

# Squirrel P2P Trustee Limited

## Loan Disclosure Statement — Unsecured Loan Agreement – Homeowners

Statement Date:

*Note: references to “you” or “your” are references to you as the borrower and references to “we” are references to Squirrel P2P Trustee Limited as the Creditor*

### **IMPORTANT:**

We are required to provide you with this Loan Disclosure Statement under section 17 of the Credit Contracts and Consumer Finance Act 2003.

This document and your Unsecured Loan Agreement – Homeowners constitute your consumer credit contract.

This document sets out the key information about your consumer credit contract. Please read it thoroughly. If you do not understand anything in this document, you should seek independent advice.

You should keep this Loan Disclosure Statement and a copy of your Unsecured Loan Agreement – Homeowners (the terms of which you acknowledge and agree form part of this consumer credit contract) in a safe place.

Unless stated otherwise in this Loan Disclosure Statement, terms defined in the Unsecured Loan Agreement – Homeowners have the same meaning in this Loan Disclosure Statement.

This Loan Disclosure Statement must be provided to you before the contract is entered into. The law gives you a limited right to cancel your consumer credit contract. Please see below for full details of your right to cancel. Note that strict time limits apply.

### **CREDITOR DETAILS**

Full Name and address of Creditor (this is the person providing you with the credit):

Name: Squirrel P2P Trustee Limited  
Physical address: 29 Sale Street,  
Auckland CBD, Auckland,  
New Zealand 1010  
Postal address: PO Box 911254  
Victoria Street West  
Auckland 1142  
Email: money@squirrel.co.nz

Notices may be sent to the Creditor by writing to the Creditor at the Creditor’s postal address or sending an email to the email address specified above.

### **CREDIT DETAILS**

**Initial unpaid balance** (this is the amount you owe as at the date you draw down your first advance, which is scheduled to be \_\_\_\_\_ and includes the establishment fee charged by the Creditor):

made up as follows:

paid to you;

establishment fee

**Subsequent advances (your Progress Payments):** a total of \_\_\_\_\_

will be provided by the Creditor in the amounts and on the dates you request in writing for each payment to be advanced, plus \$100 will be advanced in respect of each Progress Payment to be applied in payment of your Progress Payment Fee for that Progress Payment.

**Total Advances and Credit Limit** (this is the total amount of all advances we are making):

made up as follows:

paid to you;

establishment fee (as disclosed in Initial unpaid balance above)

plus a Progress Payment Fee of \$100 for each Progress Payment.

**Account details:**

**Purpose:**

# Squirrel P2P Trustee Limited

## Loan Disclosure Statement — Unsecured Loan Agreement – Homeowners

### **PAYMENTS YOU MUST MAKE**

Timing of payments:

Frequency:

Day of each

First payment date:

Amount of each payment except last: Not ascertainable at the date of this statement

*For the interest only period of 12 months,*

Number of payments:

Amount of each payment until you draw your first Subsequent Advance:

Total amount of payments for the Initial Unpaid Balance:

*For the period from the Rollover Date,*

*This repayment is based on a        year term on an interest rate of        at the time of approval.  
This rate is subject to change.*

Number of payments from the Rollover Date:

Total amount of payments for the period from the Rollover Date to the last payment date:

Total number of payments:

Total amount of all payments:

### **FULL PREPAYMENT**

You may pay the Total Advances in full or in part before the last payment date (**prepayment**) without penalty on any date. We will, on request, provide you with written confirmation of the amount required to prepay in full.

Any prepayment you make will not affect your obligation to make repayments in the way set out in the "Payments you must make" section of this Disclosure Statement except that the last payment date may be earlier or may be a different amount and the total number of payments may reduce.

### **INTEREST**

#### **Ordinary Interest Rate**

per annum (fixed for the interest only period of 12 months).

For the period after the interest only period, the Ordinary Interest Rate will be the fixed rate of interest per annum for a period of the length of the period from the Rollover Date to the scheduled Final Repayment Date as advertised by Squirrel on the Rollover Date on its website (currently <https://www.squirrelmoney.co.nz/>) (which rate shall be set in accordance with Squirrel's methodology for setting fixed interest rates at that time).

For reference, the current fixed rate for the relevant term is        per annum, but this is subject to change.

**Total interest charges** (for the term of the loan):

**Method of charging interest:** With the exception of default interest charges, you will pay interest by (select according to loan) instalments in arrears. Interest will be calculated on the Total Advances on a daily basis at the Ordinary Interest Rate from the date of advance and ending on (but excluding) the final repayment date.

### **CREDIT FEES AND CHARGES**

The following credit fees and charges (which are not included in the initial unpaid balance) are, or may become, payable under, or in connection with, the Consumer Credit Loan Agreement:

Progress Payment Fee:        per Progress Payment to cover the cost to the Creditor of making each Progress Payment to you, payable on the date the Creditor makes each Progress Payment to you and deducted from your Progress Payment.

### **CONTINUING DISCLOSURE**

We may be required to provide you with information about your account relating to continuing disclosure. You agree that this information will be provided via Squirrel's online platform only, which you are able to access at all reasonable times.

# Squirrel P2P Trustee Limited

## Loan Disclosure Statement — Unsecured Loan Agreement – Homeowners

### WHAT COULD HAPPEN IF YOU FAIL TO MEET YOUR COMMITMENTS

#### Guarantee

If Squirrel has obtained a guarantee and indemnity in connection with the Unsecured Loan Agreement – Homeowners, the guarantee and indemnity secures the payment of all monies due under the Unsecured Loan Agreement – Homeowners.

**If you fail to meet your commitments under the Unsecured Loan Agreement – Homeowners then we may be entitled to exercise our rights against the guarantor(s) under the guarantee and indemnity to recover all monies due under the Unsecured Loan Agreement – Homeowners.**

#### Default Fees:

You may be required to pay amounts to Squirrel on demand under the indemnity in clause 11.1 of the Unsecured Loan Agreement – Homeowners, in connection with enforcement of Squirrel's rights following an Event of Default (as defined in the Unsecured Loan Agreement – Homeowners).

#### Default Interest

In the event of a default in payment, and while the default continues, you must pay the default interest charges.

Where a default in payment occurs, we may charge default interest on the overdue amount while the default continues at a rate which is above the Ordinary Interest Rate.

#### CANCELLATION

You are entitled to cancel the consumer credit contract by giving notice to the Creditor.

#### Time limits for cancellation

You must give notice that you intend to cancel the contract within **5** working days of the Statement Date on the front of this Loan Disclosure Statement (but we will accept cancellation within 7 working days).

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

#### How to cancel

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

- giving notice to the Creditor or an employee or agent of the Creditor; or
- posting the notice to the Creditor or an agent of the Creditor; or
- emailing the notice to the Creditor's email address (if specified on the front of this disclosure statement); or
- sending the notice to the Creditor's fax number (if specified on the front of this disclosure statement).

You must also pay the cash price of the property or services (or the balance of the cash price after deducting any amount you have already paid) within 15 working days of the day you give the cancellation notice.

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

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

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

#### WHAT TO DO IF YOU SUFFER UNFORESEEN HARDSHIP

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

To apply for a hardship variation, you need to:

- (a) make an application in writing; and
- (b) explain your reason(s) for the application; and
- (c) request one of the following:
  - an extension of the term of the contract (which will reduce the amount of each payment due under the contract); or
  - a postponement of the dates on which payments are due under the contract (specify the period for which you want this to apply); or
  - both of the above; and
- (d) give the application to the Creditor.

Do this as soon as possible. If you leave it for too long, the Creditor may not have to consider your application.

# Squirrel P2P Trustee Limited

## Loan Disclosure Statement — Unsecured Loan Agreement – Homeowners

### **DISPUTE RESOLUTION**

Name of dispute resolution scheme: Financial Services Complaints Limited

It is free to make a complaint to this independent dispute resolution scheme.

This scheme can help you to resolve any disagreements you have with the Creditor.

Contact details of dispute resolution scheme:

Phone: 0800 347 257

Website: <http://www.fscl.org.nz/>

Business address: P O Box 5967

Wellington 6011

### **INTERNAL COMPLAINTS PROCEDURE**

Our complaints procedure may be initiated by telephone, email, via our website or in writing. If we can't resolve your issue immediately, here is how it will be dealt with:

1. If you have made your complaint verbally or via our website, we will acknowledge your complaint immediately. If you have made your complaint in writing we will acknowledge it within 5 working days of receiving it.
2. We aim to have your complaint resolved within 5 days and will email or write to you outlining the resolution. If we are unable to resolve your complaint within 5 working days we aim to resolve it within 20 working days.
3. In the event that we can't resolve your complaint within 20 working days, we will write to you advising you why we require more time to resolve your complaint.

### **REGISTRATION ON FINANCIAL SERVICE PROVIDERS REGISTER**

Creditor registration name: Squirrel P2P Trustee Limited

Registration number: FSP415167

### **CONSENT TO ELECTRONIC COMMUNICATION**

We consent to receive notices or other communications from you in electronic form, whether by means of an electronic communication or otherwise.

# Squirrel P2P Trustee Limited

## Loan Disclosure Statement — Unsecured Loan Agreement – Homeowners

Date:

By

Signature:

And by (Joint Borrower) If Applicable)

Signature:

Witness to Signatures

\_\_\_\_\_  
Name

\_\_\_\_\_  
Occupation

\_\_\_\_\_  
Address

Signature:

# Squirrel P2P Trustee Limited

## Loan Disclosure Statement — Unsecured Loan Agreement – Homeowners

### Parties to this Loan Agreement:

**The Lender:** Squirrel P2P Trustee Limited (referred to as **Squirrel** or **we**)

**The Borrower:** You (referred to as **the Borrower** and **you**)

### Agreed:

- A. This Loan Agreement includes:
- the Loan Disclosure Statement; and
  - these Terms and Conditions.
- B. Squirrel agrees to lend to you the amount shown as Total Advances in the Loan Disclosure Statement.
- C. You acknowledge Squirrel is acting as bare trustee for the benefit of the Participating Investors.
- D. You covenant and agree:
- to repay the Loan Facility and interest at the time and in the manner set out in the Loan Disclosure Statement;
  - to comply with all the terms and conditions set out in this Loan Agreement and any Guarantee;
  - you have received a copy of and read this Loan Agreement and you are executing it relying on your own judgement;
  - if there is more than one of you named as Borrower you are liable jointly and severally meaning you are each liable to pay Squirrel the entire amount owed;
  - if there is more than one of you named as Borrower:
    - you appoint each and any of you to be your agent for service for the purposes of section 355 of the Property Law Act 2007 for the service of notices under this Loan Agreement;
    - Squirrel may accept communications from either or any of you as being on behalf of you all without reference to the other or others; and
    - you consent to Squirrel providing your personal information to the other Borrower/s.
- E. We may be required to provide you with information about your account relating to continuing disclosure. You agree that this information will be provided via Squirrel's online platform only, which you are able to access at all reasonable times.

### The Terms and Conditions

#### 1 Definitions and Interpretation

##### Definitions

- 1.1 In this Loan Agreement, terms have the meaning given in the Loan Disclosure Statement and, unless the context otherwise requires:

**Amount Outstanding** means, at any time, the principal, interest (including default interest), costs and all other moneys payable by you to Squirrel under this Loan Agreement;

**Business Day** means a day on which registered banks are open for business in Auckland, excluding Saturdays, Sundays and public holidays;

**CCCFA** means the Credit Contracts and Consumer Finance Act 2003;

**Date of Advance** means the date on which the Loan Facility is or is to be drawn;

**Default Interest Rate** means the aggregate of the Ordinary Interest Rate plus 10% per annum;

**Event of Default** means any of the events specified in clause 5.1;

**FMCA** means the Financial Markets Conduct Act 2013;

**Final Repayment Date** means the date specified by Squirrel as the last payment date in the Loan Disclosure Statement as that date may be accelerated under this Loan Agreement;

**GST** means goods and services tax chargeable in accordance with the Goods and Services Tax Act 1985;

**Guarantee and Indemnity** means a guarantee and indemnity entered into by a guarantor in relation to the obligations of the Borrower under this Loan Agreement in favour of Squirrel;

**Guarantor** means a person named as the Guarantor in any Guarantee or Indemnity;

**Initial Period** means the period from the Date of Advance to (but not including) the Rollover Date;

**Loan Disclosure Statement** means the initial disclosure provided to you in the document entitled Loan Disclosure Statement by Squirrel as required by the CCCFA;

**Loan Facility** means the loan facility the terms of which are set out in this Loan Agreement to the amount specified in the Loan Disclosure Statement as the Credit Limit that amount may be as reduced or cancelled under this Loan Agreement;

**Ordinary Interest Rate** means the rate specified as such in the Loan Disclosure Statement; **Participating Investors** means the investor or investors who are participating in providing this Loan Facility under the peer-to-peer lending service provided by Squirrel Money Limited pursuant to its license under the FMCA;

**PPSA** means the Personal Property Securities Act 1999;

**Progress Payment Fee** means the amount specified as such in the Loan Disclosure Statement;

**Rollover Date** means the date 12 months following the Date of Advance;

**RWT** means resident withholding tax imposed under the resident withholding tax rules in the Income Tax Act 2007;

**Tax** includes any present or future tax, levy, impost, duty, charge, fee, excise deduction or withholding of any nature whether direct or indirect by whatever method collected and recovered and whatever called together with any interest, penalty, charge, fee, additional tax, expense, fine, other additional statutory charge or any other amount imposed or made on or in respect of, or incidental or related to, the imposition of any of the foregoing; and

**Total Advances** means the total advances specified in the Loan Disclosure Statement.

# Squirrel P2P Trustee Limited

## Loan Disclosure Statement — Unsecured Loan Agreement – Homeowners

### 1.2 In this Loan Agreement:

- a. where the context permits, the singular includes the plural and vice versa.
- b. references to any party means a party to this Loan Agreement and includes the successors, executors, administrators and permitted assignees (as the case may be) of that party;
- c. references to clauses are to clauses in this Loan Agreement (unless stated otherwise);
- d. references to any document (however described) shall include references to that document as modified, novated, supplemented, varied or replaced from time to time; and
- e. references to a month or a year are references to a calendar month or calendar year.

## 2 Availability of the Loan Facility

### Facility

- 2.1 Squirrel agrees to make the Loan Facility available to you on the terms of this Loan Agreement, subject to satisfaction of the condition precedent that Squirrel has matched the Loan Facility with bids from Participating Investors.

### Availability

- 2.2 Squirrel will advance the Loan Facility to you in one amount on any Business Day if:
1. Squirrel has received and found satisfactory all documentation required by Squirrel; and
  2. no Event of Default subsists.

- 2.3 The account details into which the Loan Facility will be advanced are as set out in the Loan Disclosure Statement. If the purpose of the Loan Facility is to purchase a motor vehicle from a dealer, Squirrel will advance that loan directly to the bank account of the motor vehicle dealer.

### Purpose

- 2.4 The purpose of the Loan Facility is as set out in the Loan Disclosure Statement.
- 2.5 You agree and undertake that you will only use the Loan Facility for the purpose specified in clause 2.4.

## 3 Payment of Loan Facility and Interest

### Repayment of Loan and Interest

- 3.1 Interest will be calculated on the unpaid balance on a daily basis at the Ordinary Interest Rate from the Date of Advance and ending on (but excluding) the Final Repayment Date.
- 3.2 You will pay outstanding interest from the Date of Advance, by fortnightly or monthly instalments in arrears.
- 3.3 You will repay the Loan Facility from the Rollover Date, by fortnightly or monthly instalments in arrears, payable on the same day as outstanding interest, with the first such payment being on the first payment date after the Rollover Date.

### Prepayment of the Loan Facility

- 3.4 You may prepay the Loan Facility in full or in part without penalty on any date. Squirrel will, on request, provide you with written confirmation of the amount required to prepay in full. Any prepayment you make (other than a prepayment in full) will not affect your obligation to make repayments in the way set out in section 3.1 of this Loan Agreement except that the last payment date may be earlier, may be a different amount and the total number of payments may reduce.

### Progress Payment Fee

- 3.5 You agree to pay the Progress Payment Fee to Squirrel on the Date of Advance

# Squirrel P2P Trustee Limited

## Loan Disclosure Statement — Unsecured Loan Agreement – Homeowners

### **4 Representations and warranties**

4.1 You represent and warrant that:

- a. you have the legal capacity to enter into this Loan Agreement and any Guarantee and to perform your obligations under this Loan Agreement and any Guarantee;
- b. your obligations under the Loan Agreement and any Guarantee constitute valid and binding obligations enforceable against you in accordance with this Loan Agreement's and any Guarantee's terms, subject to insolvency laws of general application;
- c. there is no present or subsisting Event of Default;
- d. except as notified to Squirrel in writing prior to the date of this Loan Agreement, you are not acting as trustee of a trust;
- e. except as notified to Squirrel in writing, no litigation, arbitration or administrative proceeding exists or is pending, and you do not know of any which is threatened, that may have a material adverse effect on your ability to perform obligations under this Loan Agreement any Guarantee;
- f. you are solvent and are able to pay your debts as they become due;
- g. you have disclosed to Squirrel all material matters that you know of which affect your ability to perform obligations under this Loan Agreement any Guarantee;
- h. entering into this Loan Agreement and any Guarantee carrying out your obligations under them will not contravene any law to which you are subject or any agreement which is binding on your assets; and
- i. your execution of this Loan Agreement and any Guarantee does not give rise to a need for an authority, license, consent or exemption that you do not already hold.

### **5 Events of Default**

5.1 If, at any time and for any reason, whether or not within the control of a party:

- a. you or the Guarantor (if any) fail to pay any amount payable under this Loan Agreement and/or any Guarantee on the due date; or
- b. you or the Guarantor (if any) do not perform or comply with any of your obligations under this Loan Agreement and/or any Guarantee; or
- c. any representation, warranty or statement by you or the Guarantor (if any) in or in connection with this Loan Agreement or any Guarantee proves to have been untrue, inaccurate or not complied with; or
- d. in the reasonable opinion of Squirrel, a material adverse change occurs in relation to you; or
- e. you are, or are presumed to be unable to pay your debts as they fall due; or
- f. if, at any time, Squirrel determines that it is or may become unlawful, impractical or contrary to any law, treaty or directive of any agency of state or other regulatory authority to make, fund or allow to remain outstanding all or part of the Loan Facility, to charge or receive interest at any applicable rate or to comply with any of your obligations or exercise any of your rights under this Loan Agreement and any Guarantee, then, upon Squirrel notifying you in writing:
- g. Squirrel may cancel the Loan Facility; and
- h. if the Loan Facility has been made, you shall repay the Amount Outstanding immediately; and

### **6 Default Interest**

#### **Default Interest**

6.1 You shall pay to Squirrel interest calculated on a daily basis at the Default Interest Rate on all monies (including interest) payable under this Loan Agreement which may from time to time be overdue, such interest to be payable on demand being made by Squirrel, provided that default interest is not payable on any amount that is payable due to the exercise by Squirrel of its rights under clause 5.1.

### **7 Payments and Taxes**

#### **All Payments on Business Days**

7.1 Where a payment to be made under this Loan Agreement is due on a day which is not a Business Day the due date shall be the next Business Day (unless the next Business Day falls in the next month of the year, in which case the due date will be the previous Business Day).

#### **Mode of Payments**

7.2 Each payment to Squirrel under this Loan Agreement and any Guarantee is to be made by 2.00pm (being the end of day for payment purposes) on the due date in immediately available freely transferable funds in the manner and to the account at the bank which Squirrel, by notice to you, specifies from time to time. If a payment is made on the due date but after the specified end of day for payment purposes, you shall pay to Squirrel, on request, interest on the amount paid until the next Business Day (as if the payment were made on the later day).

#### **Payments to be Free and Clear**

7.3 Each payment by you to Squirrel under this Loan Agreement and any Guarantee is to be made:

- a. free of any restriction or condition; and
- b. free and clear of and without any deduction or withholding for or on account of tax or on any other account, whether by way of set off, counterclaim or otherwise



# Squirrel P2P Trustee Limited

## Loan Disclosure Statement — Unsecured Loan Agreement – Homeowners

### **Reinstatement**

- 7.4 If a payment made by you to Squirrel pursuant to this Loan Agreement and any Guarantee is avoided by law:
- a. that payment shall be deemed not to have discharged or affected the obligation of you in respect of which that payment was made or received; and
  - b. Squirrel and you shall be deemed to be restored to the position in which each would have been and shall be entitled to exercise all the rights which each would have had, if that payment had not been made.

### **Resident Withholding Tax**

- 7.5 To the extent that you are required by law to deduct RWT from any payment to Squirrel pursuant to this Loan Agreement, Squirrel will deduct the RWT amount on your behalf and pay it to Inland Revenue and you acknowledge that you will not deduct or withhold any amount of RWT from any payment by you to Squirrel under this Loan Agreement.

## **8 Calculations and Evidence**

### **Basis of Calculation**

- 8.1 All interest shall accrue from day to day and shall be calculated on the basis of the number of days elapsed and a 365 day year.

### **Loan Accounts**

- 8.2 In the absence of manifest error or fraud, the entries made in the accounts maintained by Squirrel are to be conclusive evidence of the existence and amounts of the obligations of you recorded in them.

### **Certificates**

- 8.3 In the absence of manifest error or fraud, a certificate by Squirrel of an interest rate or amount payable under this Loan Agreement is to be conclusive evidence for all purposes including for any proceedings.

## **9 Assignment**

### **Benefit and Burden of this Loan Agreement**

- 9.1 This Agreement is binding upon and endures for the benefit of the parties and their respective successors and, in the case of Squirrel, its assignees or transferees and, in the case of you, your permitted assignees or transferees.

### **Squirrel As Trustee**

- 9.2 Squirrel has entered into this Loan Agreement as bare trustee for the Participating Investors and not in its personal capacity and Squirrel's liability under this Loan Agreement is limited to the assets from time to time under its control as trustee for the Participating Investors.

### **Squirrel May Assign**

- 9.3 Squirrel may assign or transfer all or part of its rights or obligations under this Loan Agreement without your consent. Each assignee or transferee is to have the same rights against you under this Loan Agreement (or a proportion of those rights if it is the assignee or transferee of part only), including being appointed your attorney, as if named in this Loan Agreement as Squirrel.

### **Disclosure of Information**

- 9.4 Squirrel may disclose, on a confidential basis, to a potential assignee, transferee or other person with whom contractual relations in connection with this Loan Agreement are contemplated, any information about you whether or not that information was obtained in confidence and whether or not that information is publicly available.

### **You May Not Assign**

- 9.5 You may not assign or transfer all or part of your rights or obligations under this Loan Agreement and any Guarantee without the prior consent of Squirrel in writing.

## **10 Notices**

### **Addresses and References**

- 10.1 Any written notice required to be given pursuant to this Loan Agreement shall (without limitation, including any CCCFA disclosure statement) be deemed validly given if delivered by electronic means (including by email). You nominate the email address specified in your loan application, or such other email address as you may notify Squirrel of, as the information system (within the meaning of section 209 of the Contract and Commercial Law Act 2017) to which communications can be sent.

### **Deemed Delivery**

- 10.2 No communication shall be effective until received. Communications to the Borrower, however, for the purposes of this Loan Agreement shall be deemed to be received:
- a. in the case of a notice delivered by email or delivered on a Business Day, or at any time on a non-Business Day, at 9.00am on the next Business Day; or
  - b. in the case of any letter, on the third Business Day after posting.

Squirrel consents to receive notices or other communications from you in electronic form, whether by means of an electronic communication or otherwise.

# Squirrel P2P Trustee Limited

## Loan Disclosure Statement — Unsecured Loan Agreement – Homeowners

### 11 Expenses

#### Expenses

- 11.1 You shall pay to Squirrel, upon demand, all costs and expenses on a full indemnity basis (including all legal fees on a solicitor and own client basis and taxes) incurred by Squirrel in connection with the enforcement of, any rights under this Loan Agreement and any Guarantee following an Event of Default.

### 12 General

#### Exercise of Rights and Waivers

- 12.1 Time is of the essence of this Loan Agreement but no failure to exercise, and no delay in exercising, a right of Squirrel under this Loan Agreement and any Guarantee shall operate as a waiver of that right, nor shall a single or partial exercise of a right preclude another or further exercise of that right or the exercise of another right. No waiver by Squirrel of your rights under this Loan Agreement and any Guarantee shall be effective unless it is in writing signed by Squirrel.

#### Remedies Cumulative

- 12.2 The rights, powers and remedies provided in this Loan Agreement and any Guarantee are cumulative and not exclusive of any rights, powers or remedies provided by law.

#### Amendments

- 12.3 No amendment to this Loan Agreement shall be valid unless in writing and executed by both parties in the same manner as that in which this Loan Agreement has been executed except that Squirrel may amend this Loan Agreement if required by law.

#### Partial Invalidity

- 12.4 If any provision of this Loan Agreement is or becomes invalid or unenforceable, that invalidity or unenforceability shall not affect the other provisions of this Loan Agreement, all of which shall remain in full force and effect to the extent permitted by law, subject to any modifications made necessary by the deletion of the invalid or unenforceable provisions.

#### Conflict

- 12.5 In the event of there being any conflict or inconsistency between the express provisions of this Loan Agreement and the express provisions of any other related document, the terms of this Loan Agreement will prevail and be paramount.

#### Governing Law and Jurisdiction

- 12.6 This Agreement is governed by the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the New Zealand courts in respect of all matters relating to this Loan Agreement.

### 13 Trustee Provisions

- 13.1 **Representations by trustees:** If any of you are entering into this Loan Agreement as the trustee of a trust then you represent and warrant to the lender that:

- a. Powers: you have the power under the instrument under which you hold the property on trust to enter into this Loan Agreement; and
- b. Proper purposes: the entry into this Loan Agreement is for a proper purpose and for the benefit of the trust under which you hold the Secured Property;
- c. Right to be indemnified: you have the right to be indemnified from the assets of the trust and that right has not been lost or impaired by any of your actions including the entry into this Loan Agreement; and
- d. All trustees approve or assent: all of the persons who are trustees of the relevant trust have approved and have signed or assented to this Loan Agreement.

- 13.2 **Trustees have full and unlimited personal liability:** Unless you have been named in this Loan Agreement as a limited trustee (in which case the provisions of clause 14.c will apply) all of you have full and unlimited personal liability for the repayment of the moneys owing and the compliance with all obligations of this Loan Agreement.

- 13.3 **Limited liability trustees:** If you have been named in this Loan Agreement as a limited liability trustee then your liability is not personal and unlimited but will be limited to an amount equal to the value of the assets of the trust under which you have entered into this Loan Agreement as a trustee that are (or, but for default would be) available to satisfy your liability for the moneys owing (**the limited amount**) unless your right as a trustee to be indemnified from the assets of the trust has been lost and, as a result, the lender is unable to recover from you the limited amount.



## CONDITIONS OF INSTRUCTION TO ACCEPT DIRECT DEBITS

1. **The Initiator:**
  - 1.1. Will provide notice either:-
    - 1.1.1. in writing; or
    - 1.1.2. by electronic mail where the Customer has provided prior written consent to the Initiator.
  - 1.2. Has agreed to give advance Notice of the net amount of each Direct Debit and the due date of the debiting at least 10 calendar days (but not more than 2 calendar months) before the date when the Direct Debit will be initiated.
    - 1.2.1. The advance notice will include the following message:

*"Unless advice to the contrary is received from you by (date\*), the amount of \$.....will be directly debited to your Bank account on (initiating date\*)."*

\*This date will be at least two (2) days prior to the initiating date to allow for amendment of Direct Debits.
  - 1.3. Alternatively, the Initiator undertakes to give notice to the Acceptor of the commencement date, frequency and amount at least 10 calendar days before the **first** Direct Debit is drawn (but no more than 2 calendar months).
    - 1.3.1. Where the Direct Debit System is used for the collection of payments which are regular as to frequency, but variable as to amounts, the Initiator undertakes to provide the Acceptor with a schedule detailing each payment amount and each payment date.
    - 1.3.2. In the event of any subsequent change to the frequency or amount of the Direct Debits, the Initiator has agreed to give advance notice of at least 30 days before the changes comes into effect. This notice must be provided either:-
      - (a) in writing; or
      - (b) by electronic mail where the Customer has provided prior written consent to the Initiator".
  - 1.4. May initiate a Direct Debit on my/our account when authorisation is received from me/us in accordance with the terms and conditions agreed between me/us and the Initiator of each amount to be debited from my/our account.
    - 1.4.1. notice will be sent of the net amount of each Direct Debit and the due date of debiting after receiving authorisation from me/us under clause 1.4 but no later than the date the Direct Debit will be initiated. This notice must be provided either:-
      - (a) in writing; or
      - (b) by any other means which provides a verifiable record of the initiated transaction and where the Customer has provided prior written consent to the Initiator.
    - 1.4.2. Where the notice is in writing it must include the following message:

*"The amount \$..... was directly debited to your Bank account on (initiating date)."*
    - 1.4.3. Where the notice is provided by other means:-
      - (a) the Initiator should hold prior written consent of those means of providing notice; and
      - (b) the notice should provide a verifiable record of the initiated transaction and include the amount and initiating date of that transaction.
  - 1.5. May, upon the relationship which gave rise to this Instruction being terminated, give notice to the Bank that no further Direct Debits are to be initiated under the Instruction. Upon receipt of such notice the Bank may terminate this Instruction as to future payments by notice in writing to me/us.
2. **The Customer may:**
  - 2.1. At any time, terminate this Instruction as to future payments by giving written (or by the means previously agreed in writing) notice of termination to the Bank and to the Initiator.
  - 2.2. Stop payment of any Direct Debit to be initiated under this Instruction by the Initiator by giving written notice to the Bank prior to the Direct Debit being paid by the Bank.
  - 2.3. Where no advance notice is provided under clause 1.4 a variation to the amount agreed between the Initiator and the Customer from time to time to be Direct Debited had been made without notice being given in terms of clause 1.4 above, request the Bank to reverse or alter any such Direct Debit initiated by the Initiator by debiting the amount of the reversal or alteration of Direct Debit back to the Initiator through the Initiator's Bank PROVIDED such request is made not more than 120 days from the date when the Direct Debit was debited to my/our account.
3. **The Customer acknowledges that:**
  - 3.1. This Instruction will remain in full force and effect in respect of all Direct Debits passed to my/our account in good faith notwithstanding my/our death, bankruptcy or other revocation of this Instruction until actual notice of such event is received by the Bank.
  - 3.2. In any event this Instruction is subject to any arrangement now or hereafter existing between me/us and the Bank in relation to my/our account.
  - 3.3. Any dispute as to the correctness or validity of an amount debited to my/our account shall not be the concern of the Bank except in so far as the Direct Debit has not been paid in accordance with this Instruction. Any other disputes lies between me/us and the Initiator.
  - 3.4. Where the Bank has used reasonable care and skill in acting in accordance with this Instruction, the Bank accepts no responsibility or liability in respect of:
    - 3.4.1. the accuracy of information about Direct Debits on Bank statements; and
    - 3.4.2. any variations between notices given by the Initiator and the amounts of Direct Debits.
  - 3.5. The Bank is not responsible for, or under any liability in respect of the Initiator's failure to give notice in accordance with clauses 1.1 to 1.4, nor for the non-receipt or late receipt of notice by me/us for any reason whatsoever. In any such situation the dispute lies between me/us and the Initiator.
  - 3.6. Where notice given by the Initiator in terms of clause 1.4 to the debtor responsible for the payments shall be effective. Any communication necessary because the debtor responsible for payment is a person other than me/us is a matter between me/us and the debtor concerned.
4. **The Bank may:**
  - 4.1. In its absolute discretion conclusively determine the order of priority of payment by it of any monies pursuant to this or any other Instruction, cheque or draft properly signed by me/us and given to or drawn on the Bank.
  - 4.2. At any time terminate this Instruction as to future payments by notice in writing to me/us.
  - 4.3. Charge its current fees for this service in force from time to time.