

Specific Security Agreement

These are the terms and conditions
which form part of your Specific
Security Agreement.

As this is an important document,
please store it in a safe place.



1. Nature of Security Interest and charge

1.1 Nature of Security Interest in Personal Property

The Security Interest in Personal Property created or provided for by this deed is a Security Interest, and this deed is a Security Agreement, each for the purposes, and within the meaning, of the Act. In relation to Accounts Receivable, the Security Interest takes effect as a transfer.

1.2 Nature of charge

The charge created by this deed over the Non-Personal Property is a fixed charge and, to the extent to which the fixed charge intended to be created is not effective, is a floating charge until such time as it may crystallise.

2. Payments

2.1 Payment

The Debtor must pay the Secured Money to the Secured Parties on time. The Debtor must pay the Secured Money on demand, except where a Bank Document provides otherwise, in which case the Debtor must pay in the manner agreed on in that other Bank Document.

2.2 Expenses

The Debtor agrees to reimburse the Secured Parties, each Officer, each Receiver and each Attorney, on demand, for their expenses in relation to:

- the Secured Property or the Secured Money;
- the preparation, execution, completion and registration of each Bank Document, and any subsequent consent, approval, waiver, amendment or release;
- any valuation or inspection of, or report on or concerning, the Secured Property;
- any enquiry by a Governmental Agency concerning the Debtor or related to a Bank Document;
- the necessity for, or desirability of, registering a Financing Statement or Financing Change Statement, or taking action to protect its position in relation to the Secured Property; and
- complying with a demand given under section 162 of the Act.

This includes expenses incurred in any review or environmental audit, in reimbursing or indemnifying any Officer, employee, Receiver or Attorney, or in retaining consultants to evaluate matters of concern to the Secured Parties. It also includes administrative time and costs, including the time of Officers and other employees of the Secured Parties (whose time and costs are to be charged at reasonable rates). It also includes, in each case, legal fees and expenses on a full indemnity basis plus goods and services tax on all expenses.

2.3 Costs

The Debtor indemnifies the Secured Parties, and each Receiver and Attorney, on demand, against any Loss or Liability it may suffer or incur as a direct or indirect consequence of:

- an Event of Default or Potential Event of Default;
- any contemplated, attempted, or actual exercise or defence of any Power, or the failure to exercise any Power;
- a Secured Party receiving an amount under any Bank Document on a date other than the due date; or
- the Debtor's interest in, or possession of, the Secured Property or any control or Power over the Secured Property or the Debtor, except to the extent that the Secured Parties', Receiver's or Attorney's loss or liability results directly from their fraud or negligence.

2.4 Interest

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

- interest will accrue on all parts of the Secured Money at the rate which applies to the Secured Money under the relevant Bank Document. If there is no such rate, interest will accrue at the rate certified by an Officer to be the relevant Secured Party's Indicator Lending Rate (or the rate declared by the relevant Secured Party to be in substitution for it) plus the margin then applicable to similar accounts. If that rate changes, the changed rate will apply from the day on which the changed rate becomes generally applicable;
- interest will accrue on a daily basis based on a 365 day year. It will be calculated on the outstanding balance of each sum included in the relevant Secured Party's Secured Money, up to the date of actual payment from (and including) the date when that sum became Owing by the Debtor. That date, in the case of an amount payable to cover a sum paid by a Secured Party to the Debtor or anyone else, will be taken to be the date when the Secured Party paid that amount;
- no set-off is allowed, for the purpose of calculation of interest, for credit balances in any account of the Debtor;
- accrued interest is payable by the Debtor on demand;
- a Secured Party may, at the end of any period determined by that Secured Party, debit any unpaid interest to any account of the Debtor. That interest will bear interest as provided in this clause; and
- the obligations in this clause apply after as well as before any judgment of a court.

2.5 Government charges

The Debtor must pay any government duties, taxes and charges on the Bank Documents and payments and receipts under them. If a Secured Party pays any such amount, the Debtor must reimburse it on demand.

2.6 Payments in the wrong currency

If for any reason a Secured Party receives or recovers an amount under a Bank Document in a currency other than the currency in which it should have been paid, the Secured Party will have the sole discretion to convert the currency when it chooses, and conversion will be at Westpac NZ's published rate of exchange applicable to such transactions on that day.

If, after that Secured Party has converted that other currency to the correct currency, there is not enough to pay off the full amount then due under the Bank Document, the Debtor must pay that Secured Party the full amount of the shortfall.

2.7 Deduction from payments

The Debtor must not make any payment subject to any condition, restriction or claim it may have against the Secured Parties. The Debtor may make a withholding or deduction (including by way of set-off or counterclaim) from money it pays to a Secured Party under this deed only if that withholding or deduction is required by law. If the law requires the Debtor to make a withholding or deduction then the following rules apply:

- the Debtor must make sure that the withholding or deduction is for not more than the minimum amount required by that law; the Debtor must make sure that the withholding or deduction is paid to the relevant Governmental Agency by the due date for payment;
- the Debtor must send the relevant Secured Party, within 30 days of the withholding or deduction, a receipt showing that the withholding or deduction has been paid to the relevant Governmental Agency; and
- the Debtor must increase the amount it pays to the relevant Secured Party so that the Secured Party receives the amount it would have received had there been no withholding or deduction.

If a Secured Party receives a Tax credit, refund or allowance in respect of an increased amount the Debtor paid under this clause 2.7, the relevant Secured Party will provide the Debtor with that part of the Tax credit, refund or allowance that leaves the Secured Party in no better or worse position than it would have been had no amount been required to be withheld or deducted. However, the Secured Parties are under no obligation to disclose any information relating to the calculation of their Tax position, liability or benefits. Also, this clause does not interfere with the Secured Parties' rights to arrange their Tax affairs as they wish. In particular, the Secured Parties may apply Tax credits, refunds and allowances available to them as they like.

3. Undertakings

3.1 Term of obligations

Each obligation in this deed continues from the date of this deed until the Secured Money is fully and finally repaid and whether or not a Secured Party has exercised any Power.

3.2 Undertakings relating to Secured Property

The Debtor undertakes to the Secured Parties as follows, except to the extent that the Secured Parties consent or as expressly permitted in the Bank Documents:

- negative pledge** The Debtor will not create, or permit to subsist, a Charge in, or over, any Secured Property other than:
 - as created by this deed or any Collateral Security; or
 - a lien arising only by operation of law in the ordinary course of business of the Debtor.
- disposal of property** Except as expressly permitted by paragraph (a) above, the Debtor will not sell, lease, create or waive any interest in, or part with possession or otherwise dispose of, any Secured Property other than for disposals of Inventory and the collection of Accounts Receivable, in each case in the ordinary course of business of the Debtor and prior to a Secured Party giving notice, following an Event of Default or Potential Event of Default, that such disposals and collections are no longer permitted.
- set-off** The Debtor will not create, or allow to exist, any right of set-off, netting or combination in respect of any of the Secured Property which is Accounts Receivable or Chattel Paper.
- accessions and fixtures** The Debtor will not allow any Secured Property:
 - to be or become an Accession other than to Secured Property; or
 - to become attached to Land or buildings other than Secured Property in such a way as to become a fixture.
- pay outgoing** The Debtor will promptly pay all outgoing payable by it relating to the Secured Property (including rates and Taxes), except where it satisfies the Secured Parties that it is contesting such outgoing in good faith and that failure to pay cannot have a Material Adverse Effect and is otherwise appropriate.
- maintenance** The Debtor will look after the Secured Property and protect and maintain it in a good state of repair.
- insurance** The Debtor will make sure that the Secured Property is insured at all times to the Secured Parties' satisfaction:
 - with a New Zealand insurer approved by the Secured Parties;
 - against fire, earthquake, flood, riot, explosion, weather damage, theft, burglary, marine risks and other risks, as it is prudent in accordance with best commercial practice to insure against;
 - against third party liability, as is prudent in accordance with best commercial practice;
 - for an amount at least equal to its full replacement cost or on another basis acceptable to the Secured Parties; and
 - in Westpac NZ's name as the holder of a Charge.

The Debtor will give the policy or a certificate of currency to the Secured Parties on request.

The Debtor will pay the insurance premiums when due and provide evidence of payment to the Secured Parties on request.

The Debtor will do everything necessary or desirable, in the opinion of the Secured Parties, to enable the Secured Parties to claim under any insurance policy and to collect or recover money due.

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

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

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

The Debtor will provide the Secured Parties with such information in relation to insurance as the Secured Parties may from time to time require.

- (h) **protect security** The Debtor will do everything (including things outside New Zealand) necessary or which the Secured Parties reasonably ask to maintain, preserve and protect:
- the Secured Property and its value; and
 - the Debtor's and the Secured Parties' rights, interests and priorities in the Secured Property.

If anyone, other than the Secured Parties, lodges a caveat or registers a Financing Statement in relation to a Charge not permitted by this deed, the Debtor must do everything in its power to remove it.

- (i) **identification** In relation to Secured Property which is Livestock, the Debtor will ensure that the Livestock is distinctly identified with an ear-tag or permanent earmark and/or brand as agreed with the Secured Parties.

And, in addition, in relation to Secured Property which is Securities:

- (j) **Secured Party as holder** Where a Secured Party is the holder of the Securities then that Secured Party may:
- pay such calls or other amounts it considers desirable to maintain the value of the Securities;
 - accept offers for such Securities where in that Secured Party's opinion failure to accept such offer may have a Material Adverse Effect; and
 - exercise all other rights which it may have as holder of the Securities.
- (k) **co-operative companies** If the Issuer of any Securities is a Co-operative Dairy Company, the Debtor will:
- ensure that the Debtor continues to be a Supplying Shareholder;
 - not transfer the Securities other than by surrender to the Issuer in accordance with the constitution of the Issuer;
 - not agree with the Issuer to a surrender price of any Securities which is less than the nominal value of those Securities; and
 - immediately notify the Secured Parties if:
 - the amount or estimated amount of milk or milk solids supplied by the Debtor to the Issuer is less than the minimum amount (if any) below which the Issuer may not allot shares to a person; or
 - the Issuer refuses or notifies the Debtor of its intention to refuse milk or milk solids offered for supply by the Debtor.

3.3 General undertakings

The Debtor undertakes to the Secured Parties as follows, except to the extent that the Secured Parties consent:

- (a) **bank documents** The Debtor will comply fully with its obligations under the Bank Documents.
- (b) **compliance with law** The Debtor will comply with all laws binding on it where non-compliance, in the opinion of the Secured Parties, may have a Material Adverse Effect.
- (c) **environmental law** The Debtor will maintain procedures which, in the opinion of the Secured Parties, are adequate to monitor:
- its compliance with Environmental Law; and
 - circumstances which may give rise to a claim, to a requirement of substantial expenditure by it, or to a requirement that it cease or materially change its activities.

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

- the Debtor is not complying, or might not in future comply, with an Environmental Law or this paragraph (c); and
- such non-compliance may have a Material Adverse Effect.

The Debtor will do everything necessary to facilitate that audit and it will be at the Debtor's expense.

Where the monitoring procedures or the audit referred to above reveal any non-compliance with Environmental Law or any circumstances requiring remedial action, the Debtor must remedy any non-compliance or take the necessary remedial action immediately and at its cost.

- (d) **authorisations** The Debtor will apply for, obtain and keep in force all Authorisations, and any renewals of Authorisations, which may be necessary or expedient for the ownership, use or operation of the Secured Property or the carrying on of its business. The Debtor will comply with all Authorisations and maintain procedures which, in the Secured Parties' opinion, are adequate to monitor its compliance with all Authorisations.
- (d) **pay taxes** The Debtor will pay all Taxes payable by it when due, but:
- it need not pay Taxes for which it has set aside sufficient reserves and which are being contested in good faith, except where failure to pay those Taxes may have a Material Adverse Effect, or could give rise to a preferential claim over any of the Secured Property, or where payment is required by law; and
 - on the final determination or settlement of the contest it must pay the contested Taxes which it is liable to pay.
- (f) **conduct of business** The Debtor will conduct its business in a prudent, proper and efficient manner, and will perform and protect all material contracts, franchises and licences, and protect all intellectual property rights material to the business. The Debtor will not materially change the nature or scope of its business.

- (g) **records and accounts** The Debtor will keep records and accounts relating to itself and its business, and will prepare financial statements and, on request, have them audited in accordance with the law and current accounting practice even where the law does not require it to appoint an auditor.
- (h) **inspection** The Debtor will allow the Secured Parties, or persons authorised by the Secured Parties or by an Officer, at any time during normal business hours, to inspect property, premises and records of the Debtor and the Secured Property and require the provision of copies of the records. The Debtor must do everything in its power to assist that inspection and provide those copies.
- (i) **reporting and information** The Debtor will provide to the Secured Parties:
 - as soon as practicable (and in any event not later than 120 days) after the close of each of its financial years, copies of its financial statements for that financial year, all of which must be audited unless the Secured Parties agree otherwise; and
 - promptly (and in any event within seven days after request by the Secured Parties) any other information in relation to the Secured Property or the Debtor’s financial condition or business which the Secured Parties may request.
- (j) **accounting standards** The Debtor will ensure that the financial statements of the Debtor at any time delivered to the Secured Parties:
 - are prepared in accordance with current accounting practice;
 - give a true and fair view of its financial position and operations (and those of its Subsidiaries, if any) as at the date, and for the period, to which the financial statements relate;
 - together with the notes to them, disclose all liabilities (actual or contingent) of the Debtor and its Subsidiaries (if any); and
 - are prepared and delivered to all relevant persons within the period in which they are required by law or under any agreement to be delivered.
- (k) **notify events of default** The Debtor will notify the Secured Parties, immediately upon becoming aware of it, of the occurrence of any Event of Default or Potential Event of Default, giving full details of the event and of any action taken (or to be taken) in respect of it.
- (l) **full disclosure** The Debtor will notify the Secured Parties, immediately upon becoming aware of them, of any facts or circumstances which might adversely affect the decision of a person considering whether or not to continue to provide Indebtedness to the Debtor.
- (m) **related parties** The Debtor will procure that each Guarantor complies with paragraphs (a) to (h) and (n) to (r) (all inclusive) of this clause 3.3 and clause 26 as applicable, as though the obligations contained were obligations of each Guarantor and references to the Debtor were references to each Guarantor.

And, in addition, if the Debtor is a Company:

- (n) **corporate existence** The Debtor will do everything necessary to maintain its corporate existence and will not transfer its jurisdiction of incorporation.
- (o) **major transactions** The Debtor will not enter into a Major Transaction unless that Major Transaction has been unanimously approved by the shareholders of the Debtor (or, if the Secured Parties so consent, by a special resolution within the meaning of the Companies Act).
- (p) **amalgamation** The Debtor will not enter into, or become the subject of, an amalgamation under the Companies Act.
- (q) **shares and shareholder assistance** The Debtor will not:
 - acquire or redeem any of the shares in the Debtor;
 - give financial assistance for the purpose of, or in connection with, the purchase of shares issued or to be issued by the Debtor, or by its holding company (within the meaning of the Companies Act) whether directly or indirectly; or
 - cancel or reduce the liability of a shareholder to the Debtor in relation to a share held by the shareholder.
- (r) **distributions** The Debtor will not make any Distribution other than dividends paid out of profits in accordance with current accounting practice.
- (s) **unpaid capital** The Debtor will not call up, or receive in advance of calls, any Unpaid Capital, and it will apply Unpaid Capital, when paid, only towards payment of the Secured Money.
- (t) **subsidiary** The Debtor will immediately notify the Secured Parties if it creates or acquires a Subsidiary. If required by the Secured Parties, the Debtor must immediately do everything necessary to ensure that the Subsidiary gives a first-ranking Charge over its property and a guarantee, each in the form specified by the Secured Parties and to the satisfaction of the Secured Parties.
- (u) **transactions with Related Companies** The Debtor will not enter into any transaction with a Related Company, unless the transaction is for value, in the ordinary course of business, and on normal commercial terms.
- (v) **change of name** The Debtor will not change its name without first notifying the Secured Parties at least ten working days prior to the date on which the name change becomes effective. Following any name change, the Debtor will take all steps necessary to enable the Secured Parties to amend any financing statement.

4. Further assurances

4.1 General

Whenever the Secured Parties request the Debtor to do anything or to provide information for more satisfactorily securing or protecting the Secured Property and the Charges and priorities provided for in this deed, or for aiding the exercise of any Power, the Debtor undertakes to do it immediately at its own cost. This may include:

- the provision of information;
- the execution or registration of any Bank Document or any other document or agreement;
- the delivery of any Secured Property, documents or evidence of title;

- the execution and delivery of blank transfers; and
- the informing of potential holders of any Charge, purchasers and lessees of the Debtor's property, and any other persons, of any relevant information including that this deed prohibits certain transactions and dealings with the Secured Property.

The Debtor consents to the Secured Parties searching the Register in relation to information about the Debtor or the Secured Property at any time.

4.2 Title documents

Subject to the rights of any holder of a prior Charge, the Debtor undertakes to, on request by the Secured Parties, immediately deliver to the Secured Parties all Documents of Title, Negotiable Instruments, Chattel Paper and Securities which it has or receives which are comprised in the Secured Property.

The Debtor may satisfy its delivery obligations under this clause if it delivers such Documents of Title, Negotiable Instruments, Chattel Paper and Securities to the Officer of a Secured Party who has responsibility for, and knowledge of, the transaction to which this deed relates.

5. Default

5.1 Events of Default

Each of the following is an Event of Default (whether or not it is within the control of the Debtor):

- payment** The Debtor fails to pay any Secured Money when due (time being of the essence).
- obligations under bank documents** The Debtor fails to comply with any of its other obligations under a Bank Document.
- obligations of guarantor** A Guarantor fails to comply with any of its obligations under a Bank Document.
- cross-default** Any Indebtedness of the Debtor or any Guarantor to anyone is not paid when due (or within an applicable grace period) or becomes due or capable of being declared due and payable before its stated maturity.

In the case of unsecured Indebtedness in respect of the purchase price of an asset or service purchased in the ordinary course of business, this will apply only if it is not paid within 90 days of the due date or if the vendor has earlier taken any step to recover the asset or withdraw the service.

Any facility or obligation to provide loans or credit to the Debtor or a Guarantor or to acquire or underwrite Indebtedness is terminated early.

Any Charge affecting the Secured Property is enforced or becomes enforceable.

Any Lease of any of the Secured Property becomes liable to forfeiture or any obligation under any Lease is breached.

- insolvency; bankruptcy; death** The Debtor or any Guarantor:
 - is unable to pay its debts, is deemed or presumed to be unable to pay its debts, or stops or suspends or threatens to stop or suspend payment of all or any of its debts;
 - suffers a Bankruptcy Event or an Insolvency Event; or
 - dies or ceases to be of full legal capacity.
- limitation of bank documents** All or any part of this deed, a Collateral Security or any other material Bank Document is terminated or is or becomes or is claimed to be illegal, invalid, unenforceable or of limited force and effect.

A party becomes entitled to terminate, limit, cancel, rescind or avoid all or any part of any such document.
- material adverse change** Any event or series of events, whether related or not, occurs (including a change in the business, property or financial condition of the Debtor or its Subsidiaries (if any) or the value of the Secured Property), which in the opinion of the Secured Parties may have a Material Adverse Effect.
- compulsory acquisition** All or any part of the Secured Property is compulsorily acquired or any step is taken for its acquisition, or possession (including as that term is defined in the Act) of any part of the Secured Property is taken by a holder of a Charge other than a Secured Party.
- environmental event** The Debtor or any other person breaches an Environmental Law or Authorisation and, in the opinion of the Secured Parties, that breach may:
 - have a Material Adverse Effect; or
 - cause a claim or demand to be made against the Debtor, the Secured Property or a Secured Party by a Governmental Agency or any other person, requiring either the cessation or modification of any activities being, or proposed to be, conducted by the Debtor, or the carrying out of, or demand for payment for, any clean-up, rehabilitation or remediation of the Secured Property.
- information** Any information provided by the Debtor or a Guarantor to the Secured Parties is untrue, misleading or deceptive in any material respect.
- at risk** The Secured Parties consider that any part of the Secured Property is at risk within the meaning of section 109 of the Act.
- guarantor** A Guarantor gives notice reducing or terminating its obligations.
- related party** Any event referred to in paragraph (d), (e), (j), (n), (o), (p) (q), or (r) occurs in relation to any Related Party as though references to the Debtor in each paragraph were references to each Related Party.

And, in addition, if the Debtor is a Company:

- minority buy-out** A shareholder of the Debtor or a corporate Guarantor gives notice to the Debtor or Guarantor requiring it to purchase that shareholder's shares pursuant to section 111 of the Companies Act.
- investigation** An investigation into all or part of the affairs of the Debtor or a corporate Guarantor commences under companies legislation in circumstances material to its financial condition.

- (p) **resolution restricting calls** Without the prior consent of the Secured Parties, a resolution is proposed in a notice of meeting so as to prevent or restrict the calling-up of any Unpaid Capital of the Debtor or a corporate Guarantor.
- (q) **change of control** In the opinion of the Secured Parties, there is a material change in the direct or indirect ownership, management or control of the Debtor or of any corporate Guarantor.
- (r) **pay debts of another company** An order is made requiring the Debtor or a corporate Guarantor to pay or contribute to any debts of another Company.
- (s) **amalgamation** Without the prior consent of the Secured Parties, the Debtor or a corporate Guarantor amalgamates with another Company.

5.2 Consequences

At any time after an Event of Default (whether or not it is continuing) and subject to any applicable law, the Secured Parties or any Officer or Attorney may, in addition to any powers implied by law, do all or any of the following at any time and at the cost of the Debtor:

- by notice to the Debtor, declare any or all of the Secured Money immediately due and payable, in which case the Debtor must immediately pay that Secured Money;
- by notice to the Debtor, terminate any obligation of the Secured Parties under any Bank Document;
- (in the case of Westpac NZ) enforce the Security Interest and charge created by this deed by exercising Powers which are exercisable after an Event of Default, without notice where the law permits;
- inspect the Secured Property; or
- appoint a firm of independent accountants or other experts to review and report to the Secured Parties on the affairs, financial condition and business of the Debtor or any other Related Party, in which case:
 - the Debtor will do everything in its power to ensure the review and report can be carried out promptly, completely and accurately; and
 - the Debtor will co-operate fully with the review and ensure that the accountants and experts are given access to all premises and records of the Debtor and each other Related Party, and are given all information concerning the Debtor or any other Related Party which they require from time to time.

6. Appointment of Receiver

6.1 Appointment

To the extent permitted by law, at any time after an Event of Default (and whether or not it is continuing) the Secured Parties or an Officer may appoint any person, or any two or more persons jointly or severally or both, to be a Receiver of all or any of the Secured Property, remove any Receiver, appoint another Receiver in addition to or in place of a Receiver, and fix or vary the remuneration of a Receiver.

6.2 Agent of Debtor

To the extent permitted by law, every Receiver and any delegate of the Receiver is the agent of the Debtor and the Debtor alone is responsible for his or her acts and defaults.

6.3 Receiver's Powers

In addition to any powers granted by law, and except to the extent specifically excluded by the terms of his or her appointment, every Receiver has power to do anything (whether done alone or with any other person or persons) in respect of the Secured Property that the Debtor could do. A Receiver may do any or all of the following things that relate to the Secured Property:

- (a) **take possession and manage** take possession of, get in and manage the Secured Property;
- (b) **lease** lease any of the Secured Property for any term (whether or not the Receiver has taken possession);
- (c) **carry on business** carry on or concur in carrying on any business;
- (d) **acquire any asset** acquire in any manner any asset (including by taking it on Lease). After the acquisition it will be included in the Secured Property;
- (e) **maintain or improve the secured property** do anything to maintain, protect or improve any of the Secured Property or to obtain income or returns from any of the Secured Property;
- (f) **raise money** borrow or raise any money from the Secured Parties or any other person approved by the Secured Parties, give Guarantees, and, where the Receiver considers it desirable, grant any Charge over any of the Secured Property to secure that money or Guarantee.
That Charge may rank before, with or after the security created by this deed. It may be given in the name of the Debtor or otherwise;
- (g) **lend** lend money or provide loans or credit, whether on a secured or unsecured basis;
- (h) **sell** sell any of the Secured Property (whether or not the Receiver has taken possession), including on a deferred payment or vendor-finance basis;
- (i) **options** grant or take put or call options;
- (j) **sever fixtures** sever fixtures;
- (k) **employ** employ or discharge any person as employee, contractor, agent, professional adviser, consultant or auctioneer for any purpose;
- (l) **compromise** make or accept any arrangement or compromise;
- (m) **give receipts** give receipts for money and other property;
- (n) **perform and enforce agreements** perform, enforce, exercise or refrain from exercising the Debtor's rights and powers under, or obtain in other ways the benefit of, any document or agreement or rights which form part of the Secured Property and any document or agreement entered into in exercise of any Power;

- (o) **authorisation** apply for, take up, transfer or surrender any Authorisation or any variation of any Authorisation;
- (p) **vary and terminate agreements** vary, rescind, cancel or terminate any document or agreement (including surrendering or accepting the surrender of Leases);
- (q) **take insolvency proceedings** enforce debts and other obligations, make debtors bankrupt, liquidate or wind up entities, and do anything in relation to any actual or contemplated Bankruptcy Event or Insolvency Event (including attending and voting at meetings of creditors and appointing proxies);
- (r) **take proceedings** commence, defend, conduct, settle, discontinue or compromise proceedings in the name of the Debtor or otherwise;
- (s) **execute documents** enter into and execute documents or agreements on behalf of himself or herself or the Debtor. This includes using the Debtor's seal (if any);
- (t) **operate bank accounts** operate any bank account comprising part of the Secured Property, and open and operate any further bank account;
- (u) **surrender and exchange secured property** surrender, release or transfer any of the Secured Property or exchange with any person any of the Secured Property for other property;
- (v) **promote companies** promote the formation of Companies and subscribe for or otherwise acquire shares in any Company;
- (w) **delegate** delegate to any person approved by the Secured Parties any of his or her Powers (including delegation);
- (x) **have access** have access to and make use of the property, premises, and accounting and other services of the Debtor and the services of its officers and employees;
- (y) **vote** exercise any voting or other rights or powers in respect of any of the Secured Property and do anything in relation to Securities;
- (z) **other outgoings** pay any outgoing or Indebtedness of the Debtor or any other person;
- (aa) **charges** redeem any Charge or acquire it and any Indebtedness secured by it;
- (bb) **make calls** make and enforce calls on the members of the Debtor in respect of any Unpaid Capital of the Debtor;
- (cc) **insure and make claims** take out insurance and make, enforce, compromise and settle all claims in respect of insurance; and
- (dd) **incidental power** do anything incidental to the exercise of any other Power.

6.4 Powers exercisable by the Secured Parties

Whether or not a Receiver has been appointed, to the extent permitted by law, the Secured Parties, in their own name or in the name of the Debtor or otherwise, may:

- exercise any Power referred to in clause 6.3 as if they were a Receiver, at any time after an Event of Default (whether or not it is continuing), in addition to any of their Powers and without giving notice;
- exercise those Powers and their other Powers without taking possession or being liable as mortgagee in possession; and
- exercise those Powers and their other Powers directly or through one or more agents and, in the latter event, anything done or incurred by an agent will be taken to be done or incurred by the Secured Parties.

6.5 Withdrawal

The Secured Parties may at any time give up possession of the Secured Property and may at any time withdraw or terminate any receivership.

7. Power of attorney

The Debtor appoints the Secured Parties, every Officer and Receiver severally its Attorney to do what it agreed to do in any Bank Document but fails to do and, at any time after an Event of Default (and whether or not it is continuing), any of the things listed in clause 6.3 of this deed. Each Attorney may also delegate its Powers (including delegation). This appointment is made for valuable consideration and the Debtor may not revoke it.

8. Completion of blank documents

The Secured Parties, any Officer, any Receiver or any Attorney may complete any document which at any time is executed by or on behalf of the Debtor and deposited with, or provided to, the Secured Parties in respect of any Bank Document. It may complete that document in favour of the Secured Parties, any purchaser or any nominee of either of them.

9. Performance of Debtor's obligations

If at any time the Debtor fails to duly perform any obligation in any Bank Document, the Secured Parties, any Officer, or any person authorised by the Secured Parties, may do anything which in their opinion is necessary or expedient to make good or to attempt to make good that failure to their satisfaction. Any amount paid, or liability incurred, as a consequence will be part of the Secured Money.

10. Application of money received

10.1 Order

All money received or recovered by a Receiver, an Attorney or the Secured Parties, under or by virtue of this deed or in relation to the Secured Money or Secured Property, will be applied in the manner and order determined by the Secured Parties (despite any direction to the contrary and whether before or after an Event of Default). If the Secured Parties do not make a determination, the following order will apply:

- first: all costs, charges and expenses of the Secured Parties or a Receiver or Attorney in relation to this deed or any Collateral Security. This includes those which are incurred in, or incidental to, the contemplated, attempted or actual exercise or performance of a Power or this deed;
- second: any other outgoings which the Receiver, Attorney or the Secured Parties think fit to pay;
- third: the Receiver’s remuneration;
- fourth: to each holder of a Charge of which the Secured Parties are aware and which has priority over this deed in relation to the relevant Secured Property, to the extent, and in order, of such priority;
- fifth: to the Secured Parties towards satisfaction of the Secured Money;
- sixth: to each holder of a Charge of which the Secured Parties are aware and which ranks after this deed in relation to the relevant Secured Property, to the extent, and in order, of priority; and
- seventh: the surplus (if any) will be paid to the Debtor. The surplus will not carry interest. If the Secured Parties pay the surplus to the credit of an account in the name of the Debtor with a Secured Party, none of the Receiver, Attorney or the Secured Parties (except as banker for such account) will be under any further liability in respect of it, and any preferential payments required to be made by statute will be made in accordance with such statute.

10.2 Money actually received

In the application of any money towards satisfaction of the Secured Money, the Debtor will be credited only with the money available for that purpose which is actually received by the Secured Parties. The credit will date from the time of receipt by the Secured Parties.

10.3 Amounts contingently due

If any of the Secured Money is contingently Owing to a Secured Party at the time of any application of any amount under clause 10.1, that Secured Party may retain any of that amount. If it does, it will place the amount retained on short-term interest-bearing deposit until the relevant Secured Money becomes actually due or ceases to be contingently Owing, and it will pay to itself the amount which becomes actually due to it.

10.4 Conversion of currencies on application

For the purpose of making an application under clause 10.1, the Secured Parties, any Receiver or any Attorney may purchase one currency with another, whether or not through an intermediate currency, whether spot or forward, in the manner and at the time it thinks fit.

11. Other Charges over Secured Property

11.1 Reliance on certificate

The Secured Parties and (with the Secured Parties’ consent) any Receiver or Attorney may rely on the certificate of a holder of another Charge affecting, or purporting to affect, the Secured Property as to the Indebtedness secured and property affected by the Charge, and the priority of the Charge.

11.2 Discharge of Indebtedness

The Secured Parties or (with the Secured Parties’ consent) any Receiver may at any time pay the amount certified by the holder of a Charge or purported Charge to be necessary to discharge it or some of the Indebtedness secured by it, or to acquire it. From the date of payment, that Indebtedness will be part of the Secured Money. The Debtor agrees to indemnify the Secured Parties and the Receiver on demand against that amount. This applies whether or not that Charge or purported Charge was valid or prior-, equal- or subsequent-ranking, and whether or not the property or money stated in the certificate was affected or secured by it.

12. Set-off and combination

If the Debtor has any money in any account with the Secured Parties, then the Secured Parties may use it to pay the amounts the Debtor Owes and which are payable to the Secured Parties under any Bank Document, but need not do so. If there is an Event of Default, the Secured Parties may use money held on deposit which has not yet matured, and may convert money in the Debtor’s accounts in foreign currencies.

Where an Event of Default has occurred and remains unremedied, the Debtor will have no right to withdraw (and the Secured Parties will have no obligation to repay) any of the Debtor’s money held in any account with the Secured Parties.

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

Subject to any applicable Bank Document, where the Debtor has two or more accounts with the Secured Parties:

- the Secured Parties may at any time combine any two or more of those accounts. They may do so without notice and whether or not they have allowed a set-off for a calculation of interest between any of those accounts;
- the Secured Parties may at any time combine any two or more of those accounts even where one or more of the combined accounts are in different currencies and may effect currency exchanges appropriate to implement that combination; and
- if the Secured Parties combine two or more accounts, they may decline to pay cheques and they may otherwise act as if the combined accounts had always been one account.

To the maximum extent allowed by law, the Debtor gives up any right to set-off any amounts the Secured Parties Owe the Debtor against the Secured Money including amounts the Debtor Owes under this deed. The Secured Parties’ Powers under this clause are in addition to any Powers which the Secured Parties may have by operation of law.

13. Assignment

The Secured Parties may transfer their rights and obligations under this deed, any Bank Document and all or part of the Secured Money to someone else, and may disclose information about the Debtor to any potential transferee. Following any transfer, this deed and any transferred Bank Document will apply to the transferee as if it were the transferring Secured Party.

To the maximum extent allowed by law, any transfer will be free of set off, equity or counter-claim which the Debtor would have had against the transferring Secured Party or any transferee of any Bank Document but for this clause.

14. Exercise of Powers

No failure to exercise any Power and no delay in exercising any Power operates as a waiver. Nor does any single or partial exercise of any Power preclude any other or further exercise of that Power or any other Power.

The Powers in this deed and each Collateral Security are in addition to, and do not exclude or limit, any right, power or remedy provided by law.

Except where expressly stated otherwise, the Secured Parties may give or withhold, or give conditionally, approvals and consents, may be satisfied or unsatisfied, may form opinions and may exercise their Powers, at their absolute discretion.

When the Secured Parties exercise any powers under this deed, they will do so in a reasonable and consistent way.

15. Obligations continue

The obligations of the Debtor under this deed continue after it suffers a Bankruptcy Event or Insolvency Event and after the Secured Parties learn of it.

16. Notices

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

A Secured Party may, subject to the requirements of any applicable law:

- deliver the document personally to the Debtor or the Debtor's agent or personal representative;
- send it through the post to the place where the Debtor (or the Debtor's agent or personal representative):
 - resides;
 - carries on business; or
 - has its registered office,

or the place most recently known to the person signing the document as such a place or such other last known address of the Debtor;

- leave it at any one of those places;
- send it by facsimile to the Debtor's (or Debtor's agent's or personal representative's) last known facsimile number; or
- send it by e-mail or electronic transmission to the Debtor's (or Debtor's agent's or personal representative's) last known address for that purpose.

If the document is sent through the post to the Debtor, it is to be regarded as having been received on the third Banking Day after posting, even if it never arrived. If it is sent by facsimile, it is to be regarded as having been received when the sending machine receives a confirmation that it has been sent in its entirety. If it is sent by e-mail or electronic transmission, it is to be regarded as having been received by the Debtor (or the Debtor's agent or personal representative) on the day that it is sent (regardless of whether or not it is actually received), provided that no record has been generated notifying the Secured Parties that the transmission has failed.

The Debtor may give a document to a Secured Party by delivering, posting, leaving or faxing the document to the Officer at that Secured Party who has the responsibility for, and knowledge of, the transaction to which this deed relates. Such document will be regarded as having been received by the Secured Party only when actually received by the Officer of the relevant Secured Party.

Where any document is given, or appears to have been given, by the Debtor to a Secured Party by facsimile, that Secured Party will have no obligation to make any enquiry or require any evidence as to the validity of that document, even where that document proves not to have been authorised or not to have been signed or given by the person who appears to have signed or given it. The Secured Parties are entitled to rely on any document given under this clause where it appears that that document has been signed by the Debtor or on behalf of the Debtor.

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

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

17. Contracts (Privity) Act 1982

For the purposes of the Contracts (Privity) Act 1982, each Receiver and each Attorney is a designated person. He or she is entitled to enforce against the Debtor every provision of this deed which confers a benefit on him or her. The Secured Parties and Debtor may agree to vary or discharge any such provision without the consent or agreement of any such designated person.

18. Determination, statement and certificate conclusive

Except where this deed provides otherwise, any determination, statement or certificate by the Secured Parties or an Officer provided for in this deed is conclusive and will bind the Debtor in the absence of manifest error. In particular, the Debtor agrees that a certificate from the Secured Parties setting out the amount which it Owes them under this deed is proof that it Owes the amount stated, unless it proves to the contrary.

19. Survival of indemnities

Each indemnity and reimbursement obligation in this deed will survive discharge of this deed.

20. Saving of deed

If any provision of this deed is not enforceable in any country because of the laws of that country then that will not affect:

- the other provisions of this deed; or
- the enforceability of that provision in any other country.

21. No merger

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

22. Protection of third parties

No person who is party to a dealing, and no person asked to register a dealing, is affected by express notice that the dealing is unnecessary or improper, nor is that person bound to enquire whether this deed has become enforceable, whether the dealing is valid or whether any Receiver or Attorney is properly appointed.

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

In this clause, a dealing is any payment to, or any delivery or handing over of an asset to, or any acquisition, incurring of debt, receipt, sale, Lease, disposal, creation of a Charge or other dealing by a Secured Party, any Receiver, any Officer or Attorney or any person who purports to be one.

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

23. Protection of officers

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

24. Governing law and jurisdiction

The law of New Zealand applies to this deed and the Charges it creates and provides for. The Debtor accepts the non-exclusive jurisdiction of its courts.

25. Continuing security

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

The Debtor will not be entitled to request a final discharge of this deed and the Charges created by it until the Secured Parties are satisfied that all Secured Money has been repaid in full, and that the Secured Parties have no further obligation to advance any further Secured Money and have no contingent liability or obligation under any Bank Document, and that no payment may be voided, voidable or required to be repaid by the Secured Parties under any law. In any event, the Debtor acknowledges that (subject to any law to the contrary) any request for a discharge must give the Secured Parties 15 Banking Days' notice.

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

26. Trustees' limitation of liability and undertakings

26.1 Limitation of liability

In the case where the Debtor is a trust (or trustee(s) acting in relation to a trust), this deed will bind each trustee of that trust. Each trustee will also be bound personally, unless that trustee is an independent trustee.

Each trustee confirms that he or she:

- has the power to enter into this deed, either under the terms of the trust document or under the powers given to him or her by the Trustee Act 1956;

- has properly signed this deed in accordance with the terms of the trust; and
- has a right of indemnity from the trust property.

The Secured Parties may take legal action against a trustee for breach of warranty if any of the above warranties are incorrect.

If the trustee is an independent trustee, the Secured Parties will only be entitled to recover Secured Money from that trustee's personal property if they are not able to recover the Secured Money from the trust property because any of the warranties given by the trustee are incorrect.

The Secured Parties will only be entitled to recover from the trustee's personal property the amount they would have recovered from the trust property had those warranties been correct.

Where a trustee is not an independent trustee, the Secured Parties may seek to recover any Secured Money from that trustee's personal property as well as from trust property.

For the purposes of this clause, a trustee is an independent trustee unless that trustee has any right to, or interest in, any of the property of the trust, except in their capacity as trustee of the trust.

26.2 Trustees' undertakings

Where the Debtor is a trust (or trustee(s) acting in relation to a trust), and in addition to the obligations in clause 3, the trustees will ensure that, except to the extent that the Secured Parties consent:

- the trust deed is not amended or revoked;
- no existing trustee is removed or retires as trustee of the trust;
- no new or additional trustee of the trust is appointed;
- the trustees duly and punctually comply with their obligations under the trust deed;
- no vesting date under the trust deed is determined during the term of this deed; and
- no restriction or limitation on the right of indemnity of any trustee of the trust is created.

27. No reliance on the Secured Parties

The Debtor confirms that:

- it has not entered into any Bank Document in reliance on, or as a result of, any conduct of any kind of, or on behalf of, the Secured Parties or any Related Company of the Secured Parties (including any advice, warranty, representation or undertaking); and
- neither the Secured Parties nor any Related Company of the Secured Parties are obliged to do anything (including disclosing anything or giving advice), except as expressly set out in the Bank Documents or in writing signed by or on behalf of the Secured Parties or any Related Company of the Secured Parties.

28. Statutory powers; contracting out

Clauses 3(2), 6(2), and 12 of Part 2 of Schedule 2 to the Property Law Act 2007 do not apply to this deed.

Other terms implied by law and powers conferred on a holder of a Charge by law (including by the Act) on a Secured Party as the holder of the Security Interest and charge created by this deed:

- are in addition to the Powers conferred by this deed or any Collateral Security;
- (to the extent permitted by law) may be exercised by Westpac NZ at the time permitted by such law or otherwise immediately an Event of Default occurs and at any time subsequently (and whether or not it is continuing); and
- are excluded or varied only so far as they are inconsistent with the express terms of this deed or any Collateral Security.

The Debtor waives its right to receive a copy of any Verification Statement in respect of any Financing Statement or Financing Change Statement registered by, or on behalf of, a Secured Party in relation to any Security Interest created by this deed and agrees, to the extent permitted by law, that as between the Debtor and the Secured Parties:

- sections 114(1)(a), 133 and 134 of the Act will not apply;
 - the Debtor will have none of the rights referred to in paragraphs (a), (c) to (e) and (h) and (i), all inclusive, of section 107(2) of the Act; and
 - where a Secured Party has rights in addition to, or existing separately from, those in Part 9 of the Act, those rights will continue to apply.
- The provisions of the Consumer Guarantees Act 1993 are contracted out of to the maximum extent permitted by that Act.

Despite any other provision of this deed, there is no intention to contract out of the Credit (Repossession) Act 1997 where it may apply.

29. Interpretation

In this deed:

29.1 Definitions

The following definitions apply unless the context requires otherwise:

Accessions, Account Receivable, Aircraft, Chattel Paper, Document of Title, Financing Change Statement, Financing Statement, Intangible, Inventory, Investment Security, Land, Motor Vehicle, Negotiable Instrument, Organisation, Proceeds, Register, Security Agreement, Security Interest, Serial-Numbered Goods and Verification Statement have the respective meanings given to those terms in the Act.

Act means the Personal Property Securities Act 1999 and, where the context requires, includes the Regulations.

After-acquired property has the meaning given to that term in the Act, but also includes that which has become personal property during the time that the Debtor has had rights in it.

Attorney means a person appointed as attorney under this deed or any Collateral Security.

Authorisation includes:

- any consent, authorisation, registration, filing, lodgement, agreement, notarisation, certificate, permission, licence, approval, authority and exemption from, by or with a Governmental Agency; and
- in relation to anything which will be fully or partly prohibited or restricted by law if a Governmental Agency intervenes or acts in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.

Bank Document means a document or agreement:

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

It includes this deed and any Collateral Security.

Banking Day means any day (other than a Saturday or Sunday) on which registered banks, within the meaning of the Reserve Bank of New Zealand Act 1989, are open for business in Auckland and Wellington for the transaction of general banking business.

Bankruptcy Event in relation to a person means that:

- he or she commits an act of bankruptcy;
- an application is made to declare him or her, or he or she is declared, bankrupt;
- he or she enters into a compromise with creditors, or makes any proposal to them;
- he or she is the subject of a summary instalment order or the subject of, or applies for entry into, the no asset procedure; or
- an application or order is made for his or her estate to be administered as an insolvent estate, under the Insolvency Act 2006; and a person **suffers a Bankruptcy Event** if any of these events occurs to him, her, or his or her estate.

Charge includes:

- a Security Interest;
- any mortgage, charge, fixed or floating charge, pledge, lien, financial lease, sale and lease-back, sale and repurchase or flawed asset arrangement;
- any security or preferential interest or arrangement of any kind; and
- any other right of, or arrangement with, any person the effect of which is to have that person's claims satisfied in priority to other unsecured and unsubordinated creditors with, or from the proceeds of, any asset.

It excludes a charge or lien arising in favour of a Governmental Agency by operation of statute, unless there is default in payment of money secured by the charge or lien.

Collateral Security means any Charge, Guarantee or other document or agreement at any time created or entered into as security or support for any Secured Money.

Companies Act means the Companies Act 1993.

Company has the meaning given to that term in the Companies Act and includes **overseas company** as defined in the Companies Act.

Co-operative Dairy Company means a co-operative company that is registered as a co-operative dairy company under section 35 of the Co-operative Companies Act 1996.

Debtor means the individual(s) or Organisations (including Companies) named on the first page of this deed and, if there is more than one person named as Debtor, then it means those persons jointly and severally.

Distribution has the meaning given to it in the Companies Act.

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

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

Event of Default means any of the events described in clause 5.1, each of which is a default for the purposes of the Act.

Governmental Agency means any government or any governmental, semi-governmental, or judicial entity or authority or revenue agency, including any local government, statutory or self-regulatory organisation established, approved or authorised under law, and any stock exchange, in any case having jurisdiction in relation to the affairs of any party to a Bank Document or to whose control or jurisdiction any party to a Bank Document has consented.

Guarantee means any guarantee, indemnity, letter of credit, legally binding letter of comfort or suretyship.

It includes any obligation or irrevocable offer to be responsible for a debt (as defined below) or for the insolvency or financial condition of another person.

It also includes any other obligation or irrevocable offer to pay a debt or to purchase a debt, to provide funds for the payment or discharge of a debt (whether by the advance of money, the purchase of or subscription for Negotiable Instruments or Securities, the purchase of property or services, or otherwise), or to indemnify against the consequences of default in the payment of a debt.

For the purposes of this definition, **debt** includes Indebtedness of another person, a Distribution, capital or premium on Negotiable Instruments, Securities, shares, stock or other interests issued by another person.

Guarantor means anyone other than the Debtor who creates or enters into a Collateral Security.

Indebtedness means any obligation or indebtedness, present or future, actual, prospective or contingent.

Insolvency Event in relation to a person means that:

- an encumbrancer (for example, a mortgagee) seeks to exercise, or exercises, a power to take possession of or sell any of its property;
- a distress, attachment or other execution is levied or enforced on, or commenced against, any of its property, or a judgment is obtained against it that is not satisfied within 10 days (unless it contests the execution or judgment in good faith by appropriate proceedings, to the Secured Parties' satisfaction);
- a receiver, receiver and manager, judicial manager, statutory manager, trustee, administrator, liquidator, interim liquidator or any similar officer is appointed in respect of it, its undertaking or any of its property;
- it is wound up or dissolved, it is struck off or removed from the register under the Companies Act 1993 or its registration under the legislation under which it was incorporated, constituted or established is otherwise cancelled or suspended (irrespective of whether the registration is subsequently restored or reactivated), an event occurs or the date arrives on which it is to terminate under that legislation or its constitutive documents, or its existence is otherwise terminated, suspended or interrupted (except in each case for the purposes of, and followed by, an amalgamation, solvent reconstruction or transfer of registration to another jurisdiction in each case on terms previously approved in writing by the Secured Parties);
- (if it is incorporated or established outside New Zealand) it fails to be registered in New Zealand in breach of any mandatory New Zealand law, it is removed from the relevant New Zealand register, or an application is made for the liquidation of its property in New Zealand;
- a registrar of competent authority gives a direction prohibiting it from carrying on any activity or suspending its constitution or its officers' powers;
- an inspector is appointed to investigate its affairs under the Companies Act 1993 or the Corporations (Investigation and Management) Act 1989;
- it is declared to be a corporation at risk under the Corporations (Investigation and Management) Act 1989;
- it proposes any dealing to any of its creditors to avoid insolvency or in expectation of insolvency, or enters into any dealing of that nature with, or for the benefit of, any of its creditors (for example, it proposes or makes any assignment, arrangement, compromise or composition to, with or for the benefit of its creditors generally or any of them);
- any analogous event occurs under any applicable law or in any country; or
- any resolution is passed or step is taken (whether by it or another person) for any of the above,

and a person **suffers an Insolvency Event** if any of the above are done or experienced by it or occur in relation to any of its property.

Issuer in relation to Securities comprised in the Secured Property means the issuer of those Securities.

Lease means:

- a lease, charter, hire purchase or hiring arrangement of, or other right to use, any asset, including a **lease for a term of more than 1 year** within the meaning of the Act;
- a franchise; and
- an agreement under which an asset is or may be used or operated by a person other than the owner.

Livestock means the livestock the subject of this deed and includes the natural increase of stock by any means whatever.

Loss or Liability means a cost, expense, loss, damage, liability or claim, including due to the indemnification of an Officer or employee of the Secured Parties (and includes any goods and services tax, all legal fees and expenses in full, all costs awards, and the cost of management or administration time as calculated by the person incurring that cost, acting reasonably).

Major Transaction has the meaning given to it in the Companies Act.

Material Adverse Effect means a material adverse effect on:

- the ability of the Debtor or any Guarantor to perform its obligations under a Bank Document;
- the security position (including in relation to any Guarantee) of the Secured Parties; or
- the financial condition or business of the Debtor or any Guarantor.

Non-Personal Property means the Debtor's present and future property and undertaking that is not Personal Property.

Officer includes an employee of a Secured Party whose title includes the word **Manager**, or who is acting in a managerial position, and any person (who need not be an employee) authorised for the relevant purpose by a Secured Party.

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

Personal Property means all personal property and after-acquired property in which the Debtor has, or acquires, rights but does not include any property to which, for any reason and for so long as, the Act does not apply (whether generally or in particular circumstances), and **personal property** has the meaning given to it in the Act.

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

Potential Event of Default means any event which, with the giving of notice, lapse of time or satisfaction of any condition or happening of any event, could constitute an Event of Default.

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

Receiver means a receiver, receiver and manager or manager appointed under this deed or any other Bank Document.

Regulations means the Personal Property Securities Regulations 2001.

Related Company has the meaning given to that term in the Companies Act but on the basis that **Subsidiary** has the meaning given to it in this deed and the term **company** (as used in relation to the definition of **Related Company** and **Subsidiary**) includes a body corporate, Organisation, individual person, and any other entity.

Related Party means the Debtor and any Guarantor and each Related Company of the Debtor or of any Guarantor.

Rights means all:

- Distributions;
- options or rights to take up any Securities of any nature; and
- all other rights, money, or Securities of any nature,

attributable to or arising from the Securities and includes all Proceeds of any Rights, all documents of title relating to any Rights and all present and future rights in relation to those Rights, Proceeds and documents of title.

Secured Money means all money that the Debtor (whether alone or with one or more others) may Owe to the Secured Parties (including any transferee referred to in clause 13) now or in the future for any reason, and when used in relation to a Secured Party means the Secured Money Owing to that Secured Party.

It includes:

- money that the Debtor contingently Owes a Secured Party now or in the future (including under a guarantee);
- money that the Debtor may Owe a Secured Party if something happens or is discovered, even where there is no existing obligation to pay it;
- all amounts needed to reimburse a Secured Party for:
 - any amounts that it has paid or may in the future pay;
 - any amounts that it has become liable to pay,

to any person at the Debtor's request or direction, or on the Debtor's behalf;

- (to the maximum extent permitted by law) any debt or liability to a Secured Party on the part of the Debtor that is reasonably likely to arise at a future date and that is connected with something that happens while this deed is in force; and
- all money that the Debtor now or in the future Owes under a right or claim against it, which a Secured Party has taken over or at any future date takes over from somebody else. To the maximum extent permitted by law, this will be the case even if the Debtor's obligation to pay that money was unsecured before the Secured Party took over the right or claim.

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

Secured Parties means, subject to clause 13, Westpac NZ and Westpac Banking Corporation ABN 33 007 457 141, incorporated in Australia or, as the context requires, either of them.

Secured Property means the property and undertaking subject to a Charge created by this deed or any Collateral Security granted by the Debtor.

Security has the meaning given to it in the Securities Act 1978, and includes Investment Securities.

Subsidiary has the meaning given to it in the Financial Reporting Act 1993.

Supplying Shareholder has the meaning given to that term by section 34 of the Co-operative Companies Act 1996.

Tax includes any tax, levy, impost, deduction, charge, rate, duty or withholding which is levied or imposed by a Governmental Agency and is required by law to be paid, and any related interest, penalty, charge, fee or other amount.

Unpaid Capital means any uncalled or unpaid share or other capital or premiums.

Westpac NZ means Westpac New Zealand Limited, company number 1763882.

29.2 General

Headings are for convenience only. They do not affect interpretation. The following rules apply unless the context requires otherwise:

- the singular includes the plural and vice versa;
- a gender includes all genders;
- where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- no clause or paragraph will limit another;

- an example or an instance does not limit what else might be included;
- a word or phrase defined anywhere in this deed will have the defined meaning wherever used;
- an Event of Default continues or subsists until it has been waived in writing by the Secured Parties;
- reference to this deed includes these Standard Terms and Conditions and the deed, including the Annexures, to which these Standard Terms and Conditions are attached or otherwise made applicable;
- reference to a paragraph, clause, or Annexure is a reference to a paragraph of, clause of, or Annexure to this deed;
- reference to a party to this deed or another agreement or document includes the party's successors and permitted substitutes or assigns;
- reference to an agreement or document is to the agreement or document as amended, novated, supplemented or replaced from time to time, except to the extent prohibited by a Bank Document;
- reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it, in each case, from time to time;
- reference to an approval or a consent means a prior written approval or consent;
- a reference to property includes any real or personal, present or future, tangible or intangible property, right or asset (including personal property, insurance policies, records, software, documents deposited with the Secured Parties, Intangibles, Unpaid Capital and any Authorisation) and any right, interest, revenue or benefit in, under or derived from, represented by or related to, any property, right or asset;
- reference to conduct includes an omission, statement or undertaking, whether or not in writing;
- reference to a law includes present or future common or customary law and any statute, statutory instrument, subordinate legislation, regulation, by-law, order or other legislative measure or any judgment or judicial or administrative order or determination or decision, in any jurisdiction;
- reference to ordinary course of business of a person means the ordinary course of that person's ordinary business;
- reference to a person includes a natural person, or Organisation in each case whether or not having separate legal personality, and any association of entities; and
- reference to writing or to written is to be construed in accordance with section 16 of the Act.

29.3 Document or agreement

A reference to an agreement includes a Charge, Guarantee, undertaking, deed, agreement or legally enforceable arrangement whether or not in writing. A reference to a document includes an agreement (as so defined) in writing, or a certificate, notice, instrument or document.

29.4 Current accounting practice

A reference to current accounting practice is to accounting principles and practices applying by New Zealand law (and includes generally accepted accounting practice) or (if not inconsistent with such law) otherwise generally accepted in New Zealand, consistently applied. A reference to accounting terms is to be interpreted according to those principles and practices.

