

# Borrower Agreement

*Borrowing through Squirrel Money? This document is your bible. It has everything you need to know you're agreeing to when choosing to borrow.*

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## Agreement

1. This borrower agreement governs your participation as a Borrower (also referred to where relevant as you or your) in Loans to be made through the Trustee (acting as bare trustee) on the Platform as part of the peer-to-peer and wholesale lending services provided by us (Squirrel).
2. By accepting the terms of this agreement, you agree to enter into this agreement with us and the Trustee.
3. This agreement will continue to apply for such time as you remain registered as a Borrower on the Platform or until all Loans in which you have an interest have been terminated or expired in accordance with their terms.
4. Unless the context otherwise requires, the general provisions and definitions set out under the heading "General" ([here](#)) in the Platform and Website Terms and Conditions apply in this agreement.

## Loans

5. Provided we have approved you as a Borrower, you may submit an application for a Loan at any time via the Platform.
6. A Loan may be by more than one Borrower provided that each Borrower has been accepted as a Borrower on the Platform by us.
7. Where more than one Borrower enters into a Loan:
  - a. each of the Borrowers will have joint and several liability in relation to all obligations under the Loan Agreement; and
  - b. we will be entitled to rely on instructions or directions relating to the Loan from any of the Borrowers as being provided on behalf of all of the Borrowers.
8. You can withdraw a Loan application at any time prior to your acceptance of a Loan offer.
9. You agree and acknowledge that, unless we waive this requirement, an aggregate limit of NZ\$2 million will apply in relation to Loans entered into by you via the Platform in any 12 month period when added together with any other amounts raised by you from any other peer-to-peer lending or equity crowd-funding platform, or under the "small offers" exemption, under the FMCA. Unless expressly permitted to do so by us (for example, in relation to Loans funded by Wholesale Investors), you must not apply for or enter into Loans in excess of this aggregate amount.
10. Following provision of the Borrower Disclosure to you and any Guarantors, you must enter into a Loan Agreement with the Trustee (on behalf of the participating Investors to be identified through the matching process). The Loan Agreement is conditional on sufficient Bids from Investors being successfully matched to the Loan.
11. We will match Loan applications submitted by you with Bids on the basis set out in the Terms. Where the Loan has been matched to Bids so that the full value of the Loan has been met, we will proceed to settle the Loan under the terms of the Loan Agreement.

12. You agree and acknowledge that the Trustee is entering into the Loan Agreement as bare trustee on behalf of the Investors participating in your Loan and you will not have any direct relationship with or claim against the Investors in relation to the Loan.
13. We may appoint a replacement trustee or trustees from time to time on notification to you. The appointment of a replacement trustee will not affect your rights and obligations under the Borrower Documents.

## **Security and Guarantees**

14. You may provide security in relation to a Loan subject to the requirements notified by us from time to time. Any security provided will be held by the Trustee.
15. If security is provided in relation to a Loan from a person other than you, we will require a guarantee to be provided by that person. Where we require a guarantee in relation to a Loan, you are required to ensure that each Guarantor signs the Loan Agreement and any other documentation, and provides us with all information, we require in relation to the Loan, the Guarantors and the guarantee. We may also agree with you that a guarantee is to be provided in other circumstances.

## **Settlement of the Loan**

16. Your Loan will be settled in accordance with the terms set out in the Loan Agreement.
17. As part of settlement of your Loan, you authorise us, acting on behalf of the Trustee, to deduct the Establishment Fee (where applicable) from the value of the Loan advanced by the Trustee under the Loan Agreement and to transfer the Establishment Fee to our account. The balance of the Loan will be transferred to your Nominated Account.

## **Loan Repayments**

18. You must repay the Loan and all other amounts payable by you from time to time in relation to the Loan in accordance with the terms of the Loan Agreement.

## **Squirrel**

19. The Investors and the Trustee have appointed us to act as agent for the Trustee in relation to the following:
  - a. entering into this agreement and other Borrower Agreements on the Trustee's behalf in relation to the use of the Platform by Borrowers;
  - b. entering into Investor Agreements on the Trustee's behalf in relation to the use of the Platform by Investors;
  - c. entering into Loan Agreements with Borrowers and any Guarantors on the Trustee's behalf;
  - d. transferring funds and otherwise settling all Loans in accordance with the Loan Agreements;
  - e. administering Loans including by collection and enforcement in relation to the Loans and any security or guarantee provided in respect of the Loans and providing the Borrower Disclosure and any required disclosure to the Guarantor for the purposes of the CCCFA;
  - f. opening and administering the Clearing Account;
  - g. administering the Reserve Fund (if applicable) including by collection of contributions from interest payments under the Loans and making payments to Investors, in each case in accordance with the Reserve Fund Policy;
  - h. performing all or any of the other functions or obligations of the Trustee under this agreement or any other agreement relating to the Loans; and
  - i. performing all or any other functions including entering into any other agreement or documentation which are

reasonably incidental to any of the functions or duties set out in this clause.

20. You agree to our appointment as the Trustee's agent on the basis set out in clause 19.
21. You agree that we may process direct debit payments in relation to any of the fees set out in clause 23 that may become due and payable by you from time to time.
22. To the extent permitted by law, we may delegate any of our rights, functions or duties set out in this agreement to any member of the Squirrel group. Any delegation will not relieve us of any liability under this agreement.

## Fees

23. We are entitled to the following fees and margins:
  - a. the Establishment Fee which is payable by you (where relevant) and deducted from the initial advance of the Loan to you;
  - b. Default Fees which are payable by you (where relevant);
  - c. Default Interest which is payable by you (where relevant);
  - d. the Security Release Fee which is payable by you (where relevant);
  - e. the Transfer Fee which is payable by Investors (where relevant);
  - f. the Service Margin which is (effectively) paid by Investors as it reduces the interest paid to them; and
  - g. Dishonour Fee which is payable by you if a direct debit payment dishonours (where relevant).

## Tax

24. We will deduct RWT on your behalf and pay it to IRD and you acknowledge that you will not deduct or withhold any amount of RWT from any payment by you to the Trustee under a Loan.

## Reserve Fund

25. In order to help protect against default by Borrowers, we have established a Reserve Fund for Retail Investors which is held by the Trustee as bare trustee in relation to Loans funded by Retail Investors made under the Platform.
26. The purpose of the Reserve Fund is to build a trust fund for Investors to help meet missed payments or losses from defaulting Borrowers. Where a Reserve Fund applies, we deduct a pre-determined amount from the interest payments received from Borrowers and use this to help smooth out payments to Investors and share losses around.
27. Subject to sufficient funds being available, the Reserve Fund will be used in the event of non-payment and/or default by a Borrower under a Loan Agreement covered by the Reserve Fund from time to time in accordance with the terms of the Reserve Fund Policy.
28. We may establish one or more additional Reserve Funds as set out in the Reserve Fund Policy, for example, by having Reserve Funds which have different amounts deducted from the interest payments received from Borrowers to differentiate between personal and business lending via the Platform or for Wholesale Investors.
29. A copy of the Reserve Fund Policy can be accessed [here](#).
30. **The Reserve Fund does not in any way relieve you or any Guarantor of your respective obligations to make payments under the Loan Agreement and you and the Guarantor will be liable for all non-payment or default in accordance with the Loan Agreement.**

## Liability

31. To the extent permitted by law, neither we nor the Trustee will be liable to you:
  - a. for any failure by us or the Trustee to comply with the terms of this agreement if the failure is caused by reasons beyond our or their reasonable control; and
  - b. for any Loan application failing to be matched with a Bid from time to time.
32. We do not guarantee that the Platform will be available at all times and will not be liable to you in the event that the Platform is not available for you to access from time to time.
33. Nothing within this agreement excludes or restricts any rights you may have under the Consumer Guarantees Act 1993.
34. You agree and acknowledge that neither we nor the Trustee provide any advice regarding the suitability or appropriateness of the Platform for you to source funding in relation to a Loan.