the Bank as, an application by the Borrower for Excess credit.

3.2. Bank may require repayment of Excess

If at any time the Facility is in Excess, the Bank may by notice to the Borrower require the Borrower, within such period as is specified in the notice (being at least one Business Day after the date of the notice), to repay the Excess, in which case the Borrower must repay the Excess in accordance with the terms of the notice.

3.3. The Bank may reduce the Loan Limit by any Undrawn Amount

At its discretion, the Bank may, by providing three months' prior written notice to the Borrower, reduce the Loan Limit in relation to an All in One Facility by any amount which is the whole or part of the Undrawn Amount.

3.4. Borrower may reduce the Loan Limit by any Undrawn Amount

- (a) The Borrower may cancel the whole or any part of the Undrawn Amount by giving the Bank at least three Business Days' prior written notice. The notice must specify the date on which the cancellation is to take effect and the amount of the Undrawn Amount to be cancelled. A notice cannot be revoked unless the Bank agrees.
- (b) The Undrawn Amount will automatically be cancelled in accordance with the Borrower's notice and the Loan Limit will be reduced by an amount equivalent to the cancelled Undrawn Amount.

3.5. The Bank may cancel the Facility if no Drawing is made

If an initial Drawing has not been made within three months of the date of the Letter of Offer, the Bank may cancel all or any one of the unutilised Facilities, having first given the Borrower five Business Days' prior written notice of its intention to do so. If a cancellation is made, the Bank's obligation to allow any Drawing terminates and the Borrower is not entitled to any refund of any amounts paid, but must pay any amounts due under the Contract and compensate the Bank for any reasonable cost or loss it has incurred, including as a result of unutilised future Fixed Interest Options under clause 6.1(c) and 6.2(c) and 9.2(a). The Bank will give the Borrower reasonable notice before requiring any payment to be made to the Bank under this clause, or deducting the cost or loss from the Account (as the case may be).

3.6. Undrawn Loan Fee

The Borrower must pay to the Bank an Undrawn Loan Fee calculated daily at the rate and in accordance with the terms specified in the Letter of Offer on any Undrawn Amount. This fee is payable by the Borrower from the date when the Facility is made

available to the Borrower, by way of establishment of a Loan Limit, irrespective of whether any conditions in clause 2 or any special conditions specified in the Letter of Offer have been satisfied. This fee is debited to the Account in arrears on each Interest Payment Date. The amount of Undrawn Loan Fee debited on each Interest Payment Date is the sum of the daily amounts of the fee calculated in accordance with this clause for the period commencing on the date when the Loan Limit is first made available to the Borrower (in the case of the first debit of this fee) or the previous Interest Payment Date and ending on the day before the Interest Payment Date on which the amount is to be debited. In some situations, the Undrawn Loan Fee may not reflect changes to the Undrawn Amount that occur on non-Business Days immediately prior to the Interest Payment Date and any adjustment necessary will occur in the next Undrawn Loan Fee charged. The Undrawn Loan Fee may also be debited on the last day of the Loan Period, immediately before the Facility is repaid or cancelled, or when the Loan Limit is reduced to zero or the Bank demands or requires repayment of the Facility.

3.7. The Bank may withdraw Letter of Offer

The Bank may withdraw its offer to provide Facilities at any time before such offer is accepted by the Borrower.

3.8. Temporary Limit Increase

The Bank may, at its discretion, grant the Borrower a Temporary Limit Increase for a specified period. The Temporary Limit Increase will be documented by way of notice issued to the Borrower ("**TLI Notice**"). During the period of the Temporary Limit Increase, the Limit for the relevant Facility will be as stated in the TLI Notice. At the end of that period:

- (a) the Loan Limit reduces to the Loan Limit in place immediately before the Temporary Limit Increase took effect; and
- (b) the Borrower must immediately make a payment to reduce the Debit Balance to within that Loan Limit.

4. Method of calculating interest and payment of interest

4.1. Calculating and paying Interest on all Facilities (other than Equipment Finance Facilities)

- (a) The Borrower must pay interest at the applicable Interest Rate.
- (b) Interest will be calculated on a daily basis by applying the applicable daily Interest Rate to the relevant portion of the Debit Balance (subject to any right of the Bank to require additional interest or other payment on early repayment of the Facility).
- (c) Except as specifically provided in the Contract or allowed by law, the Bank will not vary the Interest Rate on any Fixed Interest Option during the Fixed Rate Period.
- (d) The Variable Rate is determined with reference to (among other things) the Bank's costs of funding and the Borrower's relative risk rating determined by the Bank. The Variable Rate payable by the Borrower will change when either of these inputs change. However, the Bank may vary the Variable Rate to such rate and with effect from such date as the Bank in its sole discretion may decide. Where possible, the Bank will give notice of any change to the Variable Rate by publishing a notice on the Bank's Internet Banking login page. The Borrower will be able to view their applicable Variable Rate by logging into their Internet Banking portal (including the mobile banking app). The Variable Rate(s) applying for the period covered by a statement is the Variable Rate(s) specified in the statement. Other than as stated in this clause,

there is no obligation on the Bank to give any form of notice of any changes to the Variable Rate.

- (e) Interest is payable in arrears on each Interest Payment Date. The amount owed is the sum of the daily amounts of interest for the period commencing on the day of the first Drawing under the Facility (in the case of the first debit of interest) or on the previous Interest Payment Date, and ending on the day before the Interest Payment Date on which the amount is to be paid. In some situations, Interest in relation to amounts credited or debited to an Account on a non-Business Day may be attributed to the following interest period. Interest is also payable on the last day of the Loan Period, or immediately before the Facility is repaid or cancelled, the Loan Limit is reduced to zero or the Bank demands or requires repayment of the Facility in accordance with the Contract.
- (f) Unless the Bank agrees that Interest will be paid from an external account, interest will be debited to the Account on each Interest Payment Date and form part of the Debit Balance.

4.2. Payments in respect of Equipment Finance Offer

The Borrower must pay all amounts payable in respect of an Equipment Finance Offer in accordance with the applicable Equipment Finance Offer, with the aggregate of such payments being:

- (a) the relevant Drawing; and
- (b) all interest charges, and other applicable fees and amounts.

4.3. Interest on Excess

The applicable Interest Rate on any Excess is the aggregate of the Variable Rate and 6% per annum. Interest at that rate is payable in accordance with clause 4.1(f) from when the Excess first occurs until the Excess ceases.

4.4. Default Interest

- (a) Without limiting any other right of the Bank, if the Borrower fails to pay any amount due to the Bank under the Contract, then the Bank may charge the Borrower default interest (both before and after judgment) at the Default Interest Rate on the amount due on a daily basis for the period beginning on its due date and ending on the date of receipt by the Bank of the amount due.
- (b) If the Borrower fails to comply with any other material term of the Contract (other than a monetary default) within 14 days after the date compliance was due, then the Bank may increase the Interest Rate payable on the Debit Balance to the Default Interest Rate for the period beginning on the due date for compliance and ending on the date on which the failure to comply has been remedied and the Bank has been paid all default interest and all expenses and legal costs in relation to obtaining remedy of the Borrower's failure to comply.

4.5. Interest on judgment

If the Bank obtains judgment against the Borrower for the Amounts Owed of any Facility, the Borrower must pay interest on the sum on which judgment is obtained at the judicature rate awarded and if no such award is made then pursuant to the relevant terms and conditions of the Contract at the Default Interest Rate from the date of judgment until the date of payment of such sum.

5. Procedure for a Drawing and selection of a Fixed Interest Option

5.1. Requesting a Drawing

- (a) The Borrower may make a Drawing by requesting or authorising the Bank to make a payment to, for or at the direction of the Borrower, by such means as the Bank may provide including Internet Banking (and the mobile banking app). This includes Drawing and delivering funds for settlement in accordance with the written directions of the Borrower's solicitor.
- (b) Subject to clause 5.1(c), the Borrower authorises the Bank to debit the Facility, including for settlement of any Equipment Finance Facility, in accordance with the express directions of the Borrower.
- (c) A Drawing under an Equipment Finance Facility may only be made after the Borrower executes and delivers to the Bank an Equipment Finance Offer (and any other documents required under that Equipment Finance Offer in respect of separate items of equipment). Each Equipment Finance Offer may have different terms and conditions and the Bank is not required to match terms offered in one Equipment Finance Offer in subsequent Equipment Finance Offers.

5.2. Minimum amount for manual Drawing for All in One Facility

The Bank will consider Borrower requests to manually process any Drawing for an amount less than \$5,000, on a case by case basis.

5.3. Minimum amount of Drawing for Equipment Finance Facility

- (a) Unless specifically otherwise provided in an Equipment Finance Offer, the whole amount of equipment finance specified in an Equipment Finance Offer must be drawn in one Drawing.
- (b) The Bank may, at its discretion, rather than advancing a Drawing under an Equipment Finance Offer, pay that Drawing directly to the third party supplier of the relevant equipment, such payment being made on behalf of the Borrower.

5.4. Details of first Drawing

The Borrower must give the Bank details of the first Drawing at least two Business Days before it is required.

5.5. Drawing to be applied to Loan Purpose

Each Facility must be applied to the Loan Purpose and the Borrower must produce to the Bank evidence of such application when requested.

5.6. When Fixed Interest Options may be selected

The Borrower may select a Fixed Interest Option:

- (a) when requesting a Drawing of the All In One Facility;
- (b) at any time for any portion of Debit Balance that is subject to a Variable Rate;
- (c) as provided for in clause 6; or
- (d) at the end of each Fixed Rate Period previously selected.

5.7. When Fixed Rate Periods end

At the end of a Fixed Rate Period (either through expiry or early termination), the portion of the Debit Balance subject to a Fixed Interest Option will automatically become subject to the Variable Rate unless the Borrower has selected a further Fixed Interest Option to apply to that portion from such end.

6. Future Fixed Interest Options

6.1. Booking of Fixed Interest Options commencing within 30 or 180 days of the date of selection

If the Bank in its discretion agrees, a Fixed Interest Option may be reserved for future use on the following basis:

- (a) The Borrower must nominate the date upon which the Fixed Rate Period will commence.
- (b) Such date must be within 180 days after the date of reservation if the expiry date of the Fixed Rate Period is one year or more, or within 30 days after the date of reservation if expiry date of the Fixed Rate Period is less than one year.
- (c) If the Borrower does not use the Fixed Interest Option, as reserved, then the Borrower agrees to reimburse the Bank for any cost or loss suffered by the Bank and the Bank may debit any such cost or loss to the Account.

6.2. Booking Fixed Interest Options more than 180 days and up to four years ahead

If the amount of a future Fixed Interest Option is at least \$500,000 and if the Bank, in its absolute discretion, agrees, the Borrower may select a Fixed Interest Option commencing more than 180 days and up to four years in the future on the following basis:

- (a) The period from the date of reservation to the expiry date must not exceed five years.
- (b) Once selected, there is no flexibility as to when the future Fixed Rate Period commences.
- (c) If the Borrower does not utilise the future Fixed Interest Option as reserved, the Borrower agrees to reimburse the Bank for any cost or loss suffered by the Bank and the Bank may debit any such cost or loss to the Account.

6.3. Borrower's Acknowledgement

The Borrower acknowledges that while there are potential benefits from having certainty in the interest payable in respect of a Drawing, the Borrower may, in selecting Fixed Interest Options, lose the benefit of subsequent reductions in rates of interest. The Borrower warrants to the Bank that in making any selection of a Fixed Interest Option:

- (a) The Borrower will, independently of the Bank, have assessed and accepted the risk of interest rate movements.
- (b) The Borrower will have considered and accepted the consequences of having to make repayment during the Fixed Rate Period.
- (c) The Borrower will not have relied on any advice, recommendation, opinion or statement made by the Bank.

7. Decline of a Drawing or Fixed Interest Option

7.1. The Bank may decline a Drawing or selection of a Fixed Interest Option

- (a) The Bank may decline a Drawing if the Facility is in Excess or, if the Drawing were made, would be in Excess.
- (b) The Borrower can not select a Fixed Interest Option if the booked end of the Fixed Rate Period would be after the Loan Period.
- (c) The Bank may decline a Drawing and the Borrower cannot select a Fixed Interest Option if:
 - (i) an Event of Default has occurred or in the Bank's opinion is likely to occur;

(ii) repayment is required under clause 8; or

(iii) subject to clause 7.4, the conditions in clause 2 and/or clause 5.5 have not been satisfied.

7.2. Adverse change

The Bank may decline a Drawing and the Borrower cannot select a Fixed Interest Option if the Bank considers that there has been a Material Adverse Effect on the circumstances disclosed to the Bank in:

- (a) the financial position or projected financial position of any Relevant Person;
- (b) the value of any Security given or required; or
- (c) the Borrower's ability to repay the Facility.

7.3. Changed market conditions

If, in the Bank's opinion, it is not able to purchase fixed rate funds to match the Borrower's selection of a Fixed Interest Option, it may refuse the Borrower's selection of a Fixed Interest Option.

7.4. Conditions unsatisfied

If any of the conditions of settlement contained in the Contract are not met, then the Bank may, at its discretion, permit the Borrower to select a Fixed Interest Option, provided the Borrower has deposited with the Bank such amount as the Bank requires, until such conditions have been satisfied, at which time the deposit and any interest earned will be refunded, subject to the Bank's right of set off.

8. Facility and credit reviews, and variation of the Contract

8.1. Facility Reviews

The Bank may carry out a Facility Review at or about each Facility Review Date. At any Facility Review, the Bank in its discretion may do any of the following:

- (a) Require the Borrower to fully or partially repay the Facility, in which case the Loan Limit is deemed to be cancelled or reduced accordingly. If the Bank requires full or partial repayment of the Facility, then the Borrower must make such repayment of Amounts Owing within three months of the date the Bank issues a notice to the Borrower, notifying the Borrower of the Bank's decision.
- (b) Vary any of the terms of the Contract in accordance with clause 8.2, including without limitation the Facility Review Dates, any fees and the required Securities.

8.2. Variations to Contract as the result of a Facility Review

If the Bank varies the terms of the Contract under clause 8.1(b):

- (a) The Bank will provide the Borrower with a notice specifying the variations.
- (b) The variations will come into effect three months after the date the notice is sent to the Borrower.
- (c) The Bank may require the Borrower, Guarantor and/or Security Provider (as relevant) to execute an acknowledgement, agreement, deed or other document in relation to the variations. This may include a new Letter of Offer, and any other documents (including Security documents).

8.3. Consequences of non-execution/provision

If any of the documents (including Security documents) requiring execution under clause 8.2, are not fully executed within one month of being provided to the Relevant Person, the Bank may require full or partial repayment of the Facility in accordance with clause 8.1(a).

8.4. Credit reviews

The Borrower acknowledges that the Bank generally undertakes a credit review annually or more regularly at its discretion, which may involve an inspection of the Borrower's property (and any other property secured to the Bank in relation to the Facility) and a review of the past, present and projected performance of the Borrower's business. The Borrower undertakes to set time aside for these credit reviews and fully co-operate with the Bank's officers and to provide the Bank with such financial and other information concerning any Relevant Person. Such information may include (but is not limited to) statements of financial position, performance and cash flows, cash flow forecasts and programs and taxation returns.

8.5. Other variations to the Contract

- (a) Where the parties agree to vary terms contained in the Letter of Offer, this will generally be carried out by issuing a new Letter of Offer which, when signed by each Relevant Person, will supersede and replace the then current Letter of Offer. The Bank may also, in its discretion, record variations to a Letter of Offer by way of an amendment letter, or a TLI Notice in accordance with clause 3.8.
- (b) The Bank may also vary the Contract (including any document comprising the Contract) without the prior agreement of a Relevant Person if the Bank considers the amendment will not have (or cause) a Material Adverse Effect on the Relevant Person, is to correct an error, or is required to comply with any law or regulation. The Bank will notify all Relevant Persons of such changes in writing.
- (c) Unless covered in this clause or elsewhere in the Contract, all other variations to the Contract will require agreement by the Relevant Person.

9. Break Costs

9.1. Break Costs

- (a) Where all or any portion of the Debit Balance is for any reason (including on enforcement of any Security or the sale of any asset subject to a Security) repaid during a Fixed Rate Period when a Fixed Interest Option applies to the Debit Balance or that portion, the Borrower must pay to the Bank, and the Bank may debit to the Account, the amount (if any) which the Bank determines (before or after repayment or receipt) is necessary to compensate the Bank for any loss it determines it will suffer or has suffered as a consequence of the repayment including, without limitation, any cost it may incur in reversing or breaking any swap or similar agreement entered into wholly or partially in connection with the relevant Fixed Interest Option.
- (b) The Bank may require payment under this clause where repayment of an amount is required or received pursuant to the Bank exercising any right:
 - (i) consequent upon an Event of Default; or
 - (ii) under clause 8.1(a) (require the Borrower to fully or partially repay the Facility).

9.2. Break Costs, variations to a Drawing and interest selections

The Borrower must pay the Bank, and the Bank may debit to the

Account, the amount (if any) the Bank determines is necessary to compensate it for any loss it determines it will suffer or has suffered:

- (a) because the Borrower for any reason does not make a Drawing consistent with its selection of a Fixed Interest Option (including, without limitation, under clause 6); or
- (b) by making any variation to a Fixed Interest Option at the request of the Borrower (which the Bank is not bound to do).

10. Payments

10.1. Repayments generally

- (a) The Bank may debit the Account, including by deduction from a Drawing, with all or part of the Amounts Owing.
- (b) The Borrower owes the Bank, and must make all repayments and otherwise pay to the Bank the Amounts Owing on each applicable Payment Date and otherwise in accordance with the Contract (or, if not stated in the Contract, On Demand).
- (c) Subject to clause 9 and in addition to any repayment required to be made under the Contract, the Borrower may at any time repay any or all of the Debit Balance. At the time of full repayment of an All In One Facility, the Borrower must specify if the repayment is a permanent repayment, following which the Account may be closed.
- (d) All repayments of an Equipment Finance Facility are permanent.
- (e) The Debit Balance and the Loan Limit will be reduced by the amount of any permanent repayment on and from the date that the Bank receives the repayment in cleared funds. If a permanent repayment is required under the Contract, the Loan Limit will be reduced by the amount of the repayment on the date it is due, if that is earlier.
- (f) In the case of a repayment which is not a permanent repayment, only the Debit Balance is reduced, but not the Loan Limit.
- (g) If an amount is due or action is required to be taken on a day which is not a Business Day, the Relevant Person must pay that amount or take that action on the next Business Day. If applicable, any amount due will be adjusted accordingly.
- (h) If any payment to the Bank under the Contract is avoided by law, the Borrower's obligation to have made such payment will be deemed not to have been affected or discharged and the Borrower must On Demand indemnify the Bank against any costs, claims, losses, expenses or liabilities (together with any Tax thereon) sustained or incurred by the Bank as a result of it being required for any reason (including any dissolution law) to refund all or part of any amount received or recovered by it in respect of such payment and in any event pay to the Bank On Demand the amount so refunded by the Bank. The Bank and the Borrower will, in any such case, be deemed to be restored to the position in which each would have been, and will be entitled to exercise the rights they respectively would have had, if that payment had not been made.

10.2. No deductions and gross up

- (a) All payments required in connection with the Contract must be made by the Borrower in full without any restriction, condition, deduction or withholding (whether in respect of Tax, set-off, counterclaim or otherwise). The Borrower waives any right of, and must not make any set-off, combination or counterclaim in relation to such payments.

- (b) If:
- (i) the Borrower is required by law to make any deduction or withholding in respect of any payment; or
 - (ii) the Bank is required to make any payment, on account of Tax (other than Tax on overall net income of the Bank) or otherwise, on or in relation to any amount received or receivable by it under the Contract, then the Borrower must ensure that such deduction or withholding does not exceed the minimum legal liability for such deduction or withholding and the Borrower must immediately gross up the relevant payment by paying to the Bank such additional amount which, after any further such deductions, withholdings or payments, will result in the receipt by the Bank of the full amount which would otherwise have been payable.

10.3. Application of payments

- (a) The Borrower irrevocably waives its right to determine the appropriation of any money paid to the Bank.
- (b) Where some or all of the Debit Balance is subject to the Variable Rate, the Bank may apply that money to its repayment, and to the repayment of any Fixed Interest Option on its maturity. The appropriation of that money may result in credit funds being held in the Account, from which funds any subsequent Drawing may be drawn instead of from any Undrawn Amount. However, all payments will be applied to any Account of the Borrower held with the Bank or the Bank's related companies, at the sole election of the Bank notwithstanding any rule determining application of payments.

10.4. Repayment of Amounts Owing

If a Facility has not already become repayable, upon expiry of the Loan Period the Borrower must immediately, without demand, repay the Amounts Owing.

11. Borrower's Continuing Representations, Warranties and Undertakings

11.1. Continuing representations and warranties

The Borrower represents and warrants to the Bank, both in relation to itself and each other Relevant Person, that:

- (a) all information provided to the Bank from time to time is, and will be true, complete and accurate in all material respects and that the Borrower is not aware of any facts or circumstances which have not been disclosed to the Bank and which, if disclosed, might affect the decision of a prudent person considering whether to provide financial accommodation to the Borrower;
- (b) the Borrower (if a natural person) has not committed an act of bankruptcy and has not been adjudicated bankrupt or made an assignment or an assignment of property or composition of debts under any law relating to bankruptcy;
- (c) if the Relevant Person is a company, Limited Partnership or other body corporate, it is solvent and no order has been made, proceedings taken or resolution passed for its liquidation or dissolution, and no receiver or manager has been applied for or appointed for all or any part of its assets, and the directors or general partner (as relevant) are not accustomed or under any obligation to act in accordance with the directions of any one or more of its creditors, and there have been no changes to its constitutive documents other than those notified to the Bank;
- (d) if the Relevant Person is a partnership, it has not been dissolved and there have been no changes to its partnership deed (if applicable) other than those notified to the Bank in writing;
- (e) the Borrower has not suspended payments of any of its debts and is able to pay its debts and is solvent, and has not commenced negotiations with one or more of its creditors with a view to a general re-scheduling of all or part of its indebtedness or entered into any arrangement for the benefit of its creditors, and has not ceased or threatened to cease to carry on its business;
- (f) no distress or execution has been levied or issued upon or against any of the property or undertakings of any Relevant Person, and no judgment has been obtained against the Borrower has remained unsatisfied for a period of seven days or more;
- (g) each Security Provider is, and will at all times be, the sole legal and (other than in respect of a Security Provider that is a trustee of a trust) beneficial owner of all its assets and no Security Interest exists over any of its property (except as expressly permitted by the Contract or with the prior written consent of the Bank);
- (h) the value of any Security or any other securities held by the Bank from any Security Provider has not changed adversely to a material extent, and no Security Provider has given notice terminating or reducing their liability;
- (i) no event or change has occurred affecting the assets, affairs or financial condition of any Relevant Person, as a result of which the Relevant Person may not be able to perform and observe their obligations under the Contract;
- (j) no Relevant Person has failed to comply with any law or regulation applicable to the assets secured under any Security;
- (k) no Relevant Person has defaulted under any other agreement or security to which it is a party to an extent or in a manner which might, in the Bank's opinion, have a Material Adverse Effect on the Relevant Person's business or financial position;
- (l) the execution of the Contract and any Security is valid and does not violate any existing law or regulation or any document or agreement to which a Relevant Person is a party, or which is binding upon the Relevant Person or any of its assets;
- (m) all consents, licences, approvals and authorisations of every government authority required to be obtained by the Relevant Person in connection with the execution, delivery and performance of the Contract and any Security have been obtained and are valid and subsisting;
- (n) all rates, Tax and other outgoings of each Relevant Person have been paid, and where such amounts have not been paid the Bank has been informed;
- (o) each Relevant Person has complied with all laws relating to it and the business carried on by it;
- (p) no litigation or other proceedings are current, pending or threatened which could have a material effect on the business or financial condition of a Relevant Person;
- (q) no event has occurred or is occurring which constitutes an Event of Default;

- (r) no event has occurred which with the giving of notice and/ or the lapse of time and/or a relevant determination by the Bank would constitute an Event of Default; and
- (s) in respect of each Relevant Person that is a body corporate or a Limited Partnership:
 - (i) the Relevant Person is duly incorporated and validly existing under the laws of the jurisdiction in which it is registered has the corporate power to own its own property and to carry on its own business as is now being conducted;
 - (ii) the execution, delivery and performance of the Contract to which any Relevant Person is a party does not violate its constitutive documents or, if it is listed on any stock exchange, the listing requirements (or equivalent) thereof;
 - (iii) any Relevant Person has the power, and has taken all corporate and other action required, to enter into the Contract to which it is party and to authorise the execution and delivery of the Contract and the performance of its obligations under the Contract;
 - (iv) the Relevant Person has filed all corporate notices and effected all registrations with the relevant authorities as required by law, and all such filing and registrations are current complete and accurate; and
 - (v) if it is a company, it has not exceeded any limits on its power or the powers of its directors and if it is a Limited Partnership, it has not exceeded any limits on its power or the powers of its general partners;
- (t) each Security Provider is aware that:
 - (i) by giving a Guarantee or providing Security, it may become liable instead of, or as well as, the Borrower;
 - (ii) it should seek legal or, if required, other professional advice before providing the Security;
 - (iii) the Bank may also claim any interest owed and any costs incurred in the recovery process; and
- (u) where a Relevant Person is a Limited Partnership, that the additional representations and warranties in clause 17.2 apply. The Borrower must give the Bank written notice if anything covered by any of these statements' changes, ceases to be true, or becomes misleading. The Borrower acknowledges that the Bank has agreed to provide the Facility relying on the statements set out in this clause being true.

11.2. Warranties to continue

The representations and warranties contained in these Standard Loan Terms and the Letter of Offer, including this clause 11, are deemed to be repeated by the Borrower on every day during the term of the Facility by reference to the facts and circumstances then subsisting on each such day until the Facility is terminated and all Amounts Owing are repaid.

11.3. Continuing Undertakings

So long as there are any Amounts Owing, each Relevant Person undertakes:

- (a) where the Relevant Person is a company, within one month of the time by which it is required by the Financial Reporting Act 2013 to have completed its accounts for a financial year (or if none, within three months after its balance date), to deliver to the Bank a copy of the consolidated financial statements of the Relevant Person and its subsidiaries including every document required by the Financial Reporting Act 2013 to be annexed thereto;
- (b) whether or not the Relevant Person is a company, to provide annually to the Bank such financial information relating to the Relevant Person as the Bank may reasonably require;
- (c) to provide on the written request of the Bank such financial information relating to the Relevant Person and its related companies as the Bank may reasonably require including business and/or property valuations, cash forecasts, annual accounts, half-yearly accounts and management or other financial accounts;
- (d) to maintain the insurance required by clauses 2.10, 2.11 and as specified in the Letter of Offer;
- (e) where the Relevant Person is a company, that the Relevant Person must not without the Bank's prior written consent:
 - (i) make any Distribution other than the commercially prudent and lawful payment of dividends;
 - (ii) enter into any amalgamation or merger arrangement (including, without limitation, the forms of amalgamation permitted by the Companies Act 1993);
 - (iii) repay any amount of shareholders' or directors' loans;
 - (iv) enter into a major transaction (as such term is defined in the Companies Act 1993); or
 - (v) give financial assistance to any person in connection with the purchase of shares issued or to be issued by its holding company;
- (f) duly and punctually to obtain, observe all laws applicable thereto and perform under and keep in force, all licences, consents and authorities required for the purpose of the Borrower's business, and to obtain renewals of all such licences, consents and authorities, including:
 - (i) all resource consents required under the Resource Management Act 1991; and
 - (ii) all certificates of compliance, warrants of fitness and other necessary authorities under the Building Act 2004;
- (g) not to charge, surrender, vary, assign or transfer any such licences, consents or authorities referred to in (f) above without the Bank's prior written consent;
- (h) not to discontinue, materially alter or put at risk by sale, guarantee or otherwise any part of the Borrower's business undertaking or property;
- (i) not to lend or provide any finance to, give any guarantee in respect of, or take on debt of, any person;
- (j) promptly to inform the Bank of any breach or anticipated breach of the undertakings made in this clause, and of any representation or warranty made in clause 11.1 becoming or being likely to become incorrect;
- (k) duly and punctually to lodge all forms and returns as required by any regulatory body and to pay all outgoings (including, without limitation, rent and Tax) payable by it;
- (l) to ensure that its payment obligations under the Contract rank at all times ahead of all of its other debt except debt preferred by law;
- (m) not to sell or otherwise dispose of or create any Security Interest in all or a substantial part of its assets, unless for full value and in the ordinary course of day to day trading and subject to the terms of any Security. This clause does not

apply to any Security Interest which arises by operation of law or any purchase money security interest (as that term is defined in the PPSA) in after-acquired goods arising only because of the normal trade terms of the supplier of those goods, which secures obligations that are not overdue and results from a transaction in the ordinary course, and for the purposes of its ordinary business;

- (n) to appoint at the request of the Bank, or allow the Bank to appoint, any person to investigate the affairs and financial position of a Relevant Person, and to ensure that the Relevant Person co-operates with the Bank and any such investigating person in relation to any such investigation;
- (o) to keep confidential all Account numbers and the identification and authorisation procedures advised to the Borrower by the Bank,
- (p) ensure that the Bank has the sole and exclusive right and power to make, conduct, enforce, settle and compromise an insurance claim under any insurance policy in respect of any property which is the subject of a Security, even if the policy has been effected in breach of this clause or covers other property; and
- (q) where a Relevant Person is a Limited Partnership, that the additional undertakings in clauses 17.3 and 17.4 apply.

11.4. Sanctions representations, warranties and undertakings

- (a) For the purposes of this clause, the following definitions apply:

OFAC means the Office of Foreign Assets Control of the United States Department of Treasury.

Restricted Party means a person, or a person owned or controlled (directly or indirectly) by a person, that is:

- (i) listed on any Sanctions List or is otherwise a subject of Sanctions;
- (ii) located in or organised under the laws of a country or territory which is a subject of country-wide or territory-wide Sanctions or whose government is the subject of country or territory wide Sanctions (including, without limitation, at the date of the Contract, Crimea, Cuba, Donetsk, Luhansk, Iran, Sudan, Syria or North Korea); or
- (iii) acting on behalf of any of the persons listed under paragraphs (i) or (ii) above.

Sanctions means any trade, economic or financial sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced from time to time by a Sanctions Authority.

Sanctions Authority means:

- (i) the Security Council of the United Nations;
- (ii) the US;
- (iii) the European Union (including all of its member states, including the Netherlands);
- (iv) the United Kingdom;
- (v) any country in which a Relevant Person is incorporated or in, from or to which it conducts its business; and
- (vi) the governments and official institutions or agencies of any of paragraphs (i) through (v) above, including OFAC, the Council of the European Union, the United States Department of State and Her Majesty's Treasury.

Sanctions List means any list of specifically designated persons, entities (or equivalent) or countries maintained by, or

public announcement of Sanctions designation made by a Sanctions Authority, each as amended, supplemented or substituted from time to time.

- (b) No Relevant Person, nor any of their respective directors or officers or (to the best of its knowledge, after having made due and careful enquiry) employees:
 - (i) is a Restricted Party;
 - (ii) has violated or is violating any applicable Sanctions;
 - (iii) is directly or indirectly engaging in or has directly or indirectly engaged in any activity with a Restricted Party or in any other activity that may result in any person becoming a subject of Sanctions; or
 - (iv) is subject to any claim, proceeding, formal investigation or formal notice with respect to Sanctions.
- (c) No Relevant Person will:
 - (i) request any Drawing or use, lend, contribute or otherwise make available the proceeds of any Drawing or any other transaction contemplated by the Contract to any person directly or indirectly:
 - (A) to fund or support any trade, business or other activities of or with any Restricted Party; or
 - (B) in any manner that would reasonably be expected to result in any person being in breach of any Sanctions or becoming a Restricted Party;
 - (ii) use any revenue or benefit derived from any activity or dealing with a Restricted Party or from any action which is in breach of any Sanctions in discharging any obligation due under or in connection with the Contract;
 - (iii) procure or permit that proceeds from any activity or dealing with a Restricted Party are credited to any bank account held with the Bank (or any of its affiliates) in its name or in the name of any other member of the group;
 - (iv) directly or indirectly engage in any activity, transaction or conduct that results or is reasonably likely to result in any party being in breach of any Sanctions or becoming a person subject to Sanctions; or
 - (v) directly or indirectly engage in any activity, transaction or conduct that evades or avoids, or has the purpose of evading or avoiding, or breaches or attempts to breach, directly or indirectly, in whole or in part, any Sanctions.
- (d) Each Relevant Person undertakes, to the extent permitted by law and promptly upon becoming aware of them, supply to the Bank details of any claim, proceeding, formal notice or formal investigation against it or any other member of its group with respect to Sanctions.
- (e) Each Relevant Person undertakes to take all reasonable measures to ensure compliance with Sanctions.

12. Bank Guarantee option

12.1. Bank Guarantee amount

If requested by the Borrower, the Bank may (at its discretion) issue Bank Guarantees for any amount, in any currency and in a form and substance satisfactory to the Bank. The Borrower must ensure that the Debit Balance plus the Bank's contingent liability under any Bank Guarantee (including any proposed Bank Guarantee) does not exceed the Loan Limit at any time. The Bank may debit the Facility, or otherwise make provision in the Facility for, any amount owing,

contingently or otherwise, under a Bank Guarantee.

12.2. Borrower's acknowledgements

The Borrower acknowledges that, under a Bank Guarantee, the Bank may be required to pay without reference to the Borrower and that the Bank has the right to make any payment necessary to end its liability (actual and contingent) under the Bank Guarantee and to make payment under it.

12.3. Drawing under Bank Guarantee

Any amount paid by the Bank in relation to a Bank Guarantee is a Drawing and forms part of the Debit Balance.

12.4. Bank Guarantee Fee

- (a) For so long as the Bank has any contingent liability under a Bank Guarantee, the Borrower must pay the Bank Guarantee fee (as detailed in the Letter of Offer) on the daily amount of the contingent liability. The amount payable by the Borrower is the sum of the daily amounts of the fee calculated in accordance with this clause for the period commencing on the day that a Bank Guarantee is first issued (in the case of the first debit of this fee) or on the previous Interest Payment Date, and ending on the day before the date on which the Bank Guarantee fee is to be debited.
- (b) The fee is debited to the Account in arrears on each Interest Payment Date, or, if none, annually. The Bank Guarantee fee is also debited on the last day of the Loan Period, or immediately before the Facility is repaid or cancelled, the Loan Limit is reduced to zero or the Bank demands or requires repayment of the Facility in accordance with the Contract.

13. Events of Default

13.1. Events of Default

An Event of Default occurs under the Contract only if in the Bank's opinion:

- (a) the Borrower fails to repay an Excess accordance with clause 3.2;
- (b) any Relevant Person fails to pay on time any amount due to the Bank under the Contract;
- (c) any Relevant Person does not comply with any term of the Contract or any other agreement between the Relevant Person and the Bank;
- (d) any of the representations and warranties in clause 11.1 are or become incorrect;
- (e) a warranty, representation, answer to requisition, statutory declaration or certificate made or given by or on behalf of any Relevant Person or any other person in connection with the Contract is found to be or becomes untrue, incorrect or misleading;
- (f) any Security Provider does not comply with any provision of the relevant Security document;
- (g) the Bank becomes entitled to exercise any remedy under any Security or would have been entitled to do so but for any legislation requiring notice or lapse of time;
- (h) any Drawing is applied for any purpose other than the Loan Purpose;
- (i) any Security in favour of any person over any of the assets of any Relevant Person is enforced or becomes enforceable;

- (j) any consent necessary at any time in connection with any Security or the implementation or performance of it, expires or is revoked, cancelled, withdrawn or modified in a manner unacceptable to the Bank or otherwise ceases to remain in full force and effect, and is not replaced by a consent acceptable to the Bank;
- (k) attachment, distress or any other execution is levied or enforced or commenced against any of the property of any Relevant Person, or a judgment is obtained against any Relevant Person;
- (l) there occurs, or any step is taken to achieve:
 - (i) (where any Relevant Person is a company): the rehabilitation, administration, receivership, liquidation, dissolution or statutory management of the Relevant Person, or
 - (ii) (where the Relevant Person is one or more of the partners in a partnership or the trustees of a trust): the dissolution or winding-up of the partnership or trust, or
 - (iii) (where the Relevant Person is a natural person, including individual partners or trustees where the Relevant Person is a partner in a partnership or the trustees of a trust): the death or bankruptcy of the Relevant Person, or any one of them;
- (m) all or any part of the Contract:
 - (i) does not or ceases to have effect in accordance with its terms; or
 - (ii) is or becomes void, voidable, illegal or unenforceable or of limited or reduced force, effect or value, or
 - (iii) the Relevant Person claims any of the matters referred to in paragraph (i) and or paragraph (ii) to be the case;
- (n) any Relevant Person stops, or threatens to stop, carrying on all or a material part of its business;
- (o) any Relevant Person:
 - (i) suspends payment of its debts;
 - (ii) is, or claims to be, or is presumed by law to be, insolvent or unable to pay its debts;
 - (iii) takes a step for the purpose of entering into a compromise or arrangement with any of its creditors, or an assignment for their benefit or, if it is a company, with its members; or
 - (iv) commits an act of bankruptcy;
- (p) any change occurs in the legal and/or beneficial ownership of any Relevant Person, or any holding entity in the case of a body corporate, or the Relevant Person ceases to be controlled by the same persons;
- (q) any change occurs in the statute, constitutive documents, rules or other governing document of any Relevant Person which is prejudicial to the Relevant Person's obligations;
- (r) circumstances arise that, in the Bank's reasonable opinion, may have a Material Adverse Effect;
- (s) if the Relevant Person is a company or other body corporate:
 - (i) without the Bank's prior written consent, the Relevant Person reduces or takes any action to reduce its capital (including by way of purchase of its own shares, but not including by redemption of redeemable preference shares) or cancels or reduces, or takes any action to cancel or reduce, the liability of any shareholder of that

- Relevant Person in respect of any shares held by that person; or
- (ii) where the Relevant Person's shares are listed on any stock exchange, the listing is suspended or revoked;
- (t) if a Relevant Person is a Limited Partnership:
 - (i) a "terminating event" as defined in Section 86 of the Limited Partnerships Act 2008 occurs in relation to that Relevant Person;
 - (ii) there is no general partner of that Relevant Person at any time;
 - (iii) a foundation partner of that Relevant Person ceases to be a limited partner or reduces or increases its interest in the limited partnership;
 - (iv) there occurs any change in control or ownership (whether legal or beneficial) in the general partner; and
 - (v) any one or more of the Limited Partnership's general partners suffers any event or commits any act set out in clauses 13.1(l)(i) and 13.1(s)(i) as if the references in those clauses to Relevant Person were to the general partner of the Limited Partnership.
- (u) a receiver, provisional liquidator, administrator, controller, trustee for creditors in bankruptcy or analogous person is appointed to, or the holder of a security interest takes (or appoints an agent or controller to take) possession of, any of the Relevant Person's property;
- (v) the Relevant Person ceases for any reason to be able lawfully to carry out all the transactions which the Contract contemplate may be carried out by the Relevant Person;
- (w) if the Relevant Person is a partnership, it changes the constitutive documents of the partnership or dissolves the partnership without (in either case) the Bank's prior written consent;
- (x) if the Relevant Person is an individual, the Relevant Person dies or becomes of unsound mind or otherwise unable to conduct his affairs or is convicted of a criminal offence and imprisoned for a period exceeding 30 days;
- (y) a judgment is entered against any Relevant Person;
- (z) any action is initiated by any competent authority with a view to deregistering any Relevant Person from any register of companies or similar register and such action is not withdrawn within 21 days of initiation;
- (aa) any property of a Relevant Person becomes subject to a restraining order or clean up notice under environmental law (including the Building Act 2004 and Resource Management Act 1991);
- (bb) any event of default (howsoever described) occurs under or in respect of any Security; or
- (cc) any indebtedness of the Borrower (whether or not owing to the Bank) exceeding \$5,000 is not paid when due, or becomes due because of a default (however described), or any Security Interest in respect of that indebtedness becomes enforceable.

13.2. Notification by Relevant Person

- (a) To the extent that it is aware of such matter, each Relevant Person must immediately notify the Bank of the occurrence of any Event of Default or anything which with the giving of notice or passage of time or both would become an Event of Default.

- (b) The Bank will notify the Borrower that an Event of Default has occurred and may specify a time by which the Event of Default needs to be remedied ("notice period") or otherwise reserve the Bank's rights.
- (c) The Bank is not required to provide a notice period for Events of Default which relate to a Relevant Person failing to pay on time money owing (a "monetary default"), other than to the extent the failure is due to an administrative or technical error, in which case the notice period will be two Business Days.
- (d) If the Event of Default does not relate to a Relevant Person failing to pay on time money owing (a "non-monetary default"), the Bank will specify the grounds on which it considers that the Event of Default is a non-monetary default and provide a reasonable notice period (being not less than 20 Business Days) unless it is reasonable for the Bank to act to manage:
 - (i) a material and immediate risk relating to the nature of the relevant Event of Default;
 - (ii) the Borrower's particular circumstances; or
 - (iii) the value of the Security.
- (e) The Bank may give no notice or give a shorter period of notice than the relevant notice period described in paragraph 13.2(d) if:
 - (i) the Bank is of the view that the Event of Default is unable to be remedied;
 - (ii) it is reasonable for the Bank to do so to manage a material and immediate risk relating to the nature of the relevant Event of Default, your particular circumstances, or the value of the Security; or
 - (iii) the Bank has already given you a period to remedy an Event of Default in accordance with the Contract, and you have not remedied that Event of Default.
- (f) If the Bank has notified the Borrower of an Event of Default, and such Event of Default is remedied within any notice period given, and no Event of Default of the same type arose during that time period, the Bank will not exercise its rights to require full repayment or take enforcement proceedings as a result of that Event of Default.

13.3. The Bank's rights in Event of Default

- (a) Following an Event of Default, but subject to the expiry of any notice period given in accordance with clause 13.2, in the manner and at the times the Bank in its discretion deems appropriate, despite any omission, negligence, delay or waiver of the right to exercise the option, and without liability for loss, the Bank may do any one or more of the following:
 - (i) require that the Borrower and/or any Relevant Person must, On Demand and in accordance with the terms specified in the demand, pay to the Bank the Amounts Owing. If such a demand is made, the Account and, to the extent that the Bank is able to do so, any Bank Guarantee or Risk Management Facility under which a contingent liability remains, is cancelled. Unless the Bank specifies a period within which the Borrower and/or the Relevant Person must pay to the Bank the Amounts Owing, the Borrower and/or the Relevant Person is not entitled to any period within which to pay under any such demand;
 - (ii) terminate or reduce any obligation the Bank may otherwise have to provide financial accommodation or other services to the Borrower, including cancel any

- Facility and/or cancel or reduce any Loan Limit or Loan Period;
 - (iii) reduce the Loan Limit to such amount as the Bank in its absolute discretion may determine;
 - (iv) do anything the Bank considers appropriate to recover the Amounts Owing, including enforcing any Security; and
 - (v) otherwise exercise any right, power, or privilege conferred by law or the Contract.
- (b) The Bank's rights under clause 13.3 are subject only to any statutory requirements which cannot be waived.

14. General provisions

14.1. Borrower's indemnities

- (a) The Borrower must indemnify and hold harmless the Bank against all actions, claims, demands, losses, damages, liabilities, costs, charges or expenses of any nature (including legal costs) suffered or incurred at any time actually or contingently by the Bank arising at any time directly or indirectly from:
- (i) the occurrence of any Event of Default or the Bank or a receiver exercising or attempting to exercise any right or option arising upon an Event of Default;
 - (ii) the rate of interest applying to a judgment debt being less than that applying to the original obligation to pay in respect of which judgment was obtained;
 - (iii) a claim that a payment, obligation, settlement, transaction, conveyance or transfer in connection with money owing by any Relevant Person to the Bank (or money which would be owing if the claim was valid) is void or voidable under any insolvency laws or for any other reason being upheld conceded or compromised;
 - (iv) the Bank paying any costs described in clause 15.1;
 - (v) the establishment of a Bank Guarantee or Risk Management Facility or any dispute or litigation arising in relation to a Bank Guarantee or Risk Management Facility;
 - (vi) the exercise or attempted exercise by the Bank of any of its rights or powers;
 - (vii) any defect in the Borrower's title to any property that is subject to a Security;
 - (viii) the breach of any of the Borrower's warranties, representations or undertakings; or
 - (ix) the Borrower not complying with any environmental law (including, without limitation, the Resource Management Act 1991 and Building Act 2004), or any obligation under any environmental law being imposed on the Bank, or the Bank doing (or instructing any person to do) anything to ensure any environmental law is complied with.
- (b) The Bank may debit the Account with any amount payable under this clause, after providing the Borrower with notice of the amount.
- (c) The Borrower's obligations to indemnify the Bank under this clause survive the repayment of the Facility or the discharge of any Security.

- (d) An indemnity described in clause 14.1(a) will not apply to the extent that any action, claim, demand, loss, damage, liability, cost, charge or expense was caused by:
- (i) The Bank (including its officers, employees, contractors or agents); or
 - (ii) A receiver appointed by the Bank, engaging in fraud, negligence or wilful misconduct.
- (e) Until the Bank is indemnified, the amount to be paid will form part of the Debit Balance.
- (f) Each of the indemnities above constitutes a separate and independent obligation from the other obligations under the Contract giving rise to an independent cause of action irrespective of any time, credit or other indulgence on the part of the Bank or any other matter.

14.2. Continuing liability

Each Relevant Person will remain liable under the Contract notwithstanding that another Relevant Person has ceased to be liable for any reason.

14.3. Illegality, Increased Costs and Market Disruption

- (a) **Illegality:** If the Bank's compliance with its obligations under the Contract becomes illegal, the Bank may by written notice immediately cancel any Facility, the Contract or any part of the Contract. Upon such cancellation, the Borrower must immediately repay to the Bank the Amounts Owing or any amount due under the relevant Facility.
- (b) **Increased costs:** The Bank need not make an advance under a Facility or may cancel the Contract if, as a result of any law or directive or any change to or in the interpretation or application of any law or directive by a court or governmental agency:
- (i) the cost to the Bank of performing any obligations or exercising any rights under the Contract is increased;
 - (ii) any sum received or receivable by the Bank under the Contract is reduced (except by Tax on the Bank's overall income); or
 - (iii) the Bank makes any payment (except for Tax on the Bank's overall income) or does not receive any expected return on, or in relation to, or calculated by reference to, any amount received or receivable by it under the Contract, including, in each such case, any diminished yield to the Bank arising from any imposition of, or increase in, any capital adequacy, risk weighting, reserve asset, balance sheet or similar requirement.
- (c) **Market Disruption:** The Bank may by written notice immediately suspend or cancel, in whole or in part and for such period and upon such terms and conditions as the Bank may reasonably determine, its obligations under the Contract and may require payment of the Amounts Owing on a date specified by the Bank if, in the reasonable opinion of the Bank, such action is necessary as a result of any change in national or international monetary, financial, political or economic conditions or currency exchange rates or exchange controls or in the overall availability of funds in the market which has materially adversely affected or would be likely to so affect the ability of the Bank to make, fund or continue to provide any Facility or to exercise its rights or perform its obligations under the Contract.

14.4. Collateral Security

Each Security is collateral one with the other to the effect that:

- (a) each Security secures all Amounts Owing even if a Security may have been executed prior to or after a Facility being made available to the Borrower; and
- (b) a breach of any term of any one or more of the Securities is a default under all the other Securities and under the Contract and the Bank may exercise its rights and remedies under all or any of the Securities and under the Contract either separately or concurrently.

14.5. Consent to disclosure of information

- (a) Each Relevant Person authorises the Bank to:
 - (i) disclose any information about the Relevant Person to any Guarantor, or prospective Guarantor; and
 - (ii) disclose any information about the Relevant Person to any other member of the Rabobank group and contractors of such members, including their employees and agents, for the purposes for which it was collected.
- (b) Each Relevant Person acknowledges that:
 - (i) if all or any part of the information requested by the Bank is not provided, the Bank may decline any credit application made by the Borrower;
 - (ii) the information collected from it by the Bank will be held by the Bank and that this information will be accessible by the Bank's employees and agents who require access to it for the purposes for which it was collected;
 - (iii) it has the right to access and request correction of any of its personal information collected and held by the Bank and that the Bank's Privacy Statement (available on its website) contains information on how the Bank collects and uses personal information in the course of its business, a customer's rights in respect of their personal information, and how a customer can make a privacy complaint; and
 - (iv) the authorities and acknowledgements contained in this clause 14.5 will continue in force until all Amounts Owing are repaid in full and the Facility is cancelled.

14.6. Exclusion of Statute

So far as is lawful, the provisions of all statutes and regulations at any time operating directly or indirectly to:

- (a) lessen, modify, or affect the Borrower's obligations in favour of the Bank;
- (b) stay, postpone, or otherwise prevent or prejudicially affect the exercise of all or any of the Bank's rights, powers, and remedies conferred by the Contract; or
- (c) postpone payment of money, reduce or fix rates of interest,

are negated and excluded from and will not apply to the Contract. All powers, rights, and remedies conferred on the Bank or any receiver by law, in equity, or by any statute will be in addition to those contained in the Contract and will not curtail, diminish, or qualify any of them.

14.7. The Bank's certificate

A certificate signed by or on behalf of the Bank or its solicitor as to a matter or as to an amount payable to or by the Bank in connection with the Facility is conclusive and binding on each Relevant Person as to the amount stated in it or any other matter of a factual nature

except in the case of manifest error.

14.8. Severability

If any term, agreement, or condition of the Contract, or the application of any such term, agreement, or condition to any person or circumstance, is or becomes illegal, invalid, or unenforceable in any jurisdiction, it will be severed and neither the remaining terms, agreements, and conditions nor the application, validity, or enforceability of the severed term, agreement, or condition in any other jurisdiction will be affected or impaired.

14.9. No representations to Relevant Persons

- (a) No Relevant Person enters into or executes the Contract as a result of or in reliance on any promise, representation, statement, or information of any kind given or offered by or on behalf of the Bank whether in answer to any enquiry by or on behalf of the Relevant Person or not.
- (b) The Bank is not obliged to do anything (including, without limitation, disclose anything or give advice), except as expressly set out in the Contract.

14.10. Authority to complete and date

The Bank is authorised to complete and date the Contract and any Security in any way in which they require completion or dating. Each Relevant Person undertakes to sign anything and do anything reasonably required by the Bank to fix up the same if they are defective in any way.

14.11. Other security

The Contract will not merge with, discharge, extinguish, postpone, or prejudice any other security or right held by the Bank and no other security or right will affect the Facility.

14.12. Supplying Shareholder covenants

If the Borrower enters into the Contract as a Supplying Shareholder, it must not without the prior written consent of the Bank:

- (a) create or allow to subsist any Security Interest whatsoever over the Shares and the rights attached to the Shares;
- (b) dispose by whatever means of the Shares or the rights attached to the Shares;
- (c) offer to surrender the Shares to the Co-operative Dairy Company;
- (d) cease to be a Supplying Shareholder; or
- (e) do, or omit to do, any act or thing that will permit the Cooperative Dairy Company to require the surrender of the Shares to the Co-operative Dairy Company.

14.13. Exclusion of liability

The Bank is not liable to account to the Borrower as mortgagee in possession.

14.14. Bank's approvals and consents

The Bank will have discretion to give or withhold its approval or consent, and may give its approval or consent subject to any condition it wishes.

14.15. Merger

The Bank's rights to payment of any amounts will not merge in a mortgagor's obligation to pay those amounts under any Security.

14.16. No Drawings on cancellation of Account

If the Bank requires repayment of the Amounts Owed or cancels any Facility in accordance with the Contract, the Borrower may not, and must not attempt to, make any Drawing.

14.17. Death of Relevant Person

On the death of a Relevant Person other than a trustee of a trust or a partner in a partnership, the estate of that deceased person will be substituted for the deceased in relation to all the Relevant Person's rights and obligations, and contrary to the rule in Clayton's Case. This includes but is not limited to the obligation to repay any debts incurred before and after notification of the death to the Bank.

14.18. Divorce or civil union proceedings

In addition to any other obligations in the Contract, the Relevant Person must notify the Bank in the event of the commencement, or likely commencement, of any divorce or civil union proceedings to which they are a party. The amount of any costs incurred by the Bank as a result of such proceedings will be debited to the Account.

14.19. Amendment

Except as otherwise provided in the Contract, no amendment to the Contract is effective unless the Bank agrees in writing.

14.20. Obligations after termination

The payment and indemnity obligations of each Relevant Person under the Contract continue after repayment of any amount under, and termination of, the Contract.

14.21. Capacities and personal liability

Each Relevant Person enters into the Contract and any Guarantee in all capacities that apply to the Relevant Person in respect of the Contract and any Guarantee, including in the Relevant Person's personal capacity and any other applicable capacity, including where applicable as trustee. Each Relevant Person's liability is personal and also in any other capacity in which the Relevant Person enters into the Contract and any Guarantee, except that, if the Relevant Person enters into the Contract and/or any Guarantee as a trustee and has no right to or interest in any of the assets of the trust except in the Relevant Person's capacity as trustee, the Relevant Person's liability in that capacity is subject to the Bank's standard independent trustee limitation of liability.

14.22. Execution

- (a) Any document forming part of the Contract may be executed in any number of counterparts all of which, when taken together, will constitute one and the same document. A party to any document forming part of the Contract may execute that document by signing any such counterpart.
- (b) The Bank may agree that any document forming part of the Contract can be executed electronically, subject to such additional requirements as it considers necessary.

14.23. Assignments

- (a) A Relevant Person must not assign or transfer any of its rights or obligations under the Contract without the prior written consent of the Bank.
- (b) The Bank may assign or transfer all or any of its rights or obligations under the Contract (or any document comprising the Contract) at any time and without notice to the Relevant Person.

15. Costs and Duties

15.1. Borrower to pay costs

The Borrower must pay to the Bank, or as it may direct, and the Bank may debit the Account with, all costs and expenses (including legal costs) incurred by the Bank, the Bank's solicitors, any receiver appointed by the Bank under a Security and any officer of the Bank acting as permitted under a Security and arising from:

- (a) the preparation, negotiation, registration, variation, discharge or release of the Contract, and any associated investigation, enquiries and searches;
- (b) the assessment of the Security and the Bank's rights and duties as a result of a request or application from the Borrower (or Borrower's agent) including any request for a variation or increase in Facility Limit;
- (c) the valuation of any property secured by a Security, including any valuation which the Bank may require following an Event of Default;
- (d) the exercise or attempted exercise of any power conferred on the Bank (or any receiver or attorney) under the Contract (but not including expenses or legal fees incurred in preparation for, or in attendance of, any mediation required by law to occur before further enforcement action is taken by the Bank);
- (e) any application for the Bank's approval in connection with the Contract and the issue or refusal of consent or approval;
- (f) any request to provide any information or to produce any documents, files and vouchers either during or after the expiry of the Loan Period;
- (g) any action taken by the Bank under or in relation to the PPSA;
- (h) the appointment of any person to investigate the financial situation of a Relevant Person, and the conduct of any such investigation, if the Bank, acting reasonably, considers that such a course of action is necessary and proportionate in order to assess its credit risk; and
- (i) the Bank, acting reasonably, entering into any agreement or transaction in connection with the Contract including if the Bank enters into an agreement or transaction upon the Borrower's instruction or in the Bank's opinion entering into an agreement or transaction is necessary and proportionate to protect the value of the Security or reduce its credit risk with respect to the Borrower,

provided however that the Borrower will have no liability under this clause for costs and expenses incurred due to the fraud, negligence or wilful misconduct of the Bank, its employees or agents, or a receiver appointed by the Bank.

15.2. Payment of the Bank's administration costs following default

The Borrower must pay to the Bank an amount determined by the Bank as will reasonably compensate the Bank for exercising its rights and powers, and taking any reasonable action to recover money owing, under the Contract following the occurrence of an Event of Default.

16. Security

16.1. Security for all direct and contingent liabilities

Any Security now or in the future granted to the Bank by, or on behalf of, the Borrower or the Guarantor shall secure all direct and contingent liabilities of the Borrower or the Guarantor to the Bank, whether or not under the Contract.

16.2. Further Security

Each Security is deemed to include:

- (a) an assignment by the Security Provider of all its right, title and interest in any licences or other rights attaching to or benefiting the Security property; and
- (b) those provisions which a prudent mortgagee would include in its securities for the better protection of its interests.

16.3. Guarantees

If a Security Provider is not a Borrower, then that Security Provider must execute a guarantee and indemnity in a form acceptable to the Bank. If a Security is being given by a company or body corporate, then the Bank may require its directors individually to execute guarantees and indemnities in a form acceptable to the Bank.

17. Additional Clauses relating to Limited Partnerships

This clause shall apply where a Relevant Person is a Limited Partnership (referred to as the LP Relevant Person in this clause) unless the Bank agrees otherwise in writing.

17.1. Definitions

For the purposes of this clause 17 and sub-clause 13.1(t), the following definitions apply:

- a) **capital** means amounts properly determined by the general partner of the limited partnership to be in the nature of a capital (including capital gains) and available for distribution by the limited partnership or already distributed by the limited partnership, including the value (calculated in accordance with the relevant document) of any assets of the limited partnership distributed in kind.
- b) **capital contribution** means the aggregate amount contributed and agreed to committed to be contributed to the limited partnership by each limited partner of that limited partnership from time to time and, in relation to a limited partner of that partnership, means that limited partner's capital contribution.
- c) **foundation partners** means the general partner and all limited partners of that LP Relevant Person as at the date of the first Letter of Offer which forms part of the Contract.

17.2. LP Relevant Person representations and warranties

The LP Relevant Person represents and warrants to the Bank that:

- (a) the person(s) named in any document as the general partner(s) of the LP Relevant Person is the sole general partner/are the general partners of that LP Relevant Person;
- (b) no terminating event has occurred under the provisions of the limited partnership agreement or the Limited Partnerships Act 2008; and
- (c) no limited partner or general partner is in default under the limited partnership agreement.

17.3. LP Relevant Person undertakings

The LP Relevant Person undertakes to the Bank that it will:

- (a) notify the Bank of the occurrence of any event of default (however described) under the limited partnership agreement or any circumstances that may constitute, or give rise to, a

terminating event under the Limited Partnerships Act 2008 or the terms of the limited partnership agreement;

- (b) upon the Bank's request and in accordance with the terms of that request, require payment of any unpaid capital contribution;
- (c) promptly deliver to the Bank a copy of any document that amends, supplements or replaces the limited partnership agreement;
- (d) comply with its obligations under the Limited Partnerships Act 2008 and the limited partnership agreement;
- (e) ensure that any of the assets of the limited partnership which are in the possession or control of the general partner(s) of that limited partnership are kept separate from the assets of the general partner(s) and identified as assets of the limited partnership to the greatest extent possible; and
- (f) make any Distribution if:
 - (i) an Event of Default is subsisting; or
 - (ii) any Relevant Person is in breach of any provision of the Contract (or will be as a result of making the Distribution) and such breach has not been waived by the Bank.

17.4. LP Relevant Person negative undertakings

The LP Relevant Person undertakes that it will not without the Bank's prior written consent:

- (a) make any change in its constitutive documents, other than a technical or administrative change;
- (b) enter into a transaction, whether contingent or not, which has the effect of the limited partnership acquiring rights, interests or assets or incurring obligations or liabilities, including contingent liabilities, or disposing of assets the value of which is more than half the value of the limited partnership's assets before the transaction;
- (c) form or acquire a subsidiary; or
- (d) take any steps, or permit any steps to be taken by the limited partnership, the general partner(s) or the limited partner(s), to limit the joint and several liability of the general partner(s) for any debt or liability of the limited partnership under sections 26, 27 and 28 of the Limited Partnerships Act 2008.