

## PART B – GENERAL TERMS

### 1. Definitions

- In this Agreement, unless the context otherwise requires:
- **Agreement** means this agreement, which comprises Part A – Key Terms and Execution and Part B – General Terms and any annexures;
  - **Claims Monies** means the amount of compensation paid to you by the Insurer in the event of a Total Loss;
  - **Demand** means a written notice from us to you where we require you to do something. This notice may be an email;
  - **Insurer** means the insurance company set out in the invoice(s) provided to you that represent(s) all or part of the Invoice Total (including GST) in the "Instalment Details" section;
  - **Invoice Total** means the invoice amount (including GST) in respect of the Policy asset out in the "Instalment Details" section of Part A;
  - **Policy** means the insurance policy issued to you by the Insurer and set out in the invoice(s) provided to you that represent(s) all or part of the Invoice Total (including GST) in the "Instalment Details" section;
  - **PPSA** means the Personal Property Securities Act 1999;
  - **Rothbury Group** means Rothbury Group Limited and any subsidiary or associated entity, but does not include us;
  - **Secured Property** means your present and future rights in relation to the Policy (including any refund or rebate in respect of the Policy) and/or Claims Monies;
  - **Total Advances** means the total advances set out in the "Instalment Details" section of Part A;
  - **Total Loss** means an event in which the lost value, repair cost or salvage cost of the risk insured under the Policy exceeds its insured value and the Policy comes to an end; and
  - **Unpaid Balance** means the total outstanding amount under this Agreement at the relevant time (including principal, accrued interest, fees, charges and other amounts).

### 2. Interpretation

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

### 3. Payment of Invoice Total

When we believe that you have met all our initial requirements under this Agreement, we will pay the Invoice Total (including GST) to Rothbury Group for you. The Invoice Total may only be used to pay all or part of the total invoice amount (including GST) in respect of the Policy. You instruct us to pay the Invoice Total to Rothbury Group. You cannot withdraw this instruction.

### 4. Repayments

You agree to repay the Total Advances, plus interest calculated in accordance with this Agreement, by making payments at the times and in the amounts set out in the "Payments Section" of Part A.

### 5. Part Prepayments

Except as set out in clause 6, we can decide whether or not to accept any part of the Total Advances that you repay early.

### 6. Full Prepayments

You may at any time repay the Total Advances in full. If you do so, you will need to pay us the Unpaid Balance at the time of the prepayment.

### 7. Calculation of interest

Each payment must be received by us by 5pm on its due date, except for in the case of full prepayments under clause 6, which must be received by us by 4pm. Any payments received after these times will be treated as having been received on the next day for the purpose of calculating interest.

### 8. Method of charging interest

Interest charges are calculated at the Flat Interest Rate as shown in Part A – Instalment Details. The Flat Interest Rate is calculated by dividing the Interest Charges by the Total Advances and expressed as a percentage.

### 9. Fees and Charges

The following fees and charges may become payable in connection with this Agreement:

- **Cancellation Fee** (payable on cancellation or termination of this Agreement) \$50.00;
- **Dishonour Fee** (payable if payment is dishonoured) \$30.00
- **Default Interest** as described in clause 17; and
- **Costs** as described in clause 18.

Subject to applicable law, we may from time to time by notice to you introduce a new type of fee or charge or vary a fee or charge payable under this Agreement.

### 10. Payments in cleared funds

- All Payments must be made:
- 10.1 in cleared funds which means that payments will not have any restrictions or conditions upon them;

- 10.2 without any tax deductions or withholdings (except to the extent required by law); and
- 10.3 without any set-off or counterclaim or similar. We may use all payments you make under this Agreement to repay or reduce any of the amounts outstanding under this Agreement or any other credit contract between us in any way we think fit unless a law requires us to use it differently.

### 11. You may not cancel the Policy

You must not cancel the Policy or do anything to make it fully or partly invalid unless we give you consent in writing to do so, or this Agreement expressly allows you to do so. You must comply with your Insurer's instructions and requirements in order to keep the Policy valid. You must notify the Insurer of the terms of clauses 13 to 16 below.

### 12. Acceleration Events

- If any of the following events occur, the Unpaid Balance will be immediately due when we make a Demand. These events are:
- 12.1 the occurrence of a Total Loss; or
  - 12.2 you do not pay any amount due under this Agreement on its due date; or
  - 12.3 the Policy, or any part of it, is cancelled or ended without our prior written consent; or
  - 12.4 you grant a security interest in or over the Secured Property; or
  - 12.5 you do not comply with any of the terms of this Agreement; or
  - 12.6 if you are an individual, you die or are made bankrupt; or
  - 12.7 if you are an incorporated entity (like a company), you do not meet the solvency test in the Companies Act 1993, or you go into liquidation, have a receiver, administrator or manager appointed, or enter into a compromise with any of your creditors; or
  - 12.8 any statement you made regarding this Agreement was false or misleading in a significant way; or
  - 12.9 if we have reasonable grounds to believe that the Secured Property has been or will be dealt with contrary to the provisions of this Agreement, by the likes of appointing an Insurance Broker other than Rothbury (or a subsidiary of Rothbury).
- In addition, we can exercise our other rights under this Agreement, including clauses 13 to 16.

### 13. Cancellation of your Policy

If any of the events in clause 12 occur (and the Policy has not already ended or been cancelled), then you must also, immediately when we Demand, cancel the Policy.

### 14. Refunds or rebates / Payment of Claims Monies

You must instruct the Insurer to pay us any refunds or rebates in respect of the Policy and/or any Claims Monies which are otherwise payable to you. We will use any such amounts to repay the amount then due to us under this Agreement. We will pay any surplus to you.

### 15. Authorisation to act on your behalf

In relation to any instruction to the Insurer that you are required to give under clause 13 or 14 above, you authorise us to:

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

You cannot withdraw this authorisation. Our right to recover any loss or payment shortfall from you will not be affected by the cancellation of the Policy. When using our powers under this clause, we will only take actions that are within the range of actions that a reasonable lender in New Zealand might take in similar circumstances.

### 16. Security interest

To secure payment of the amount which you owe to us under this Agreement (including any future advances) and the performance of your other obligations under this Agreement, you grant to us a charge in and over, and assign to us by way of security, the Secured Property. If any of the events in clause 12 occur, we can exercise your rights under, take possession of, and retain, the Secured Property and use proceeds of such Secured Property to reduce amounts then due to us under this Agreement. We will pay any surplus to you. If the amount you owe is more than the amount of the Secured Property, you will still need to pay us the rest of the amount you owe us. If you grant security over the Secured Property to someone other than us, you will breach this Agreement. If you do so, we have the right to take possession of and retain the Secured Property as set out above.

### 17. Default Interest

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

### 18. Costs

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

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

You consent to all forms of disclosure and any notice being made to you in electronic form by means of electronic communication. Your email address as specified in the Key Terms will be the address for any communication.

### 20. Electronic Communications

- You acknowledge and agree:
- we are able to receive information and any signatures from you in electronic form;
  - we can send information in electronic form and by electronic means to you such as by email or text message (and any email address or mobile number you specify to us may be used by us for this purpose subject to applicable legal requirements), including any disclosure required by the Credit Contracts and Consumer Finance Act 2003; and
  - anything completed electronically is as valid and enforceable as if it were undertaken other than by electronic means.

### 21. PPSA

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

You and we agree that, to the extent permitted by law:

- you and we contract out of sections 114(1)(a), 133 and 134 of the PPSA;
- you contract out of your right to receive notice of our proposal to retain personal property under section 120(2) of the PPSA and to object to our proposal to retain any personal property under section 121 of the PPSA

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

### 22. No waiver

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

### 23. Assignment

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

### 24. Privacy

- 24.1 By signing this Agreement, you acknowledge that we, and our related companies, may:
  - (a) collect personal information about you (or other relevant people associated with you) to assess your application under this Agreement ("Application"). The personal information described in this clause is required for that purpose;
  - (b) collect, use or disclose your personal information to assess your Application. If your Application is approved, we may also collect, use or disclose information to administer the Agreement, perform administrative tasks and provide services to you, in relation to the Agreement. Our administrative tasks and services include risk assessment, loan management, modelling, fraud and crime prevention and complying with legislative and regulatory requirements; and
  - (c) disclose your personal information to credit reporting agencies, other financial institutions or credit providers, service providers, governmental and regulatory organisations, any person you authorise to operate the Agreement, any organisation that you use to make payments to us or our related companies, and to any other entity that we, or any of our related companies, must, or are allowed by you to, provide your personal information to.
  - (d) If you do not provide the required personal information we may not be able to assess your Application.
- 24.2 You agree that we can transfer your personal information to organisations overseas for any of the purposes and by the mechanisms allowed by this Agreement or the Privacy Act 2020.
- 24.3 You agree to us and our related entities giving information about your credit arrangements and credit worthiness to any credit reporting agency or other organisation and us receiving such information from them. We will give or receive that information so that we can assess your application for credit with us or any related company or so that we can collect any overdue payments.
- 24.4 You acknowledge that you may access and correct any personal information we hold about you, at any time.
- 24.5 You can access your personal information that we hold, and can enquire as to the identity of each of our related entities, by contacting our Privacy Officer at the address shown in Part A. This clause is subject to the Privacy Act 2020.
- 24.6 You confirm that if you have given us personal information about another person they have consented to this and that you have told or will tell that person about this clause.
- 24.7 Please refer to our Privacy Policy on our website for more information.

### 25. Variation and incorporation of terms

If we agree to vary this Agreement by making a subsequent advance and/or lending you money for an extended period after the term set out in Part A, we will send you an updated version of Part A setting out the specific applicable terms for that variation. The terms and conditions set out in this Part B, or any replacement terms and conditions, shall continue to be the applicable general terms for your agreement. You and we do not need to execute new documentation.

### 26. GST

You warrant that you are registered for GST purposes and have made taxable supplies (as that term is defined in the Goods and Services Tax Act 1985) representing not less than 75% of your total supplies in the previous 12 month period.