

# HOME LOAN AGREEMENT (REVOLVING CREDIT)

Account Number \_\_\_\_\_

Under this Agreement, **Heartland Bank Limited** (whom we call the **Lender, we, or us** in this Agreement) agrees to make the Facility available to you and you grant to the Lender security in the Property (described below) as security for the Secured Debt and the Secured Obligations (**Facility, Secured Debt and Secured Obligations** are defined in the General Terms).

When we refer to **this Agreement** we mean this Home Loan Agreement (Revolving Credit) - including the attached Fee Schedule and the General Terms. Our Account and Service General Terms and Conditions also apply to the Facility.

**IMPORTANT** – This Agreement sets out key information about your Facility. You should read it thoroughly. If you do not understand anything in this Agreement, you should seek independent advice. You should keep a copy of this Agreement in a safe place.

The law gives you a limited right to cancel this Agreement - see under "**Your right to cancel**" in the Other Key Information section for more information. Note that strict time limits apply.

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**LENDER** (we are the person making the Facility available to you)

*You can send notices to us under this Agreement by:*

- *writing to us at this postal address*
- *sending an email to this email address*

*We consent to receiving communications from you in electronic form by email sent to this email address.*

*Please also see clause 10 of the General Terms.*

Name	Heartland Bank Limited
Address	Level 3, 277 Broadway, PO Box 9919, Newmarket, Auckland 1149
Email	home-loans@heartland.co.nz

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**BORROWER(S)** (this is who we call **you** in this Agreement)

Full legal name

Physical address

Postal address

Email

By providing an email address, you consent to receiving all communications from us, including disclosure information required by law, in electronic form. See under "**Electronic communication**" in the Other Key Information section for more information.

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# COMMERCIAL TERMS

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## EFFECTIVE DISCLOSURE DATE

### INITIAL UNPAID BALANCE

Your initial Unpaid Balance on the Effective Disclosure Date is \$nil. You do not owe us anything under this Agreement until the date the initial advance under the Facility is made.

**CREDIT LIMIT** (you must ensure that the Total Amount Owing does not exceed this amount at any time)  
\$

### ANNUAL INTEREST RATE

We will charge you interest on the Unpaid Balance at our revolving credit home loan variable rate (currently \_\_\_\_% per annum) from the date the initial advance under the Facility is made. The Annual Interest Rate may change from time to time.

If you do not pay an amount when it is due (including any amount necessary to ensure the credit limit is not exceeded), a Default Interest Rate may apply - see under "**Fees and Charges**" in the Other Key Information section for more information.

**We do not pay interest on any credit balance you have at any time in the account with us that is linked to the Facility.**

### INTEREST CHARGE DATES

The last day of each calendar month is an Interest Charge Date (except for the final Interest Charge Date which is the date you are required to pay us back the Total Amount Owing in full - see "**required payments**" below).

### METHOD OF CHARGING INTEREST

Interest charges are calculated by multiplying the Unpaid Balance at the end of each day by the daily interest rate, which is the Annual Interest Rate divided by 365. **On each Interest Charge Date, accrued interest is charged in arrears and added to the Unpaid Balance (on which we charge interest).**

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### INTEREST FREE PERIOD

There is no interest-free period under this Agreement.

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### PROPERTY

Physical address	
Title number	

### SECURITY UNDER THIS AGREEMENT

This is a secured facility. Security is given under the Mortgage (and any other Related Security Agreement) in the Property. If you fail to meet your commitments under this Agreement, we may be able to sell the Property. We can use the sale proceeds to pay back the total amount of the Secured Debt.

You make important promises to us about the Property in clause 4 of the General Terms and in the Mortgage (and any other Related Security Agreement). You should read these carefully and make sure you understand your obligations.

### TERM

\_\_\_\_year(s) from the Effective Disclosure Date.

### REQUIRED PAYMENTS

You must pay us back the Total Amount Owing in full:

- on the last day of the Term (or any earlier date on which the Facility is cancelled under clause 6.2 or 7.1 of the General Terms); or
- on any earlier date on which we ask you to repay the Total Amount Owing in full. **We can ask you to do this at any time and we do not have to give any reason for asking you to do so.**

We require you to ensure that your income is paid into the account with us that is linked to the Facility, unless we have agreed otherwise. Each such payment of income is treated as a prepayment (see under "**Prepayment**" in the Other Key Information section for more information). We do not otherwise require you to make regular payments during the Term.

It is our expectation that the Total Amount Owing will fluctuate, and that there may be no Total Amount Owing, from time to time.

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# OTHER KEY INFORMATION

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## FEES AND CHARGES

All fees and charges (including default fees and charges payable in the event of a breach of a Relevant Document or on the enforcement of a Relevant Document) that are or may become payable to us under this Agreement (which are not interest charges as specified in the Commercial Terms) are listed in the attached **Fee Schedule**. In the event of a default in payment (including any amount necessary to ensure the credit limit is not exceeded) and while the default continues, you must also pay default interest charges at a **Default Interest Rate** in respect of the amount of the default only. We give you information about the default interest charges in clause 5.1 of the General Terms. We can change the fees and charges you might have to pay under clause 9.2 of the General Terms.

## PREPAYMENT

You can pay the Facility back in full at any time (before the end of the Term) by paying us the **Full Prepayment Amount** defined in clause 3.3(a) of the General Terms. You can also pay us at any time a **Part Prepayment Amount** in accordance with clause 3.3(b) of the General Terms. You may re-borrow any principal amounts that have been repaid under the Facility, subject to the terms of this Agreement.

## CONTINUING DISCLOSURE

Statements giving you information about your Facility will be provided at least every 45 working days, unless we provide an online platform through which you can access the relevant information (in accordance with applicable legal requirements) and you have consented to receive information about your Facility through that online platform.

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

There could be serious consequences if you do not meet your commitments under this Agreement.

- **Nature of the security:** Unless we agree otherwise in writing, our security must be a first-ranking exclusive security interest in the Property. We must be the only person with security in the Property and there must not be any other security granted over the Property to anyone else without our consent.
- **Extent of security:** The security under the Mortgage (and any other Related Security Agreement) secures the payment of all amounts you owe us, now and in the future, and the performance of all of your obligations to us, under this Agreement or any other Relevant Document and under any other home loan agreement you have entered into with us. However, we are not obliged to exercise our rights under the security if you fail to meet your commitments under this Agreement (and, if we choose not to do so, you will still be liable to pay us what you owe). If we exercise our rights under the security and the proceeds of sale of the Property are insufficient to repay the Secured Debt, you will still be liable to pay us the remaining amounts.
- **What happens if you give someone else security in the Property?** If you give security over the Property to anyone else without our prior written consent, you will be in breach of this Agreement and this will be an Event of Default under clause 6.1 of the General Terms. If that happens, we can give you notice declaring all amounts you owe us under this Agreement to be due immediately and we can enforce our rights under the security (which could include taking control of and selling the Property).

## YOUR RIGHT TO CANCEL

### Time limit for cancellation

You can cancel this Agreement by giving written notice to us within 7 working days of the day the completed Agreement is emailed or sent to you electronically. Saturdays, Sundays and national public holidays are not counted as working days.

### How to cancel

You can physically give the notice to us or our employee or agent, post the notice to us or our agent or email the notice to our email address listed on page 1 of this Agreement. **If you cancel this Agreement, you must immediately repay the Unpaid Balance and any interest accrued for the period starting on the day you get the initial advance under the Facility until the day you repay us in full. You must also reimburse us for any reasonable expenses we have to pay in connection with this Agreement and its cancellation, including legal fees and credit report fees.**

## WHAT CAN YOU 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 ask us to vary the terms of this Agreement (we call this a **Hardship Variation**). To apply for a Hardship Variation, you need to:

- make an application in writing; and
- explain your reasons for the Hardship Variation; and
- request an extension of any date on which payment is due under this Agreement; and
- give the application to us.

**Do this as soon as possible.** If you delay for too long in making an application, we may not have to consider your request.

## ELECTRONIC COMMUNICATION

By entering into this Agreement, you agree that we can (subject to applicable legal requirements) send you notices and other communications relating to this Agreement electronically, including by email or using any other electronic message address provided by you or (if we choose to) by making the information available by other electronic means such as access to an online platform. This includes any disclosure that we have to make to you under the Credit Contracts and Consumer Finance Act 2003. We agree to receive notices or other communications from you in electronic form.

## IF THERE IS A DISPUTE ABOUT THIS AGREEMENT

We are a member of the following dispute resolution scheme: Banking Ombudsman, Level 5, Huddart Parker Building, 1 Post Office Square, Wellington 6011 <http://www.bankomb.org.nz>, phone: 0800 805 950, and email: [help@bankomb.org.nz](mailto:help@bankomb.org.nz). It is free to make a complaint to this independent dispute resolution scheme. The scheme can help you to resolve any disagreement you have with us.

## REGISTRATION ON FINANCIAL SERVICE PROVIDERS REGISTER

Our Financial Service Providers Register Number is FSP53901 and our registration name is Heartland Bank Limited.

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**AGREEMENT**

By completing and submitting this Agreement, you request that we make the Facility available to you on the terms of this Agreement. A legally binding agreement is effective only when your request is accepted by us, which will be notified to you. We are under no obligation to accept your request.

You confirm that:

- you have received a copy of this Agreement and have read, understood and agree to the terms of this Agreement – **if you do not understand anything in this Agreement please seek legal advice before entering into this Agreement.**
- all of the information that you have provided to us in connection with this Agreement is complete, accurate and not misleading.

We will rely on the information that you have provided to us (whether directly or through any other person who is assisting with this Agreement, such as your lawyer), unless we have a good reason to believe the information is not reliable.

Date of Agreement

**BORROWER'S SIGNATURE**

**WITNESS SIGNATURE**

Signed by each BORROWER in the presence of

Witness

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Name

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Address

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Occupation

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## FEE SCHEDULE

### STANDARD FEES AND CHARGES APPLIED TO HOME LOANS

All fees are inclusive of GST.

#### CREDIT FEES

**Card replacement fee** **\$13.00**

We will charge you this fee if you request a replacement card.

**International ATM withdrawal fee** **\$6.00**

We will charge you this fee for every ATM transaction made at an overseas ATM machine.

Every international ATM withdrawal will also have a currency conversion charge applied

**Variation fee** **\$98.00**

We may charge you this fee if we agree to vary the terms of this Agreement, the Mortgage or any other Relevant Document.

**Refinance fee** **\$98.00**

We may charge you this fee if you apply for an increase to your credit limit, including approval and acceptance.

**Discharge fee** **\$25.00**

We will charge you this fee if we release our security under the Mortgage.

#### FEES AND COSTS ADDED TO UNPAID BALANCE

If we charge you any of the above fees or costs, we will add that amount to the Unpaid Balance on the date we provide the relevant service or incur the relevant cost. That means we will charge interest on that amount until you pay it.

#### DEFAULT FEES

**Direct debit dishonour fee** **\$32.00**

We may charge you this fee if we do not honour a direct debit out of the account you have with us that is linked to the Facility because it would mean you exceed your credit limit.

**Third party costs** **Actual cost**

We may charge you for any costs charged by third parties (e.g. legal fees) if you breach this Agreement, the Mortgage or any other Relevant Document or we take steps to enforce or protect our rights or our security. We can provide copies of the invoices on request.

**Other costs** **Actual cost**

We may also charge you for any costs that we incur on your behalf (e.g. arranging insurance over the Property if you fail to do so) or to compensate us for any other costs or losses we incur (e.g. our administrative costs) if you breach this Agreement, the Mortgage or any other Relevant Document or we take steps to enforce or protect our rights or our security. We can provide copies of the invoices on request.

\*Changes to the fees may take effect as described under clause 9.2(b)(i) of the General Terms.

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# GENERAL TERMS

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## Clause 1: Understanding and interpreting this Agreement

This Agreement means this Home Loan Agreement (Revolving Credit) including:

- these General Terms
- the Commercial Terms
- the Other Key Information
- the Fee Schedule.

Read each part carefully. Ask for help if there is anything you don't understand.

Heartland's Account and Service General Terms and Conditions also apply to this Agreement. They are available from our website or you can contact us and ask for a copy. For the avoidance of doubt, this Agreement is 'Specific Terms' for the purposes of Heartland's Account and Service General Terms and Conditions.

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 13).

## Clause 2: Getting your Facility

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

You may draw down advances under the Facility on any business day during the Term, provided that we will only advance any amount under the Facility if we consider the following conditions are met or we agree to waive them:

- (a) this Agreement (and any other Relevant Document that we require) has been completed and submitted (and we have accepted it);
- (b) we are satisfied with the results of all title searches in respect of the Property;
- (c) we have received a valuation of the Property, acceptable to us;
- (d) the Mortgage (and any other Related Security Agreement that we require) has been registered;
- (e) we have received a copy of an insurance policy or certificate of currency in respect of the Property that notes our interest as mortgagee and is otherwise satisfactory to us;
- (f) the Total Amount Owing will not (as a result of the relevant advance) exceed the credit limit;
- (g) no Event of Default has occurred; and
- (h) we have received all the other information and documents we have asked for, including for the purposes of Regulatory Compliance.

### 2.2 When we will pay the advance to someone else

We will make each advance under the Facility to you, unless:

- (a) you have told us you need the advance to repay another person (for example, to re-finance a home loan you already have with another bank), in which case we can choose to pay the other person directly; or
- (b) the advance is to be used to purchase any property, in which case we can choose to pay the vendor directly.

## Clause 3: Paying us back

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

- (a) You promise to:
  - (i) pay us any amount at any time required to ensure that the Total Amount Owing does not exceed the credit limit; and
  - (ii) pay us back the Total Amount Owing in full:
    - on the last day of the Term specified in the Commercial Terms (or any earlier date on which the Facility is cancelled under clause 6.2 or 7.1 of the General Terms); or
    - on any earlier date on which we ask you to repay the Total Amount Owing in full. We do not have to give any reason for asking you to do this.
- (b) We calculate interest on the Unpaid Balance daily by multiplying:
  - the daily Unpaid Balance at the end of that day; by
  - the **daily interest rate**, which is the Annual Interest Rate divided by 365.
- (c) Interest accrues daily. Accrued interest is charged in arrears on each Interest Charge Date and added to the Unpaid Balance (on which we charge interest). *This means that the interest charged on each Interest Charge Date relates to the previous calendar month.*
- (d) All fees and charges that you might need to pay us under this Agreement (which are not interest charges as specified in the Commercial Terms) are listed in the Fee Schedule and are inclusive of GST. We can change the interest rates, fees and other charges you might have to pay from time to time in accordance with clause 9.2.
- (e) You may re-borrow any principal amounts that have been repaid under the Facility, subject to the terms of this Agreement.

### 3.2 How should you pay us?

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

### 3.3 What happens if you pay us back before the end of the Term in full or in part?

- (a) You can pay the Facility back in full at any time by paying us the **Full Prepayment Amount**. The **Full Prepayment Amount** will be no more than the total of:
  - (i) the Total Amount Owing at the time of the full prepayment; and
  - (ii) any fee that we charge to cover the administrative costs we incur due to your prepayment (if applicable).
- (b) If you don't want to pay your Facility back in full, you can pay us a **Part Prepayment Amount** at any time. The **Part Prepayment Amount** will be applied:
  - (i) to reduce the Unpaid Balance, in each case after the application of the Part Prepayment Amount as described in (ii) and (iii) below; and
  - (ii) to any fee that we charge to cover the administrative costs we incur due to your prepayment (if applicable); and
  - (iii) any other fees or charges that are due but unpaid under any Relevant Document at the time of prepayment.
- (c) **This clause 3.3 does not apply if you exercise your right to cancel this Agreement in accordance with the section of this Agreement headed "Your right to cancel".**

#### Clause 4: You give us security in the Property and make important promises to us

##### 4.1 You give us security

- (a) You grant us security in the Property to secure payment of the Secured Debt and performance of the Secured Obligations, on the terms set out in the Mortgage.
- (b) You agree that each Related Security Agreement that you give also secures payment of the Secured Debt and performance of the Secured Obligations (unless otherwise agreed). We can exercise any of our rights under this Agreement and any other Related Security Agreement separately or at the same time.

##### 4.2 How this security can be released

This Agreement, and each security created under or in connection with it, continues as a separate security until we agree that it has been unconditionally released in writing, and is not affected if any Relevant Document is not legally effective for any reason (and in that case we are not liable to you in any way, even if your rights are affected).

##### 4.3 Your promises in relation to the Property

You make promises in relation to the Property in the Mortgage. Without limiting the terms of the Mortgage (or any other Related Security Agreement), you also promise us that:

- (a) you alone own the Property legally and beneficially (*that is, it will not be owned by a trust*);
- (b) you have not given and will not give security in the Property to anyone other than us;
- (c) you will not sell, transfer, loan, lease or otherwise part with possession or dispose of the Property;
- (d) you will tell us as soon as practicable if you enter into an agreement to sell the Property;
- (e) you will not do or fail to do anything that will affect the value of the Property in a material way;
- (f) you will provide us with access (on any business day) to inspect the Property following reasonable notice from us;
- (g) you will keep the Property insured against all risks that should sensibly be insured against (and otherwise take out and maintain insurance in accordance with the terms of the Mortgage) for a value agreed with us and with our interest as mortgagee noted on each policy. (If you don't organise this insurance we may be able to do so as your agent at your cost under clause 9.4);
- (h) claim under any insurance policy for the Property as we reasonably direct, hold any proceeds of any such insurance policy on trust for us, and pay any such proceeds as we reasonably direct, which may include replacing or reinstating the Property, applying the proceeds towards payment of the Secured Debt, or paying the proceeds into an interest-bearing account with us from which we can apply them (and interest credited to the account) for these purposes. (If you don't make and apply the proceeds of any claim as required we may be able to do so, including as your agent and at your cost under clause 9.4);
- (i) you will provide us on request with an up-to-date valuation for the Property. (If you don't organise this valuation we may be able to do so as your agent at your cost under clause 9.4);
- (j) you will pay all other outgoing in relation to the Property including rates and body corporate levies;
- (k) the Property is not used in a GST registered business nor to carry on a taxable activity for GST purposes (and you will notify us immediately if this statement is incorrect at any time); and
- (l) if the Property includes any stratum estate under the Unit Titles Act 2010, you will:
  - (i) make sure the body corporate complies with the Unit Titles Act 2010;
  - (ii) give to us a copy of any notice received from the body corporate (and notify us of any resolution to amend the body corporate rules, or which requires a unanimous vote or special resolution); and
  - (iii) vote in relation to a body corporate resolution to amend the body corporate rules, or which requires a unanimous vote or special resolution, as we reasonably direct. (If you fail to vote in accordance with this clause, we may be able to do so as your agent at your cost under clause 9.4).

##### 4.4 Other promises

On each day of this Agreement, you promise us that:

- (a) you will not change your name or contact details without giving us at least 14 days' prior notice;
- (b) you will promptly give us any other information about yourself, your financial condition, your insurance arrangements, the Property, or your compliance with the terms of this Agreement or any other Relevant Document that we reasonably request;
- (c) you will provide us with any information or documents we may require from time to time for the purposes of Regulatory Compliance; and
- (d) you will notify us of the occurrence of any Event of Default immediately upon becoming aware of it, giving full details of it and of any action taken (or to be taken) as a result.

##### 4.5 You will give effect to your promises

You promise to provide us with all documents we ask for, and to do anything else we appropriately request, at your cost and in a timely manner, to give effect to the promises and the rights we are intended to have under this Agreement or any other Relevant Document.

#### Clause 5: What happens if you do not pay us what you owe on time?

##### 5.1 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. However, we will not charge you default interest on any amount that has become payable early because of non-payment of another amount or because of an event that is not a payment default. The **Default Interest Rate** is a rate equal to the **Annual Interest Rate at the time of the default plus 6% per annum**. The Default Interest Rate is variable and may change from time to time.
- (b) The obligation to pay default interest will arise without the need for any notice or demand. Default interest accrues daily, both before and after judgment, for the period from the due date for payment until the actual date of payment. If it remains unpaid, default interest is added to the Unpaid Balance on each Interest Charge Date. (*This means that default interest is added to the Unpaid Balance, on which you pay interest, until you pay us.*)

If you do not pay on time:

- **this will cause an Event of Default** (see clause 6 below)
- **we can charge you extra fees** (see clause 3.1 above).

#### Clause 6: Events of Default and our enforcement rights

##### 6.1 Events of Default

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

- (a) **Non-payment**  
you do not pay us any Secured Debt or any other amount you owe us when it is due under a Relevant Document or any other home loan agreement you have entered into with us, 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 business days of its due date; or
- (b) **Security**  
you have granted, or purported to grant, a mortgage or other security over the Property to someone else in addition to us without our prior written consent;
- (c) **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) or any other home loan agreement you have entered into with us in a material respect and you do not remedy that failure to our satisfaction within 5 business days after we have notified you of that failure; or

- (d) **Fraud or untrue statement**  
you have acted fraudulently or given us materially incorrect, misleading or deceptive information in connection with a Relevant Document or any other home loan agreement you have entered into with us; or
- (e) **Legally ineffective documents**
  - (i) a Relevant Document or any other home loan agreement you have entered into with us is not legally effective against you; or
  - (ii) you or someone else disputes the legal effectiveness of a Relevant Document or any other home loan agreement you have entered into with us; or
- (f) **Bankruptcy (etc)**  
we reasonably believe that you are unable to pay your debts as they fall due or are bankrupt or insolvent, or you are deemed to be unable to pay your debts as they fall due or are deemed to be bankrupt or insolvent under any law; or
- (g) **Enforcement**
  - (i) another person takes enforcement action against your property, whether or not it includes any 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 you or any of your property, including any Property; or
- (h) **Material adverse effect**  
an event or circumstance has arisen that, in our reasonable opinion, has materially adversely affected, or is capable of materially adversely affecting:
  - (i) our ability to exercise our rights under a Relevant Document or any other home loan agreement you have entered into with us; or
  - (ii) your ability to perform your obligations under a Relevant Document or any other home loan agreement you have entered into with us; or
- (i) **Material change affecting Property**
  - (i) an event or circumstance has arisen that, in our reasonable opinion, has materially adversely affected, or is capable of materially adversely affecting, the value of the Property or the ability for the Property to be occupied as a personal residence in the same manner as previously (*this may include, but is not limited to, an event or circumstance relating to the Property's zoning or consent status, any action in respect of the Property taken or threatened by a government agency or other authority, an environmental or health and safety issue in respect of the Property or the occurrence or risk of natural disaster, and the value of the Property is materially adversely affected for the purpose of this clause if it is reduced by 20% or more*); or
  - (ii) any damage occurs in relation to the Property which results in a loss or claim totalling 20% or more of the full sum insured of the improvements and buildings for insurance purposes, and we do not receive payment of all of the Secured Debt within one month; or
- (j) **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 or any other home loan agreement you have entered into with us.

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

Subject to applicable law, including our obligations as a responsible lender, we have all the following rights if an Event of Default happens:

- (a) We can, at any time, by notice to you, declare all or any part of the Secured Debt or any other amount owing under the Relevant Documents to be immediately due and payable (and, if we give such notice, the Facility is automatically cancelled). (*This means we can tell you to pay us the Total Amount Owning immediately.*)
- (b) The security given under the Mortgage and each security created under any Related Security Agreement will become immediately enforceable. (*This means that we can sell the Property and use the proceeds of sale to pay down the Total Amount Owning, among other things.*)
- (c) We have all other rights given to us by law and in any Relevant Document.

## 6.3 Obligation to co-operate

If we do not exercise the powers described in this clause if an Event of Default happens, you must co-operate in good faith with us to identify how the Event of Default may be remedied.

## Clause 7: Our extra rights and protections

### 7.1: Illegality

If, at any time, we determine that, as a result of our Regulatory Compliance obligations, we are no longer reasonably able to continue to provide or fund the Facility, or to exercise any of our rights or comply with any of our obligations under a Relevant Document, then:

- (a) we are under no further obligation to provide the Facility; and
- (b) we can, at any time, by notice to you, declare all or any part of the Secured Debt or any other amount owing under the Relevant Documents to be immediately due and payable (and, if we give such notice, the Facility is automatically cancelled). (*This means we can tell you to pay us back any amount you owe us.*)

### 7.2 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, 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.

### 7.3 Our right to "set off"

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.

### 7.4 Giving effect to promises

You promise to provide us with all documents we reasonably ask for, and do anything else we reasonably request, at your cost and in a timely manner, to give effect to the promises and the rights we are intended to have under this Agreement and each other Relevant Document.

### 7.5 Interaction with law

The rights provided in this Agreement are in addition to any rights provided by law. If any provision of this Agreement conflicts with any provision of law, then:

- (a) to the extent that the relevant provisions of law may be varied or excluded, the provisions of this Agreement prevail; and
- (b) to the extent that the relevant provisions of law may not be varied or excluded, then the provisions of this Agreement must be read subject to those provisions of law.

## Clause 8: Assignment

### 8.1 The Lender

You agree that we can assign or transfer any of our rights or obligations under this Agreement and each other Relevant Document without your further specific consent (and, to the fullest extent permitted by law, without notice), and each of our assignees and transferees has the same rights against you under the Relevant Documents as if it were named in this Agreement as the Lender.

### 8.2 You

You cannot assign or transfer any of your rights or obligations under this Agreement or any other Relevant Document without our prior written consent.

## Clause 9: Other important things to note

### 9.1 Multiple Borrowers

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 alone, for the full amount owed to us.*)

### 9.2 Changes to this Agreement



- (a) No change to this Agreement will be effective unless the change is made in writing agreed between us and you, except for the changes listed in subparagraph (b) below.
- (b) The following changes will be effective on the date we tell you they are effective:
  - (i) **Changes to fees or charges you must pay:** We can change any of the fees or charges you have to pay us or introduce any new fee or charge at any time, provided we do so in accordance with all applicable law.
  - (ii) **Changes to Annual Interest Rate:** Because the Annual Interest Rate is a variable rate, we can change the Annual Interest Rate at any time.
  - (iii) **Changes to the Default Interest Rate:** We can change the Default Interest Rate at any time (including the amount of any margin that forms part of that calculation), provided we do so in accordance with all applicable law.
  - (iv) **Changes to our privacy statement:** We can change our privacy statement in accordance with its terms.
- (c) We will give notice of any change to this Agreement (including notice of the effective date of the change) in accordance with applicable law.

### 9.3 Waivers

The only time we give up any of our rights under this Agreement is if we agree to do so in writing. A failure or delay in exercising any right does not operate as a waiver of that right. A single or partial exercise of any right does not preclude further exercise of that right or the exercise of any other right.

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

You promise to do all the things you have said that you will do in this Agreement and each other Relevant Document in a timely manner. You appoint us as your agent to do (at your expense) anything that you have promised to do under this Agreement and each other Relevant Document but have failed to do, or that we reasonably believe is necessary to protect our rights under this Agreement or any other Relevant Document or in relation to the Property, and (subject to applicable law) you cannot undo this appointment. This includes making payments on your behalf (such as rates and body corporate levies), arranging any insurance or valuation for the Property, and exercising body corporate voting rights. 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, and we will only act as your agent if (and to the extent that) it is reasonable for us to do so in all the circumstances and permitted by applicable law. If we make any payments on your behalf or incur any costs under this clause, these amounts will be charged to you and added to the Unpaid Balance. We can also declare these amounts to be due and payable at any time by giving notice to you.

### 9.5 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.

### 9.6 Lender does not have to be a party

You agree that we can enforce our rights, and hold you to all promises and obligations, under a Relevant Document even if we are not a party to the Relevant Document for the purposes of the Contract and Commercial Law Act 2017.

### 9.7 Counterparts

This Agreement can be signed or accepted in one or more counterparts, which together constitute the same document.

### 9.8 Entire agreement

To the fullest extent permitted by law, this Agreement and each other Relevant Document contains all the terms in relation to their subject matter that apply between you and us, and supersede all previous agreements, understandings and negotiations in relation to their subject matter.

### 9.9 Governing law

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

## Clause 10: Communications

### 10.1 How to communicate with us

In respect of this Agreement and each other Relevant Document, you must give notices and other formal communications to us in writing, which may be by means of an electronic message, using the details provided on page 1 of this Agreement (or any updated details subsequently provided by us).

### 10.2 How we will communicate

In respect of this Agreement and each other Relevant Document, we must give notices and other formal communications to you in writing, which may be by means of an electronic message, using the details provided on page 1 of this Agreement (or any other details we reasonably believe to be your details). In some circumstances, we may instead communicate with you indirectly through our website, our branches, the internet or the media, or otherwise as we see fit and permitted by applicable law.

### 10.3 When received

Notices and other communications given under this Agreement or any other Relevant Document in writing will be deemed to have been received by the addressee:

- (a) if delivered personally, at the time of service;
  - (b) if sent by post, on the fourth business day after being posted by prepaid postage; or
  - (c) if sent by electronic message, on the second business day after sending,
- or, in each case, any earlier date specified by applicable law for the purpose in connection with which the notice or other communication was given.

### 10.4 Electronic messages

For the purposes of this Agreement and each other Relevant Document, the conditions relating to sending and receiving information in electronic form are those in Part 4 of the Contract and Commercial Law Act 2017 (and any other applicable law from time to time). You consent (subject to applicable legal requirements) to receiving information relating to this Agreement (including, but not limited to, information required by law) in electronic form, by means of an electronic communication, and signed by means of an electronic signature. This may include receiving electronic messages allowing access to statements from a website or by means of the internet.

### 10.5 We can rely on communications

If we receive any communication that we reasonably believe to be from you (or that we reasonably believe to be from someone authorised by you), we may rely on that communication without any further enquiry or verification. Despite this, we may (at our discretion) decline to act, or delay acting, on any instructions received where we consider that we have good reason to do so. Without limitation, we may decline to act if we receive contradictory communications from you.

## Clause 11: Privacy and information sharing

### 11.1 Our privacy statement

By entering into this Agreement, you consent to the collection, use, disclosure, storage and processing of information about you in accordance with the Privacy Act 2020 and our privacy statement (which is available on our website). We can change our privacy statement from time to time in accordance with its terms. Clauses 11.2 to 11.6 summarise some important information from the Privacy Statement as at the date of this Agreement.

### 11.2 What information we collect about you

We collect various types of personal information about you, which may include your name, age, gender, address, contact details (including phone numbers and email addresses), images of you, your biometric data and financial information, including your payment information. If the information we request from or about you is not provided, we may not be able to provide the requested services.

### 11.3 How we collect information about you

We collect information about you when you interact with us, including when you:

- apply for a loan (or commence the process for applying for a loan), including when you provide personal information when completing this Agreement;
- visit our website;

- contact us with queries or feedback; and
- subscribe to receive marketing communications from us.

You also authorise us to collect information about you from third parties including credit reporting agencies, your present or former creditors and insurance companies, identification service providers, your referees, government agencies, and your past and present employers and business partners. We may do this to confirm your identity, verify your current credit obligations, help us assess your ability to meet repayment obligations and make credit decisions, and to provide you with quotations for the cost of credit.

#### 11.4 Your rights to request access to and correction of your information

You have the right to access and request correction of information we hold about you. You can do so by contacting us at [home-loans@heartland.co.nz](mailto:home-loans@heartland.co.nz).

#### 11.5 What we can do with your information

Subject to any update to our privacy statement in accordance with clause 11.1 (which applies to you), information that we collect, or that is provided to us, about you may be used by us for the following purposes:

- consider any application for an account or service (and any future application involving you), including to establish and verify your identity and to assess your creditworthiness and financial position from time to time;
- carry out our business functions and activities;
- collect amounts owed to us, including taking enforcement action and to notify credit reporting agencies of your repayment history and account details;
- exercise our rights and fulfil our obligations under any agreement;
- exercise our rights and fulfil our obligations for the purposes of Regulatory Compliance;
- generally administer and monitor services provided to you (or any related entity); and
- provide information about our other services, or the services of selected third parties in which we think you may have an interest, including by post, telephone and electronic message – **you can opt out of receiving information about our other services and/or the services of selected third parties by telling us in writing.**

#### 11.6 Who we can share your information with

Subject to any update to our privacy statement in accordance with clause 11.1 (which applies to you), you agree that we can share any information we get with:

- our related companies;
- existing and potential business partners;
- identity verification agencies;
- credit reporting agencies – credit reporting agencies may retain information (including default information) and use it to provide their credit reporting services;
- third parties for the purposes of fraud prevention, identity verification, and any other purposes relevant to those purposes – those third parties may retain information and use it for identify verification and fraud detection purposes;
- the New Zealand Transport Agency's 'Driver Check' service;
- insurers;
- any person providing us with guarantees or security for the Facility;
- anyone to whom we consider assigning or transferring any of our rights or obligations;
- anyone that we engage with about selling all or part of our business;
- anyone providing any credit or funding support to all or any part of our business and anyone else involved in the funding process;
- government agencies and regulators, or anyone else with whom we are required to share that information for the purposes of Regulatory Compliance;
- service providers – this may include information being held on our behalf by data storage providers, including cloud-based data storage providers in New Zealand or overseas;
- referees; and
- debt recovery agencies.

#### Clause 12: Online services/internet banking

By using any online services provided by us from time to time, you consent to our online services/internet banking terms of use (which are available on our website). We can change those terms of use from time to time in accordance with their terms.

#### Clause 13: 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 Unpaid Balance
<b>Agreement</b>	this Agreement including these General Terms, the Commercial Terms, the Other Key Information and the Fee Schedule
<b>Annual Interest Rate</b>	the rate applicable to the Unpaid Balance being, as at the Effective Disclosure Date, the rate stated in the Annual Interest Rate section of the Commercial Terms (or the updated Annual Interest Rate if we have updated it in accordance with clause 9.2) to pass rights to another person (but not obligations)
<b>assign</b>	to pass rights to another person (but not obligations)
<b>Borrower</b>	the person or persons named on page 1 of this Agreement
<b>business day</b>	a day (other than a Saturday, Sunday or public holiday observed in New Zealand) on which registered banks are open for general banking business in New Zealand
<b>Commercial Terms</b>	the terms set out under the heading Commercial Terms in 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>credit limit</b>	the credit limit specified in the Commercial Terms
<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 5.1
<b>dispose</b>	includes any assignment, transfer, lending arrangement, variation of terms, lease, sublease and sale and anything that has the same effect as any of those things owed to us on a specific date
<b>due</b>	any event listed in clause 6.1
<b>Event of Default</b>	any event listed in clause 6.1
<b>Facility</b>	the facility made available to you under this Agreement under which you may draw down advances subject to the terms of this Agreement
<b>Fee Schedule</b>	the terms set out under the heading Fee Schedule in this Agreement
<b>General Terms</b>	the terms set out under the heading General Terms in this Agreement
<b>Interest Charge Date</b>	each interest charge date specified in the Commercial Terms

<b>law</b>	any law, regulation, rule, official directive, order, request, guideline or consent (whether or not having the force of law) of any governmental body or regulatory authority and, if not having the force of law, with which responsible entities in the position of the relevant party would normally comply
<b>liable</b>	legally responsible
<b>Mortgage</b>	the mortgage instrument and authority and instruction form entered into by you in relation to this Agreement granting us a mortgage over the Property
<b>Other Key Information</b>	the terms set out under the heading Other Key Information in this Agreement
<b>person</b>	an individual and any entity, such as a company, whether or not it exists as a separate person at law
<b>Property</b>	the Property described in the Property section of the Commercial Terms and any other property over which you give us security under a Related Security Agreement
<b>Regulatory Compliance</b>	the requirements for us to comply with all applicable laws, including those relating to money laundering, terrorist financing, bribery, corruption, tax evasion, fraud or similar, and manage all economic and trade sanction risks
<b>Related Security Agreement</b>	the Mortgage and each other security agreement, guarantee or other agreement or document (present or future) that guarantees or secures all or any part of the Secured Debt or the Secured Obligations (directly or indirectly)
<b>Relevant Documents</b>	this Agreement, each Related Security Agreement and each other agreement (present or future) evidencing or relating to the Secured Debt or Secured Obligations
<b>Secured Debt</b>	the Total Amount Owing plus any amounts owing to us under this Agreement
<b>Secured Obligations</b>	all obligations (whether present or future) owing to us under this Agreement, other than Secured Debt
<b>security</b>	an interest in property that, in substance, secures payment or performance of an obligation
<b>sue</b>	take legal action (such as taking you to court)
<b>Total Amount Owing</b>	the Unpaid Balance, plus all accrued but unpaid and uncapitalised interest, fees and charges, and all other amounts owing under this Agreement or any other Relevant Document
<b>Unpaid Balance</b>	the unpaid principal balance outstanding under this Agreement (which includes the unpaid amount of each advance and all capitalised interest, fees and charges)
<b>we (or us)</b>	the Lender, 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):

- The Commercial Terms prevail over any other part of this Agreement if there is any inconsistency.
- 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 a document we mean that document as varied or replaced from time to time.
- Where we refer to you, we include any person that legally takes over your 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 8.1.
- Each reference to including, when introducing an example, does not limit the meaning of the words to which the example relates to that example or examples of a similar kind