

## PERSONAL LOAN AGREEMENT GENERAL TERMS

### Clause 1: Understanding and interpreting this Agreement

This Agreement has two parts:

- these General Terms
- the Commercial Terms (at the front of these General Terms) which includes the SCHEDULE OF PAYMENTS and the Fee Schedule.

Read both parts carefully. Ask for help if there is anything you don't understand.

We use ordinary words where possible. But sometimes we have to use "legal" words or terms because there is no ordinary word with the same meaning. *To help you, we have added some explanations in italics.*

Also, some of the ordinary words we use have special meanings in this Agreement. We explain some legal and ordinary words, and set out the rules for interpreting this Agreement, in the **Dictionary** (clause 14).

### Clause 2: Getting your Loan

#### 2.1 When we will make the Loan to you

We will make the Loan in one amount once you have signed and returned this Agreement to us and given us all the other information and documents we have asked for.

#### 2.2 When we will pay the Loan money to someone else

We will make the Loan to you, unless you have told us you need the Loan to repay another person (for example, to manage debts you already have with another bank). In that case, we can choose to pay the other person directly.

### Clause 3: Paying us back

#### 3.1 You have to pay the Loan back on time with interest and fees

(a) You promise to:

- (i) pay us back the Loan in full, plus all accrued and unpaid interest on the Loan calculated at the Annual Interest Rate, and all other fees, charges and other amounts due to us under this Agreement; and
- (ii) pay us the amounts (each a **Payment Amount**) on each of the dates and at the intervals (the **Payment Dates**) set out in the SCHEDULE OF PAYMENTS in the Commercial Terms. (Those Payment Dates and/or Payment Amounts will only change if you ask us to alter the length of the Loan and we agree to do that, or if we increase our fees or the Annual Interest Rate under clause 11.2(b)(iii)).

(b) We calculate and charge interest on the Loan on each Payment Date by multiplying:

- the average unpaid daily balance of the Loan for the period ending on that Payment Date (and starting on the day immediately after the prior Payment Date); by
- the **average period interest rate**.

The **average period interest rate** is calculated by dividing the Annual Interest Rate by 12 (where the period between Payment Dates is a month), or 26 (where the period between Payment Dates is a fortnight), or 52 (where the period between Payment Dates is one week).

(c) Interest is payable in arrears on each Payment Date. *This means that the interest you pay on a Payment Date relates to the previous month, fortnight or week, depending on the length of time between your Payment Dates.*

#### 3.2 How should you pay us?

You must pay us the full amount due on each Payment Date (that is, you will not deduct or "set off" any amounts from the amount that you pay). You must pay that amount by 3.00 pm in New Zealand dollars to the account we have advised by direct debit, unless we have agreed otherwise. If a Payment Date is not a business day, you must pay on the next business day.

#### 3.3 What happens if you pay us back early?

(a) You can pay the Loan back early by paying us the **the Full Prepayment Amount**. The **Full Prepayment Amount** will be no more than the total of:

(i) the unpaid Loan principal (*that is, the remaining unpaid balance*), plus accrued and unpaid interest and costs and all other amounts due to us under any Relevant Document; and

(ii) any administrative costs we incur due to your prepayment; and

(iii) an amount equal to our **reasonable estimate of our loss** arising from your prepayment (if any) – that is, a loss that relates to differences in interest rates

minus a refund of any consumer credit insurance premium you have already paid that relates to the remainder of the Loan period that we have financed under this Agreement (if any).

(b) Our **reasonable estimate of our loss** will not be any more than the amount calculated using the formula set out in regulation 9 or regulation 11 of the Credit Contracts and Consumer Finance Regulations 2004.

(c) If you don't want to pay your Loan in full, but do want to pay us an extra amount on top of your scheduled payments, **please contact us first** as we can choose not to accept that extra payment (which we call a **Part Prepayment**). **If we do accept a Part Prepayment:**

- **you should be aware that it will not reduce the amount of interest you pay us overall**
- we might change the SCHEDULE OF PAYMENTS in the Commercial Terms or we might refinance the Loan (that is, ask you to enter into a new loan to repay the Loan and other amounts due). In that case, you will also have to pay one of the fees listed in the "Modifications" section in the Fee Schedule.

**(Please note: This clause does not apply if you exercise your right to cancel this Agreement in accordance with the section headed "Your right to cancel" on page 2 of the Commercial Terms).**

### Clause 4: What happens if you do not pay us what you owe on time?

#### 4.1 If you do not pay us on time, we will charge you extra interest

(a) If you do not pay an amount when it is due (under clause 3 above), we will charge you interest at the Default Interest Rate on the amount which is due and unpaid while the payment default continues. The **Default Interest Rate** is the **Annual Interest Rate at the time of the default plus 6 per cent per annum**.

(b) Default interest accrues daily, both before and after judgment, for the period from the due date for payment until the actual date of payment. *(This means that default interest is added on the overdue amount as soon as it becomes due until you pay us.)*

**If you do not pay on time:**

- **this will cause an Event of Default** (see Clause 5 below)
- **we can charge you extra fees** (see Clause 8 below)

### Clause 5: Events of Default and our enforcement rights

#### 5.1 Events of Default

There will be an Event of Default if any of the following things happen, whether or not it was within your or the Guarantor's control:

##### (a) **Non-payment**

you do not pay us any amount you owe us, or the Guarantor does not pay us any Guaranteed Debt, when it is due under a Relevant Document, unless the non-payment is caused solely by the failure of the payment system which is beyond your control and we receive payment within 2 days of its due date; or

##### (b) **Breach of obligations**

you do not perform your obligations or you fail to keep any of your promises under a Relevant Document (this includes any Related Security Agreement) and you do not remedy that failure to our satisfaction within 5 business days after we have notified you of that failure, or the Guarantor does not perform its obligations under a Relevant Document and does not remedy that failure to our satisfaction within 5 business days after we have notified him or her (or it) of that failure; or

- (c) **Untrue statement**  
any statement you or the Guarantor have made in relation to a Relevant Document is or was misleading or is materially untrue; or
- (d) **Legally ineffective documents**  
any statement you or the Guarantor have made in relation to a Relevant Document is or was misleading or is materially untrue; or
  - (i) a Relevant Document is not legally effective against you or the Guarantor; or
  - (ii) you, the Guarantor or someone else disputes the legal effectiveness of a Relevant Document; or
- (e) **Bankruptcy (etc)**
  - (i) we reasonably believe that you are unable to pay your debts as they fall due or bankrupt, or you are deemed to be unable to pay your debts as they fall due or bankrupt under any law; or
  - (ii) we reasonably believe that the Guarantor is unable to pay his or her (or its) debts as they fall due or is bankrupt or insolvent, or the Guarantor is deemed to be unable to pay his or her (or its) debts as they fall due, or is deemed to be bankrupt or insolvent, under any law; or
- (f) **Enforcement**
  - (i) another person takes enforcement action against your property, or the Guarantor's property, and that enforcement action continues after five business days; or
  - (ii) another person appoints an insolvency official (for example, a receiver, trustee, manager, administrator or similar officer) to any of your property or to the Guarantor or any of the Guarantor's property; or
- (g) **Cross-default**  
an event happens which has the same effect as an event of default or termination (no matter what it is called) under another Relevant Document

## 5.2 Our rights if there is an Event of Default

We have all the following rights if an Event of Default happens, to the extent the law allows:

- (a) We can, at any time, by notice to you, declare all or any part of the amount owing under the Relevant Documents to be immediately due and payable. *(This means we can tell you to pay us the whole amount of the Loan principal, plus all unpaid interest, fees and charges and other amounts you owe us, immediately.)*
- (b) Each security interest created under any Related Security Agreement will become immediately enforceable. *(This means that if this Loan is secured over any property then we can take and sell the property and use the proceeds of sale to pay down the Loan or appoint a receiver to do that, among other things.)*
- (c) We have all other rights given to us by law and in any Relevant Document.

## Clause 6: Indemnity

### 6.1 Indemnity (your and the Guarantor's obligation to reimburse us)

You and the Guarantor each fully indemnify us against each cost or liability by paying us on demand the amount that we confirm is required to compensate us for that cost as a result of:

- (a) an Event of Default happening or continuing (that is, not being remedied to our satisfaction);
- (b) you or the Guarantor not paying any amount under a Relevant Document when due for any reason;
- (c) any amount falling due under a Relevant Document on a date which is not a Payment Date, for any reason; or
- (d) anything we do or do not do in exercising our rights under this Agreement or at law (unless we are responsible for causing that cost or liability to arise).

*(This means that you and the Guarantor separately and personally promise to reimburse us for all of the costs and liabilities we incur as a result of the things listed in sub-paragraphs (a) – (d) in addition to your other payment obligations.)*

You and the Guarantor each agree that this indemnity continues even after this Agreement comes to an end.

## Clause 7: Guarantee

### 7.1 Guarantee

- (a) The Guarantor guarantees us the Borrower's due payment of the Guaranteed Debt. If the Borrower does not pay us any Guaranteed

Indebtedness when it is due, the Guarantor promises to pay it to us immediately on demand. In addition, as a separate and continuing promise which is independent of the Borrower's promises to us, the Guarantor promises to pay us immediately on demand the amount that we would otherwise have been able to recover (on a full indemnity basis) if we cannot recover any Guaranteed Debt from the Borrower for any reason. The Guarantor is liable under this Agreement in relation to the Guaranteed Debt as a sole and principal debtor and not as a surety. *(This means that the Guarantor is personally and fully responsible for paying us all amounts that the Borrower and any other Guarantor owes us. We do not have to try and collect any amount from the Borrower before we ask the Guarantor to pay us.)*

- (b) The Guarantor's obligations under sub-clause (a) are not reduced, cancelled or changed by anything unless we agree to the reduction, cancellation or change in writing and sign that agreement. It does not matter if this Agreement or any other document is invalid or unenforceable or if the Borrower is not bound by the terms of this Agreement or any other document. We are not in any circumstances liable to the Guarantor, even if the Guarantor's ability to be reimbursed by the Borrower is affected by something we do or do not do. This Agreement and each of the Guarantor's obligations under this Agreement remain in full effect until we sign an unconditional discharge of the Guarantor's obligations under this Agreement. *(This means that the Guarantor is legally responsible for all amounts the Borrower owes us - no matter what - until we sign a piece of paper saying the Guarantor has no further responsibilities.)*

## Clause 8: Costs and fees

### 8.1 Costs and fees

- (a) You must reimburse us or pay directly any cost that we properly incur, plus each fee that we charge you in connection with a Relevant Document, immediately on demand and on a full indemnity basis. This includes costs or fees in connection with the entry into, changes to, disclosures under, and the exercise of rights under a Relevant Document.
- (b) We have set out details of our fees and charges in the Commercial Terms. **Please note that we can change some of the fees in the Fee Schedule under clauses 11.2. We will notify you of any changes as soon as we can in the particular circumstances.**

## Clause 9: Our extra rights and protections

### 9.1 When we are not liable

We are not liable in respect of any loss or damage that results from us exercising, trying to exercise or not exercising our rights under this Agreement or at law, unless the law holds us liable.

### 9.2 We are free to enforce our rights as we choose

We can enforce our rights as we choose to, in any order, under:

- (a) any security interest, guarantee or other entitlement that we hold at any time; or
- (b) any money or property that we hold or may receive at any time.

### 9.3 Our right to "set off"

- (a) You agree that we can use any funds you have deposited or invested with us (or which we otherwise owe you) to pay down the amount of any unpaid debt which is overdue under a Relevant Document at any time.
- (b) The Guarantor agrees we can use any funds which he or she (or it) has deposited with us (or which we otherwise owe the Guarantor), to pay down the amount of any unpaid debt which is overdue under a Relevant Document at any time.

### 9.4 Our remedies and waivers

- (a) You and the Guarantor must meet your obligations under this Agreement in a timely manner. We can take the time we need to exercise our rights, and we do not give up our rights if we do not act quickly or take all steps to enforce our rights at once.
- (b) The only time we give up any of our rights is if we agree to do so in a signed, written agreement.

### 9.5 Our remedies accumulate

The rights we have under the Relevant Documents accumulate and are in addition to the rights we have at law.

## Clause 10: Assignment

### 10.1 The Lender

We can choose to assign or transfer any of our rights or obligations under this Agreement without your or the Guarantor's consent:

- (a) to any person whom we genuinely believe can perform all of our obligations under this Agreement; or
- (b) if we believe it is sensible or necessary to do so to comply with the law (including statutes, directives, case law or official guidance),

and each of our assignees and transferees has the same rights against you and each Guarantor under the Relevant Documents as if it were named in this Agreement as the Lender.

### 10.2 Borrower and Guarantor

- (a) You cannot assign or transfer any of your rights or obligations under this Agreement without our prior written consent.
- (b) The Guarantor cannot assign or transfer any of his or her (or its) rights or obligations under this Agreement without our prior written consent.

## Clause 11: Other important things to note

### 11.1 If there are multiple Borrowers or Guarantors

- (a) If there is more than one Borrower, each Borrower has joint and several liability. *That means we can sue all Borrowers together, or any Borrower by itself, for the full amount owed to us.*
- (b) If there is more than one Guarantor, each Guarantor has joint and several liability. *That means we can sue all Guarantors together, or any Guarantor by itself, for the full amount owed to us.*

### 11.2 Changes to this Agreement

- (a) No change to this Agreement will be effective unless the change is made in writing and is signed by us, you and the Guarantor (if there is a Guarantor), except for the changes listed in sub-paragraph (b) below.
- (b) The following changes will be effective on the date we tell you they are effective (although we will give you as much prior notice as we reasonably can in the particular circumstances):
  - (i) **Changes to comply with law:** We can make any changes to the Agreement that we believe are sensible or necessary to make in order to comply with the law, including statutes, directives, case law or official guidance.
  - (ii) **Changes to fees you must pay:** We can increase any of the fees you have to pay us if our underlying costs increase (for example, if a third party providing collection services charges us more to provide those services) so that we can maintain our rate of return on the Loan.
  - (iii) **Changes to the Annual Interest Rate:** We can increase the Annual Interest Rate you pay if our costs of borrowing materially increase at any time due to a change in funding market conditions, or on any Payment Date that falls 60 months or more after the day you receive the Loan under clause 2.1 if this is necessary for us to maintain our rate of return on the Loan.
  - (iv) **Changes to our Privacy Statement:** We can change our Privacy Statement under clause 13.1.

### 11.3 When we can do things on your behalf

You promise to do all the things you have said that you will in this Agreement in a timely manner. You appoint us as your agent to do (at your expense) anything that you have to do under this Agreement, or that we believe is necessary to protect our rights under this Agreement or in relation to any Secured Property, and you cannot undo this appointment. You confirm anything we do as your agent under this Agreement. However, we cannot take security over your property, or property you acquire rights in (including property you lease), after the date of this Agreement using this right.

### 11.4 You agree to give up some of your rights under the PPSA

You agree to give up some of your rights under Part 9 of the PPSA (which deals with the enforcement of security interests in personal property), if applicable. This means you agree not to receive a statement of account under section 116, you agree not to receive our proposal to retain any Secured Property under section 120(2), and you agree not to receive a copy of a verification statement under section 148 relating to any financing statement or financing change statement that we register.

### 11.5 When part of the Agreement does not legally "work"

If any part of this Agreement is illegal, invalid or unenforceable, the other parts of the Agreement will still be legal, valid and enforceable.

### 11.6 Lender does not have to sign

You and the Guarantor agree that we can enforce our rights, and hold you both to your promises and obligations, under a Relevant Document even if we have not signed the Relevant Document for the purposes of the Contracts (Privity) Act 1982.

### 11.7 Governing law

This Agreement is governed by and must be interpreted under New Zealand law.

## Clause 12: Notices

### 12.1 Addresses and references

Each notice or other communication under this Agreement must be in writing and sent, or made available, by email, facsimile, personal delivery, by post or (if we choose to) by other electronic means such as an online portal. The email address, facsimile number and address of each party is set out under its name in the Commercial Terms. You or the Guarantor can change your address by letting us know via phone, email or in writing.

### 12.2 When a notice or communication is effective

A communication is not effective until the party it is addressed to receives it. For this purpose, we treat a communication we send to you or to the Guarantor as being received:

- (a) in the case of a letter, on the third business day after we posted it; and
- (b) in the case of an email, other electronic notice or a facsimile, on the business day on which it is sent, or, if sent after 5.00pm (in the place of receipt) on a business day or on a non-business day, on the next business day after the date of sending.

## Clause 13: Privacy and information sharing

### 13.1 Our Privacy Statement

You and the Guarantor agree that we can ask for any information about you and the Guarantor in accordance with the Privacy Act and our Privacy Statement. To find out more, you can see our Privacy Statement on our website [www.ifinance.co.nz](http://www.ifinance.co.nz). We can change our Privacy Statement from time to time to reflect changes in the law and also our business needs so long as the changes do not disadvantage you. Key terms of our current Privacy Statement are summarised below.

### 13.2 What we can do with your and the Guarantor's information

You and the Guarantor agree that we can use any information we get for the following purposes:

- (a) assessing your Loan application and your ability to pay the Loan and other debts;
- (b) checking information about your identity documentation, such as your driver's licence or passport;
- (c) our and our related companies' business functions and activities, including marketing products and services, and products and services of selected third parties, to you by mail, email and telephone (including SMS) – **you can opt-out of this by telling us in writing;**
- (d) collecting amounts you owe us under the Relevant Documents, including by taking enforcement action;
- (e) making sure any Secured Property is properly insured; and
- (f) exercising our rights under the Relevant Documents and fulfilling our obligations under any Relevant Document or at law.

### 13.3 Who we can share your and the Guarantor's information with

You and the Guarantor agree that we can share any information we get with:

- (a) our related companies;
- (b) existing and potential business partners;
- (c) credit reporting and identity verification agencies – credit reporting agencies may retain information about you (including default information) and use it to provide their credit reporting services;
- (d) the New Zealand Transport Agency's 'Driver Check' service;
- (e) insurers;
- (f) any person providing us with guarantees or security for the Loan;

- (g) anyone that we consider assigning or transferring the Loan to under clause 10.1;
- (h) anyone that we engage with about selling all or part of our business to; and
- (i) government agencies and regulators, or anyone else who has rights under a Relevant Document or that we are legally required to share your information with.

### 13.4 Your rights to your information

You and the Guarantor have the right to access and request correction of information we hold about you, and full details of every organisation to whom we have disclosed information about you, by contacting us on 0800 88 20 20.

## Clause 14: Dictionary

Some of the terms used in this Agreement are defined in the "Commercial Terms". Otherwise:

<b>accrued (interest)</b>	interest which is calculated and grows on the principal amount of the Loan
<b>Agreement</b>	these General Terms and the Commercial Terms (including the Fee Schedule)
<b>Annual Interest Rate</b>	the rate stated in the "Annual Interest Rate" section on page 1 of the Commercial Terms (or the updated Annual Interest Rate if we have updated it in accordance with clause 11.2(b) (iii))
<b>assign</b>	to pass rights to another person (but not obligations)
<b>bankrupt</b>	includes the bankruptcy of, and entry into any "non-asset procedure" (which is an alternative to bankruptcy) by an individual Borrower or Guarantor and the dissolution, liquidation, receivership, administration and winding-up of any other Borrower or Guarantor
<b>Borrower</b>	the person or persons named as a "Borrower" on the front page of the Commercial Terms
<b>business day</b>	a day (other than a Saturday, Sunday or public holiday observed in New Zealand) on which registered banks are opened for general banking business in New Zealand
<b>Commercial Terms</b>	the terms set out under the heading "Commercial Terms" at the beginning of this Agreement
<b>cost</b>	includes all commissions, charges, losses, expenses (including legal fees on a solicitor and own client basis) and taxes that we incur
<b>debt</b>	includes any obligation you have to us now or in the future in any capacity relating to the payment of money
<b>Default Interest Rate</b>	is defined in clause 4.1 as the rate per annum equal to the Annual Interest Rate at the time of the default plus 6 per cent per annum
<b>due</b>	owed to us on a specific date
<b>Event of Default</b>	any event listed in clause 5.1 and any other circumstance that is likely to be such an event if we give you notice, or if time passes, or if another requirement is met
<b>Guaranteed Debt</b>	in relation to the Guarantor, all debt of the Borrower and (if relevant) each other Guarantor to us, including the unpaid principal amount of the Loan, plus all accrued and unpaid interest and costs relating to it and all other amounts due to us under any Relevant Document
<b>liable</b>	legally responsible
<b>Loan</b>	the principal amount that we pay you under this Agreement (the "Loan Amount" listed on page 1 of the Commercial Terms) and, depending on the context, may also include all accrued and unpaid interest and fees and charges relating to the principal amount payable under this Agreement

<b>Payment Amount</b>	is defined in clause 3.1(ii)
<b>Payment Date</b>	is defined in clause 3.1(ii)
<b>person</b>	an individual and any entity, such as a company, whether or not it exists as a separate "person" at law
<b>PPSA</b>	the Personal Property Securities Act 1999
<b>principal</b>	the principal amount of the Loan is the amount you borrow from us (this does not include accrued interest or fees relating to the Loan)
<b>Property</b>	includes any legal or present and future property, revenue and rights, and any legal or equitable interest in it
<b>Related Security Agreement</b>	each security agreement, guarantee or other agreement (present or future) that is expressed to be security for the Loan, or that you and we otherwise agree in writing is a "Related Security Agreement" for the purposes of this Agreement.
<b>Relevant Documents</b>	this Agreement, each Related Security Agreement and each other agreement (present or future) evidencing or relating to the Secured Debt
<b>Schedule of Payments</b>	the SCHEDULE OF PAYMENTS on page 1 of the Commercial Terms
<b>Secured Property</b>	all property that is secured property for the purposes of any Related Security Agreement and all of your present and future right, title and interest (legal and equitable) in all documents of title relating to, and proceeds of, that property
<b>security interest</b>	an interest in personal property that, in substance, secures payment or performance of an obligation
<b>sue</b>	take legal action (such as taking you to court)
<b>unpaid (interest)</b>	interest which, at a particular time, is due but has not been paid or which has not been added to the principal amount of the Loan at that time
<b>we (or us)</b>	the Lender, i-finance, a division of Heartland Bank Limited
<b>you</b>	the Borrower or, if there is more than one Borrower, all Borrowers equally

## INTERPRETING THIS AGREEMENT

The Agreement must be interpreted using the following rules (unless it would not make sense to do so):

- Ignore all headings, **bolded text** and *italicised* text when interpreting this Agreement.
- Where we have provided an explanation of a legal word (*in brackets*), the legal word or phrase takes priority over the explanation.
- Where we refer to one thing (the singular), we include multiple things (the plural), and the other way around.
- Where we define a word or expression in the Dictionary or in the Commercial Terms, then other grammatical forms of that word or expression have corresponding meanings.
- Where we refer to any statute, we include all future versions if it, including all changes to it, all re-enactments or replacements of it, and all regulations and orders in-council made in connection with it.
- Where we refer to you, or to a Guarantor, we include any person that legally takes over your or the Guarantor's responsibilities or rights, or both.
- Where we refer to the Lender (or "we" or "us"), we include any person that legally takes over our responsibilities or rights, or both. This includes any of our transferees or assignees under clause 10.1.
- **Nothing in this Agreement should be interpreted as an agreement that a security interest under this Agreement or a Related Security Agreement attaches (for PPSA purposes) at a later time than the time specified in the PPSA, or as an agreement to subordinate a security interest under this Agreement in favour of any person.**