

Home Loan Standard Terms and Conditions

with effect from December 2018



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Introduction

The terms of your HSBC home loan comprise:

- this booklet, which contains the standard terms and conditions for a HSBC home loan (the **Booklet**);
- the letter entitled "Loan Details" (the **Letter**) which sets out the specific details of your loan; and
- our Retail Banking and Wealth Management Fees and Charges brochure (the **Brochure**).

The above terms together form your **Agreement**.

You must also comply with the terms in our Retail Banking and Wealth Management Terms and Conditions which apply to the method you use to access your loan (see clause 1.1 below). These set out terms which apply generally to the operation of accounts held with us. You acknowledge that you have received and read our Retail Banking and Wealth Management Terms and Conditions.

If there is a conflict between any terms in relation to your loan, the following order of priority will apply:

- the Letter;
- the Agreement (other than the Letter); and
- any other terms and conditions.

If The Hongkong and Shanghai Banking Corporation Limited, acting through its New Zealand branch (**HSBC**) offers you a loan, it will send you a Letter giving details of your particular offer and confirming that the Booklet applies to your loan. This Booklet without a Letter is not an offer by HSBC to you of a loan.

In this Booklet the capitalised terms have particular meanings. See clause 14 for an explanation of those terms.

Summary of Key Terms

Home Loans

Quick Facts		
Key Terms		For more information
Letter	The letter entitled "Loan Details" giving details of your loan.	Section 14
Interest Rate	The annual interest rate described in the Letter as applicable at that time or any other interest rate we notify you from time to time that will apply to the unpaid balance under this Agreement.	
Loan Amount	The amount set out in the Letter as the "Loan Amount" or "Original Facility Amount". This applies to all loans other than Home Equity Loans and Home Smart Loans and is the available amount of your loan.	
Loan Account	The loan account in your name opened for the purposes of the loan.	
Security	Any security or security interest (for example, a mortgage or guarantee), claim or other right we hold against you or anyone else in relation to your obligations under this Agreement, now or in the future.	
Your voice		
If you would like to provide your feedback or to lodge a complaint with HSBC.		For more information
<ul style="list-style-type: none">• Contact your HSBC Relationship Manager• 24-hour HSBC Premier hotline - 0800 028 088• Email - customerrelations@hsbc.co.nz• Mail - Customer Relations Department, P.O. Box No.5947, Wellesley Street, Auckland 1141, New Zealand		Section 6.11 of the Retail Banking and Wealth Management Terms and Conditions booklet

This table contains a summary of key terms for reference only and is not intended to replace the full terms and conditions contained in this Agreement. The terms of this Agreement will prevail in the event of any inconsistency.

1. Drawings

1.1 Drawing your loan

If a purpose is stated in the Letter, you can only draw the loan for that purpose. If you are borrowing money from us through an entity which is not a natural person, like a company or a family trust, or you are not borrowing money wholly or predominantly for personal, domestic, or household purposes, then your loan will not be regulated by the Credit Contracts and Consumer Finance Act 2003 (apart from provisions that apply to oppressive credit contracts).

We will pay your loan proceeds as set out in the Letter.

If your loan is a Home Equity Loan or a Home Smart Loan you may withdraw amounts from your Loan Account by:

- cheque;
- HSBC ATM Card linked to your Loan Account (please note that transactions may attract additional fees as detailed in the Brochure);
- EFTPOS;
- transfer through our automated or operator assisted Telephone Banking Service;
- transfer through our Internet Banking Service;
- direct debit authorising us or another institution to deduct funds from your Loan Account;
- at our One Queen Street branch, Auckland; or
- any other way allowed by us from time to time.

Where there is more than one of you, any one of you can make drawings from your Loan Account.

You cannot draw on any funds deposited to the Loan Account until they have been cleared.

If a transaction would cause the debit balance on your Loan Account to exceed the Credit Limit we may, without notice, decline, stop or reverse the transaction.

If we do accept a cheque, or in some other way allow the debit balance in your Loan Account to exceed the Credit Limit, it does not mean we are increasing the Credit Limit.

You must pay the excess immediately in addition to any scheduled payment. The excess will be charged interest at the Default Interest Rate.

Where you have a Split Loan, the terms in this Booklet apply separately to each loan and, where the context permits, to all loans.

However:

- we will open a separate Loan Account for each loan;
- you will receive a separate statement for each loan (or separate details on a consolidated statement);
- the ratio of loan amount to value of the real property or interests in real property that we have Security over will be determined by testing the aggregate of the balances on all your Loan Accounts (or, if one or more of the loans is a Home Equity Loan or a Home Smart Loan, the aggregate of the Credit Limits on all Home Equity Loans and all Home Smart Loans plus the aggregate of the balances on all the other accounts) against the total value of all the real property or interests in real property that we have Security over;
- default interest will be calculated separately in relation to each loan at the Default Interest Rate; and
- we may debit amounts which do not relate specifically to one Loan Account (for example fees, charges and expenses) to any of your Loan Accounts.

1.2 What needs to happen before drawing?

Before you can draw your loan you need to:

- sign and return a copy of the Letter within 14 days after the 'Disclosure Date' indicated in the Letter or any longer period agreed by us in writing;
- complete and sign the necessary forms to open the Loan Account;
- deliver the following in form and substance satisfactory to us:
 - the Security or documents referred to in the Letter duly executed;
 - where a Security or document has previously been given to us by another entity for another transaction, and is to be used for the loan, consent from that entity;

- acknowledgement from your guarantor in an approved form signed by each guarantor (if any);
 - proof of identity of each individual including yourself and any Security Provider (including verification or proof of residential addresses) in accordance with HSBC's current account opening requirements or as otherwise required to satisfy HSBC's obligations under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009;
 - where you are, or a Security Provider is, a company, a certified copy of your or its certificate of incorporation;
 - where you are, or a Security Provider is, a company or a trust, specimen signatures of the person(s) duly authorised to execute this Agreement or the relevant Security (as the case may be) and to act and sign documents on behalf of you or that Security Provider (as the case may be);
 - where you or a Security Provider are a trust, a certified copy of the relevant trust document constituting the relevant trust in addition to any certificate required by HSBC from the trustees;
 - an insurance policy or certificate of currency from an insurance company acceptable to us, and with our interest as first mortgagee noted against the policy for either:
 - full replacement value of the Property; or
 - reinstatement or replacement to a specified total sum insured that is sufficient to reinstate or replace the Property to an equivalent size, quality and value on the existing site;
 - evidence of any other insurance we require and which we have set out in the Letter; and
 - any other document listed in your Letter or any other document we reasonably require;
 - provide a valuation of the Property which meets our criteria for acceptable security (where the loan is a Construction Loan you must obtain a valuation of the Property in its existing state and a valuation assuming completion of the contemplated works);
 - satisfy our requirements in relation to the Security - we will write to you or your lawyer to inform you what those requirements are (please note that if someone is guaranteeing your loan one of our requirements will be that they obtain independent legal advice); and
 - pay the fees and charges referred to in the Letter or the section entitled "Loan Products" in the Brochure unless we agree they can be paid out of the loan proceeds.
- Before you can draw your loan we need to:
- verify the information you have given us; and
 - if necessary, obtain lenders mortgage insurance which meets our insurance criteria at a cost agreed with you.
- If these conditions are not met you may not be able to draw the loan.
- ### 1.3 No default
- We are not obliged to provide an advance if on the draw down date:
- there is a Default Event which has not been waived by us, or remedied to our satisfaction;
 - any conditions, precedents or matters identified in your Letter as extra things you need to do before drawing are not satisfied or completed;
 - your lawyer does not provide us with a signed certificate in a format required by HSBC; or
 - there is a breach or other event which with notice, time or both would be come a Default Event.
- ### 1.4 Loan Account
- (a) You irrevocably and unconditionally authorise us to open a Loan Account in your name and to debit to it any of the following without first notifying you:
- each amount we lend;
 - any amount you redraw;
 - the fees and charges referred to in the Letter or in the section entitled "Loan Products" in the Brochure;
 - any expenses;
 - interest (including default interest); and
 - any other amount you have authorised us to debit to your Loan Account or as we shall from time to time consider necessary.

- (b) You agree to keep the Loan Account in sufficient funds as may be necessary to facilitate any payment required to be made from it.
- (c) All payments must be made on the due date for payment under this Agreement. Where a payment is made on another date or a payment is dishonoured or credited in error we may adjust debits or credits, and the Loan Account balance (including for the purposes of interest calculation), to accurately reflect your payment obligations.
- (d) Unless your loan is a Home Equity or Home Smart Loan we can close your Loan Account if at any time the balance is zero for more than 6 months and there has been no activity on the Loan Account or in relation to your Loan. We will try to tell you before this happens.

2. Payment Obligations

2.1 Interest and fees

You must pay annual interest and fees as set out in the Letter and this section 2.

Unless this Agreement expressly says otherwise, all interest (including default interest) on a loan will be payable in the same currency as the currency in which the loan is denominated.

2.2 Payment

You must pay all amounts borrowed from us in the manner set out in the Letter and this section 2.

If your payments are insufficient to cover all of the principal and interest payable at onetime, then your payments may be increased to such amount as we may specify in writing. We will try to tell you before this happens.

2.3 Method of payment

You can make loan payments:

- by direct debit authorising us to deduct funds from a Transactional Account you hold with us; or
- in any other way we allow from time to time.

To make a loan payment by direct debit, you must ensure that your nominated Transactional Account has sufficient cleared funds available on or before your loan repayment due date. All loan payments must be made free of any set-off, counterclaim, withholding or deduction, except for taxes where required by

law. This means you will need to pay any money you are required to pay under this Agreement without deducting amounts you claim are owing to you by us or any other person.

Payments must be paid in the currency in which the loan is denominated at the time of payment.

2.4 Direct Debit

You must not cancel any direct debit authorisation you give us or close the account referred to in any direct debit authorisation without first notifying us in writing and obtaining our consent to an alternative form of payment. You must ensure there is enough money in the account to meet each debit.

2.5 Time of payment

All payments must be made before the end of a Business Day in the place of payment. Payments made after the end of a Business Day may not be treated as received, or credited, until the next Business Day and interest will be payable accordingly.

Unless otherwise stated, amounts payable under your Agreement are payable on demand.

If the Letter says your payments are due monthly that means they are due on the same day in each calendar month. If a payment is due on the 29th, 30th or 31st day of the month but a month does not have that many days, you must make that payment on the last day of that month. However, if a payment is due on a day which is not a Business Day, you must pay on the following Business Day.

2.6 Converting to a fixed interest rate

Unless your loan is a Home Equity Loan, a Home Smart Loan, a foreign currency loan or a Construction Loan during the Construction Period you may apply to convert your Interest Rate to a fixed rate at any time (for a fixed rate period not exceeding the term of the loan).

To apply, you must give us at least five Business Days notice in writing:

- that you want to convert; and
- nominating your chosen fixed rate period.

Once we agree, you may not change your mind without incurring an administration fee and a fee or charge that does not exceed a reasonable estimate of our loss arising from full or partial payment of your fixed rate loan. Please refer to the section in the Brochure entitled "Loan Products" and section 4.2 of this Booklet for details on the applicable fees and charges.

If you convert, your payments may change to reflect the changed Interest Rate but your payments remain due at the same intervals as before unless we tell you otherwise.

The conversion becomes effective on the Business Day we specify when we agree to the conversion.

We will confirm to you in writing on or before the date the conversion takes effect:

- the date the Interest Rate changes;
- the new Interest Rate; and
- the term of the fixed rate period.

We will notify you of your new payments and when they are first due. We may notify your guarantor if your payment obligations increase.

2.7 No Interest on credit balances in your Home Equity Loan Account and Home Smart Loan Account

We will not pay interest on any credit balance in the Loan Account for a Home Equity Loan or a Home Smart Loan.

2.8 What happens to payments we receive?

We may apply any money we receive or recover in any way in respect of money you owe. This includes paying (despite any direction to the contrary) any amount that you owe us or any amount owed to anyone who we believe ranks ahead of us. Where we pay anyone else, we will tell you we have done so.

3. Redrawing Loan Amounts Prepaid (Cash Back)

This section does not apply to Home Equity Loans, Home Smart Loans, Construction Loans during the Construction Period or loans denominated in a currency other than New Zealand dollars.

You may re-borrow any part of a prepayment at any time while the Interest Rate is a variable interest rate on the following conditions:

- you must re-borrow at least \$2,000 or such other amount as specified by us from time to time at our sole discretion;

- you must pay us in respect of the re-borrowing the applicable redraw fee charged for re-borrowings as set out in the section in the Brochure entitled "Loan Products";
- the re-borrowing must not cause a breach of any term of this Agreement; and
- there must not be a Default Event or any breach or other event which with notice, time or both, would become a Default Event.

While you have a fixed interest rate you may not re-borrow any part of a prepayment at any time. Prepayments of a fixed rate loan may incur break costs and an administration cost as explained in your Letter.

We may refuse any request for a re-borrowing or may cancel your ability to re-borrow at any time where your circumstances or our lending criteria have changed since you applied for the loan and, had the changed circumstances or lending criteria existed at the time we made our original decision to lend to you, this would have affected our decision to lend to you. We will tell you if we do so.

4. Fees and Charges That May Become Payable

4.1 Yield protection

Whenever we determine that a Change in Law (as defined below) has the effect of:

- increasing our cost of funding or maintaining the loan, or reducing our re turn or amounts received in respect of the loan; or
- reducing our return on capital allocated to the loan (including because more capital needs to be allocated to the loan or cannot be used elsewhere),

then we will promptly notify you, and you must pay us the amount we certify is necessary to compensate us. That notice will give an outline of the calculation for the amount of the compensation. Those calculations will be relied upon unless shown to be incorrect.

If you so request, we will negotiate in good faith with a view to finding a means of minimising the effect, but you must still compensate us even if the effect could have been avoided or minimised.

A **Change in Law** for the purpose of this section means the introduction of, or a change in, any law or regulation whether in New Zealand or affecting the HSBC Group, official directive, ruling or request or a change in its interpretation or application. If it does not have the force of law or regulation, it must be one with which responsible banks, financial institutions or the HSBC Group would comply. Without limitation, it includes any of these circumstances which relates to capital adequacy, special deposit, credit risk profiles, liquidity, reserve, prime assets, tax or prudential requirements (except a change in tax on overall net income).

4.2 Failure to Draw or Switch a Fixed Rate Loan

If:

- (a) during any fixed interest rate period you switch to a different Interest Rate; or
- (b) you revoke, or fail to draw or switch in accordance with, a notice given by you,

for any reason (including because we have required payment as permitted under this Agreement) then you must pay an amount certified by us to be our break costs (**Break Costs**). How we calculate our Break Costs is explained below.

Our Break Costs must be paid before or when you make the switch (or, if (b) applies, on or before the date the drawing, or switch should have been made).

Our Break Costs will be the excess (if any) of:

- (A) the rate at which we determine we funded your loan in the wholesale money market at the start of your fixed rate period,

over:

- (B) the rate at which we determine we can get funds from the relevant wholesale money market for the period from and excluding the date of the switch (or if (b) applies, the date the drawing or switch should have been made) to and including the last day of the fixed rate period (the **Remaining Period**),

as reasonably estimated or calculated by us over the Remaining Period and adjusted to take account of the fact we are receiving our Break Costs at the time when the drawing or switch should have been made and not over the Remaining Period. Our Break Costs will only be charged on the amount switched or if (b) above applies, the amount in the notice. Our

Break Costs will vary in amount depending on the movement in rates, the amount switched or if (b) applies, the amount in the notice and the length of the Remaining Period.

The rates determined by us in (A) and (B) above are not the same as the publicly quoted wholesale money market swap and bill interest rates, but are closely aligned with the inclusion of a small adjustment to reflect a reasonable estimate of our borrowing and lending costs in the wholesale money markets. These rates can change and are available on request.

Our Break Costs will be in addition to any administrative costs or fee incurred arising from your failure to draw or switch in accordance with the above.

If you are unsure of any aspect of our Break Cost formula, please contact us for an example or additional information. For the purposes of the Credit Contracts and Consumer Finance Act 2003, the statutory procedure prescribed in the regulations for the creditors loss arising from full prepayment has not been used.

4.3 Default Fees and Indemnity

You must pay us upon demand in the event you do not meet your obligations under your Agreement, whether or not a loan has been made, all costs and expenses (including, but not limited to, legal fees on a solicitor and client basis, and duties and taxes) which we reasonably and properly incur in connection with:

- the enforcement, or preservation of, or the attempted enforcement or preservation of, any rights under or in respect of this Agreement or any Security or, in enforcing recovery of any sum due from any person under this Agreement or any Security; or
- the granting of any waiver or consent or in connection with any variation due to any default of this Agreement or any Security. You must reimburse us upon demand from time to time against all or any costs, losses (including loss of profit and full costs on a solicitor and client basis incurred by us) or expenses which we may sustain or incur as a consequence of:
 - (a) any default in payment when due of any amount payable under your Agreement; and
 - (b) the occurrence or continuance of any Default Event or other breach or event which with notice, time or both would become a Default Event.

4.4 Tax

If:

- you are required by law to make any deduction or withholding from any sum payable by you under this Agreement; or
- we are required by law to make any payment, on account of tax (other than tax on our overall net income) or otherwise, on or in relation to any amount received or receivable by us this Agreement,

then, the sum payable by you in respect of which such deduction, withholding or payment is required to be made shall be increased to the extent necessary to ensure that, after the making of such deduction, withholding or payment, we receive and retain (free from any liability in respect of any such deduction, withholding or payment) a net sum equal to the sum which we would have received and so retained had no such deduction, withholding or payment been made.

If any payment made by us with respect to any loan or deposit arranged by us to fund your loan shall be subject to any tax, then you shall pay us on demand such amount as will compensate us or, as the case may be, the recipient of such payment for such tax.

4.5 Goods and services tax

Without prejudice to any other section of this Agreement, you must advise us in writing if any Security Provider which has mortgaged any Property is or is liable to be or become registered with the Inland Revenue Department under the Goods and Services Tax Act 1985 and uses that Property for the purposes of that registered tax able activity. You must provide us with that Security Provider's Goods and Services Tax registration number and advise us in writing should that Security Provider terminate its registration with the Inland Revenue Department for Goods and Services Tax.

4.6 Other fees and charges

You must pay the fees and charges set out in the Letter or the Brochure section entitled "Loan Products" and any changed or new fee or charge notified to you.

5. Security

5.1 Valuation

We may obtain or require you to obtain at any time and from time to time a valuation of any Property in order to confirm its value. Examples of when we ask for a valuation include when you request a release of equity, when you change the nature of your loan (e.g. conversion of principal and interest repayments into interest only repayments) or following an external event such as a natural disaster. Any such valuation will be at your cost. If we obtain it on your behalf you authorise us to debit the cost to your Loan Account or any of your transaction accounts.

We are not liable to you in respect of the contents of any valuation we obtain or ask you to obtain under this Agreement.

5.2 Ratio of loan amount to value of Property

For all loans denominated in New Zealand dollars, the Loan to Value Ratio must not exceed the ratio that we consider in our sole discretion to be acceptable to us. This is to be determined at the time of application and communicated to you.

In the event the Loan to Value Ratio is exceeded you must (within 10 Business Days of our asking for it) either make a prepayment of your loan or provide us with additional security in a form acceptable to us over a freehold interest in real estate or funds on deposit with us so that the valuation ratio is not exceeded.

For the purposes of this section 5.2, the **Loan to Value Ratio** means the ratio (expressed as a percentage) of:

- the balance owing on your Loan Account (or, in the case of a Home Equity Loan or a Home Smart Loan, your Credit Limit) expressed in New Zealand dollars; to
- the total value of all the real property or interests in real property that we have Security over expressed in New Zealand dollars.

If the loan is not denominated in New Zealand dollars, then it is to be calculated for any day as its New Zealand dollar equivalent using the rate of exchange determined by HSBC as its sole discretion.

5.3 Further security

If at any time any Security is not fully effective to our satisfaction we may require you to provide us with further security acceptable to us.

We can refuse to provide further credit to you under this Agreement until any mortgage, guarantee or other security we ask for is provided.

5.4 Your security obligations

You must do everything you promise to do under any mortgage or other Security for the loan. You must ensure that each other Security Provider does the same. You will ensure all of your and each other Security Provider's statements in each mortgage or Security are true.

5.5 All Security we rely upon

All documents forming part of the Security shall be collateral to any other securities from time to time held by us in relation to your obligations and each of the Securities shall be read and construed together so that a default under any Security shall be deemed to be a default under the other Securities but so that we may exercise our rights and powers and remedies thereunder either together or separately and in such order as we think fit and any release of a Security shall not operate as a release of any other Security.

6. Representations and Warranties

You tell us the following in respect of yourself and each Security Provider. Each Security Provider also tells us the following in respect of itself. You and each other Security Provider are taken to repeat these statements each time you request an advance, you redraw amounts prepaid and on each payment due date. You and each Security Provider should check they are true. These are warranties which means we may suffer loss and have a legal remedy against you if they are not true.

For the purposes of this section 6, **you** and **your** shall also refer to each Security Provider.

- (a) If you give any Security, you own the relevant Property alone or will do so on completion of your purchase. You do not own the Property as trustee except as stated in the Letter or as you have told us in writing.

No one else has any:

- interest in; or
- rights over or to use,

the Property, except:

- as noted on any land register maintained by the Registrar General of Land in accordance with the Land Transfer Act 2017; and
 - to the extent that you have told us in writing.
- (b) This Agreement, any Security expressed to be given by you and the acquisition of the Property:
 - is valid, binding and enforceable against you;
 - does not breach any obligation binding on you; and
 - in the case of any Security, is effective security over any properties or assets which it is expressed to cover, with the priority (if any) stated in it.
 - (c) No event has occurred which is or may become with the passage of time or the giving of notice or both, a Default Event.
 - (d) You are not under Administration.
 - (e) All information you have given us is true and complete. It is not misleading, by omission or otherwise.
 - (f) You are not in breach of or in default under any Agreement to which you are a party or which is binding on you or any of your assets to an extent or in a manner which might have a material adverse effect on your financial condition.
 - (g) No action or administrative proceeding or arbitration before any court or agency or arbitrator which might have a material adverse effect on your financial condition has been started or (to your knowledge) threatened.

7. Undertakings

You and each Security Provider promise to do all of the following at all times.

For the purposes of this section 7, **you** and **your** shall also refer to each Security Provider.

- (a) Look after any Property– protect and maintain it and its value.

- (b) Make sure all building work on any Property is completed properly.
- (c) Make sure any business or other activity carried on by you anywhere, or by anyone on or with the Property, is carried out properly and efficiently.
- (d) Keep proper records and accounts. If you are a company those accounts shall be regularly audited by a qualified person approved by us and shall:
- be prepared, reported on and approved in accordance with Generally Accepted Accounting Practice;
 - together with the notes to the accounts, give a true and fair view, in accordance with such practice, of your financial position and the results of your operations as at the date, and for the period, to which they relate; and
 - together with those notes, disclose or reserve against all your liabilities (contingent or otherwise) as at that date and all unrealised or anticipated losses from any commitment entered into and which existed on that date.
- (e) If you are a company, partnership or trust, give us copies of your financial statements (including all notes), within 120 days of the end of each of your financial years.
- (f) Give us promptly any information we reasonably request.
- (g) Notify us promptly of any Default Event, any actual or material litigation affecting you or anything else we require notice of.
- (h) Pay when due all outgoings, taxes and other amounts relating to any Property. For example:
- council rates and water rates;
 - rent (if the Property is leasehold); and
 - levies, calls, fees and other amounts payable to a company, an association or a body corporate or proprietor of a strata title, unit title or similar plan.
- (i) Pay all amounts due under other mortgages or charges over any Property.
- (j) Comply with the law and make sure everything built or done with or on any Property (or any land on which any Property is built) complies with the law and any legal requirements.
- (k) Not:
- sell or otherwise dispose of any Property or any interest in it;
 - give anyone an interest in or a right over or to use any of the Property;
 - consent to a caveat over the Property; or
 - give or allow another mortgage, charge, pledge or lien or other security arrangement over any Property,
- unless we first give our written consent.
- (l) Comply with all obligations which comprise or relate to any Property or your interest in it. For example, this might include any other mortgage or charge over the Property.
- (m) Comply with all your obligations in any Security or in any other agreement or arrangement with us (whether or not any other persons or entities are also parties) which is secured over any Property.
- (n) Ensure all of your statements in this Agreement or in any Security or any other agreement or arrangement with us are true.
- (o) Ensure that the Property is at all times insured against loss or damage by fire, flood, storm, earthquake, natural disaster and any other risk normally covered by a comprehensive policy of insurance having terms consistent with normal market practice in New Zealand for either:
- its full replacement value; or
 - reinstatement or replacement to a specified total sum insured that is sufficient to reinstate or replace the Property to an equivalent size, quality and value on the existing site,
- in either case with an insurance company acceptable to us, and with our interest as a first mortgagee noted against each policy.
- (p) Maintain in full effect and comply with all consents which may be necessary or desirable to enable you to perform and comply with your obligations under, or for the validity or enforceability of, this Agreement and any Security.

8. Companies and Trusts

If you are or any Security Provider is a trustee and you sign, or any such Security Provider signs, this Agreement or any Security as trustee of a trust you and it give the promises and warranties in Schedule 2 (*Trusts*).

If you are or any Security Provider is a company you and it confirm the things set out in Schedule 3 (*Companies: Representations and warranties*) and promise to do the things set out in Schedule 4 (*Companies: Undertakings*).

9. Default Events

A **Default Event** occurs if:

- (a) any one or more of you or anyone who gives a Security:
- does not pay us any amount due under this Agreement or any Security;
 - breaches, or omits to observe any obligations accepted or undertakings given by you or it under this Agreement or any Security; and such breach or omission, if capable of remedy, is not remedied to our satisfaction within seven days of the earlier of you or it becoming aware of such breach or omission, or when you or it reasonably should have become aware of such breach or omission, and the receipt of notice from us requiring you or it to remedy such breach or omission;
 - has given or do give misleading or incorrect information to us;
 - commits an act of bankruptcy or enters into any assignment, arrangement or composition with any creditors;
 - does not pay when due any indebtedness owed to any person (including in respect of money borrowed or raised and including any other money owed to us) or is, or under the relevant document could be, required to pay any such indebtedness in advance of its stated maturity;
 - is insolvent or is taken, presumed or assumed under law to be insolvent;
 - dies or is under Administration;
 - is or are a company, partnership or other entity, or trustee of a trust, and

- a receiver, manager, liquidator, inspector, trustee, statutory manager or similar officer is appointed;
- an encumbrancer takes possession of the whole or any part of your or its assets;
- is or are placed under Administration, terminated, liquidated, reorganised or dissolved or steps are taken towards this (for example, a resolution is passed or an application is made to a court) except for the purpose of and followed by a reconstruction, reorganisation, merger or consolidation on terms approved by us before that step is taken;
- suspends, stops or threatens to suspend or stop payment of a material part of your or its indebtedness;
- commences negotiations or takes any proceedings with a view to the general deferral, readjustment or rescheduling of its indebtedness or a material part of your or its indebtedness;
- without our prior written consent, ceases or threatens to cease to carry on all or any material part of your or its business;
- fails to hold or obtain all resource and building consents under the Resource Management Act 1991 and the Building Act 2004 respectively as required for the operation of business from your or its Property or charges, transfers or surrenders any such consents without our prior written consent;
- without our prior written consent, there is a change (direct or indirect) in your or its management, ownership or control;
- without our prior written consent you or it reduces share or other capital, buys back shares or other capital or gives financial assistance for the acquisition of your or its shares, or resolves to do so or to approve doing so; or
- ceases to be a trustee, unless there is a replacement trustee or residual trustee to our satisfaction;

- (b) a creditor or secured creditor enforces or takes out a distress, attachment, judgment, execution or other legal process against any asset of you or any Security Provider;
- (c) any court, government or governmental agency does anything (for example giving an order resuming any property, or revoking any license or approval) which, may materially adversely affect our Security or your or any Security Provider's ability to perform your or its obligations to us;
- (d) there is a material adverse change in or affecting any Security, or the business, capital assets or financial condition of any one or more of you or any Security Provider;
- (e) an event of default (howsoever described, but excluding a Default Event) occurs under any Security;
- (f) any statement, representation or warranty made by you or a Security Provider is incorrect in any material respect;
- (g) at any time it becomes unlawful for you or any Security Provider to perform any or all of your or its obligations under this Agreement or any Security becomes invalid or unenforceable in whole or in part or you or any Security Provider alleges it is so;
- (h) there are reasonable grounds to believe you or another person has acted fraudulently in connection with this Agreement or any Security;
- (i) you or any Security Provider has repudiated or attempted to repudiate this Agreement or any Security;
- (j) any consent necessary to enable you or any Security Provider to comply with your or its obligations under this Agreement or any Security is revoked, withdrawn, modified or shall otherwise fail to remain in full force and effect and the result thereof is in our opinion prejudicial to our interests;
- (k) the Overseas Investment Office issues a notice requesting disposal of the Property under section 41E of the Overseas Investment Act 2005; or
- (l) if your loan is denominated in a currency other than New Zealand dollars, any other thing occurs which would detrimentally affect our position as lender to you.

10. Bank's Remedies and Powers

10.1 Default Event

This section 10.1 does not apply to Home Equity Loans or to any other loan where the Letter says the loan is repayable on demand. Sections 10.2 to 10.6 apply to all loans.

If a Default Event occurs, we may at any time thereafter:

- (a) by written notice to you, declare all amounts lent under this Agreement, all accrued interest, and all other amounts outstanding under this Agreement to be immediately due and payable whereupon the same shall become so payable; and/ or
- (b) exercise our rights, powers and remedies, or any of them under this Agreement, any Security and/ or at law; and/or
- (c) if your loan is denominated in a currency other than New Zealand dollars, by written notice to you declare that the loan shall be converted into New Zealand dollars whereupon it shall be so converted; and/or
- (d) where the Default Event is a failure to comply with section 5.2 we may, as an alternative to the above paragraphs, by notice to you require immediate payment of such amount as is necessary to ensure the relevant Loan to Value Ratio (as defined in section 5.2) is met.

10.2 Application of money – set-off

If you do not pay an amount when due, we may apply any deposits or money in any of your accounts (whether or not matured) in payment of that amount without notice and notwithstanding any direction given by you to the contrary. We need not do so. If we do so, the balance of the account will reduce by the amount used for this purpose. We may do all such acts and execute all such documents (including, without limitation, to break any term deposit) on your behalf and/ or in your name, as may be necessary or expedient to effect any such application.

We may convert currencies using our prevailing exchange rate for the day of conversion.

10.3 Our rights

We may exercise a right or remedy or give or refuse consent in any way we consider appropriate including by imposing conditions.

We can, but need not, do anything under this Agreement or a Security, even after a delay, or more than once.

We can exercise all other rights and powers we have under law even if they overlap with any in this Agreement or a Security.

Time shall be of the essence of this Agreement but if we do not do something when we are entitled to, that does not mean we are giving up that right and cannot do it later.

10.4 Rights not prejudiced

Our rights and obligations expressed in this Agreement or in any Security shall not be abrogated, prejudiced or affected by the granting of time, credit or any indulgence or concession to you or any other person by us or by any compounding, compromise, release, abandonment, waiver, variation, relinquishment or renewal of any of the rights of us or by any omission or neglect or any other dealing matter or thing which but for this section could or might operate to abrogate, prejudice or affect our rights or the obligations of you or any Security Provider under this Agreement or in the Security.

10.5 Statement

A written statement by us as to any amount due under this Agreement will be able to be relied upon unless shown to be wrong.

11. On Demand Loans

11.1 Repayment on Demand for Home Equity Loans and On Demand Loans.

If your loan is a Home Equity Loan or your Letter says that your loan is repayable on demand, then we can at any time:

- demand repayment of your loan (whether or not you are in default); or
- cancel your loan or reduce your Credit Limit (whether or not you are in default).

We will give you written notice if we demand repayment or cancel/reduce your Credit Limit. If this occurs you must immediately repay:

- any amount by which the debit balance of the Loan Account exceeds the new Credit Limit; and

- if the Credit Limit has been reduced to zero, any other money owing in respect of your loan.

12. Variations To This Agreement

12.1 Variations we may make under this Agreement

We may introduce new fees and charges and may vary any term or condition of this Agreement, including, for example:

- the Interest Rate (including any discount to the Interest Rate);
- the Default Margin;
- the Loan Amount or Credit Limit;
- the loan term;
- the amount, frequency and number of payments, and time for payments or the method of calculation of payments;
- the existing fees and charges and their times for payment; and
- the Loan Account number.

We may only do so if the change is expressly permitted by another clause of this Agreement or we reasonably consider the change is to your advantage or the new fee or charge or the change is needed for any one or more of the following reasons (in each case, whether in New Zealand or elsewhere):

- to respond to legal or regulatory developments;
- to reflect industry standards and codes of practice;
- to respond to operational requirements or technological developments affecting members of the HSBC Group or the financial services industry generally;
- to reflect developments in financial markets (including the basis for calculation of interest rates) or changes in the cost of funding the Loan including changes in any base or market rate;
- to reflect other legitimate costs of providing the Loan or the services contemplated by this Agreement (including changes in taxation and similar).

Any change we make will be reasonably necessary for our legitimate business interests. Please note that all of these changes can be made without your consent, except:

- as stated in section 12.4; and
- we will not increase your Loan Amount or Credit Limit without your approval.

12.2 Telling you of the changes

We will communicate any changes to this Agreement either by direct communication (e.g. by letter, mail, fax or telephone) or by display in our offices or through our website and/or by notice in the media (including public notices and press releases) or by any electronic banking channels used by you and we will give you and your guarantor(s) whatever minimum period of notice we are required to give under any applicable law including the Credit Contracts and Consumer Finance Act 2003 or code of conduct or, if there is no mandatory notice period, at least 14 days' notice.

12.3 Changes in payments or loan term following changes in Interest Rate

This does not apply to Home Equity Loans or any other loan while payments do not include principal.

If the Interest Rate, changes we may, but need not, change the amount of your payments.

If we do not immediately change the amount of your payments, we may do so later. We will tell you if the Interest Rate changes and your payments increase.

If the Interest Rate increases and your payments do not increase, it will take you longer to repay the loan and your loan term will automatically be longer. Please note that we do not need to notify you of this.

12.4 Fixed Interest Rate Loans

While your loan has a fixed Interest Rate we will not vary any of the following other than on the last day of the relevant fixed interest period:

- the payments, unless you make a prepayment or you do not make a payment when due; or
- the Interest Rate.

12.5 Interest rate information

Unless your Letter says otherwise we will advertise our current interest rates either by direct

communication or by display in our offices or through our website and/or by notice in the media (including public notices and press releases).

You can also get information about a current interest rate or rates by phoning our Direct Service Centre on 0800 80 23 80 from anywhere within New Zealand.

13. General

13.1 Review

We may review your loan at any time. For example, we may do so if we suspect that there has been a change in your financial position or a change in our security position. We also conduct regular reviews of account performance. You must provide any information we reasonably request about your financial affairs. This could include tax returns, tax assessments, financial records, bank or financial institution statements and, if you are a company, partnership or trust, balance sheets, profit and loss statements and cash flow statements.

13.2 Transfer of loan

You may not transfer your rights under this Agreement or any Security.

We may transfer all or any of our rights benefits or obligations under this Agreement, any Security and the debts secured by any Security, to anyone else who we reasonably consider capable of performing them at any time.

You and each Security Provider consent in confidence and authorise us to pass on to the transferee in confidence any personal or other information contained in your Agreement or any Security for the purpose of undertaking due diligence and in the event of transfer or administration of your loan or Agreement.

If we transfer this Agreement and the Security, they will apply to the transferee as if the transferee were us.

Unless any set off, equity or cross claim must, by law, be applied, any transfer will be free of any set off, equity or cross claim which you would have had against us or transferees of this Agreement but for this paragraph.

13.3 No deduction

Unless any law provides that you may not do so, you give up any right to set off any amounts we owe

you (for example, credit balances in your accounts) against amounts you owe under this Agreement or any Security.

13.4 Notices

Notices must be in writing and they may be sent by post or personal delivery, or by electronic communication.

Notices to you may be given to your address set out in the Letter, your residential address (or, if you are a company, place of business) last known to us or any other address or email address notified to us by you. Court documents may be served the same way as permitted by law.

Notices to us may be given to our address or facsimile number set out in your Letter or such other address or means of electronic communication as may from time to time be given by us for this purpose.

A notice is taken to be given:

- (a) in the case of one given personally – on the date it is delivered to the relevant address;
- (b) in the case of one sent by Fastpost – on the date that is one day after being sent, correctly addressed and stamped;
- (c) in the case of one sent other than by Fastpost – on the date that is three days after being sent, correctly addressed and stamped; or
- (d) in the case of one sent by electronic communication – on the date of transmission.

If you are a company, communications from you must be signed by a director or any other person whom you have notified to us in writing as a person who may sign communications from you and for whom you have provided us with a specimen signature.

13.5 Information to Security Providers including guarantors

You consent to us giving information to any Security Provider including guarantor(s) or their lawyers. This includes copies of documents concerning you, the loan and any Security including any variations or increase of obligations under these documents.

13.6 Partial Invalidity

If at any time any provision of this Agreement becomes illegal, invalid or unenforceable in any

respect then that provision shall be severed from this Agreement and neither the legality, validity or enforceability of the remaining provisions of this Agreement nor the legality, validity or enforceability of such provisions under the law of any other jurisdiction shall in any way be affected or impaired thereby.

13.7 Joint and several obligations

If there is more than one of you each of you is individually liable for the full amount under this Agreement. You are still bound by this Agreement even if anyone you thought was going to sign it does not sign it, or any of you is not bound by this Agreement or is released from part or all of their obligations under it. For partnership Loan Accounts, partners are jointly and severally liable for any debt incurred with HSBC unless agreed in writing otherwise. You refers to each of you.

13.8 Personal information

Information about you, each Security Provider and your account(s), including your Loan Account, in our database may be used by us and other members of the HSBC Group in making lending decisions and assisting your relationships with them. The information may also be disclosed to others to provide you with the service you applied for, for the purposes of fraud prevention and money laundering or terrorist financing, audit and debt collection and allow services to be processed for us.

Failure to update your contact details may result in failure to receive information about your loans or other matters that may be important. We cannot be held responsible if this happens. You agree to update your contact details immediately if your contact details change.

13.9 Governing law and jurisdiction

This Agreement is governed by and construed in accordance with New Zealand law. You accept the non-exclusive jurisdiction of the courts of New Zealand.

If you do not live or have a business address in New Zealand you must ensure that at all times during the term of the loan a person or entity acceptable to us is validly appointed as your agent to accept notices and court documents on your behalf in New Zealand and consents to act as your agent.

14. Reading this Agreement

14.1 Definitions

In this Agreement:

Administration includes bankruptcy, administration (including arising out of insolvency, mental illness or incapacity), compromise or arrangement with creditors, assignment for creditors, receivership, liquidation, dissolution, re-organisation or anything similar.

Agreement means the Letter, the Booklet and the Brochure.

Business Day means a day other than a Saturday or Sunday or a public holiday in New Zealand.

However for the purposes of this Agreement, a Business Day ends at 4.30pm (or any later time we agree) in New Zealand (although withdrawals made after that time by ATM, EFTPOS or other electronic means may be debited to your Loan Account on the day you make them in accordance with our processing procedures applying at the relevant time).

Construction Loan means a loan approved for the purpose of construction or renovation drawn in a number of instalments. If your loan is a Construction Loan your Letter will say so.

Construction Period has the meaning given in the Letter or if no meaning is given in the Letter, means the period by which the Construction Loan must be fully drawn.

Conversion Date means the earlier of the day after the date your loan is fully drawn and the day after the last day of the Construction Period. This applies only to Construction Loans.

Credit Limit means the amount set out as your "credit limit" in the Letter, reduced as specified in this Booklet. This applies only to Home Equity Loan and Home Smart Loans.

Default Event has the meaning given in section 9 (Default Events).

Default Interest Rate has the meaning given in the Letter or if no meaning is given in the Letter, means such margin as shall be determined by us at our sole discretion.

Generally Accepted Accounting Practice has the meaning given to that term by Section 8 of the Financial Reporting Act 2013.

Home Loan Floating Rate means HSBC's variable floating interest rate for home loans as published from time to time.

Home Smart or Home Equity Loan means a loan described in the Letter as a Home Smart or Home Equity Loan or as otherwise notified by us in writing as a Home Smart or Home Equity Loan.

HSBC or "we", "our" or "us" means The Hongkong and Shanghai Banking Corporation Limited, incorporated in the Hong Kong SAR, acting through its New Zealand branch.

HSBC Group means HSBC Holdings plc, its affiliates, subsidiaries, associated entities and any of their branches and offices (together or individually), and "member of the HSBC Group" has the same meaning.

Independent Trustee means a trustee who is specified as an independent trustee in your Letter and whose liability is limited to the extent that the assets of the trust as otherwise set out in this Agreement.

Interest Only Period means a period during which your payments cover interest, but do not include any amount to reduce the principal balance of your loan. If you have an Interest Only Period your Letter will say so.

Interest Rate means at any time the annual interest rate described in the Letter as applicable at that time or any other interest rate we notify you from time to time will apply to the unpaid balance under this Agreement.

Internet Banking Service means the service we make available through the Internet network to enable the electronic receipt and transmission of money, information and instructions.

Letter means the letter entitled "Loan Details" giving details of your loan.

Loan Account means the loan account in your name opened for the purposes of the loan.

Loan Amount means the amount set out in the Letter as the "Loan Amount" or "Original Facility Amount". This applies to all loans other than Home Equity Loans and Home Smart Loans and is the available amount of your loan.

Property means any property mortgaged or charged, or to be mortgaged or charged, by a Security. Where the Security is over land or any interest in land it includes:

- any part of the property;
- the unit or the house and all the other buildings, improvements and additions to the land; and
- all rights attaching to the land.

Where the Security is over a lease of land, the **Property** includes the land the subject of the lease, the unit or house and all other buildings or improvements on the land and all rights under the lease.

Security means any security or security interest (for example, a mortgage or guarantee), claim or other right we hold against you or anyone else in relation to your obligations under this Agreement, now or in the future.

Security Provider means any person who gives Security.

Split Loan applies where the Letter details loan amount or credit limit, Interest Rate, term and payment details for more than one loan.

Telephone Banking Service means the Automated PhoneBanking or telephone instruction and information service made available by us.

Transactional Account means one of the following accounts held with us: Everyday Account, e-Saver

Account, Home Smart Account, Home Equity Account and any other account we may specify from time to time.

You means the person or legal entity to whom the Letter is addressed. If there are more than one, it means each of them separately and every two or more of them jointly.

14.2 Interpretation

- Mentioning something after **include, includes, included** or **including** does not limit what appeared before.
- **Indebtedness** includes any obligations (whether present or future, actual or contingent, secured or unsecured, as principal or surety or otherwise) for the payment or payment of money.
- **Examples** do not limit what else may be included.
- The headings to sections in this Booklet shall be ignored in construing this Booklet.

14.3 Currency

In the Letter and in this Booklet all stated amounts are New Zealand dollars unless otherwise specified.

Schedule One

Construction Loans

This Schedule only applies if your loan is a Construction Loan

Before you draw the loan

As well as the other things you need to do before you draw your loan you need to send us the following documents and we need to be satisfied that they meet our requirements set out in the Agreement and are consistent with the information you have provided to us.

- a copy of the proposed fixed price building contract;
- a copy of the plans and specifications for the proposed dwelling;
- a certificate of currency of the builder's construction risk insurance and public liability insurance with a minimum cover acceptable to us;
- a copy of the owner's building insurance evidencing cover for the full oncompletion value of the Property and the improvements being constructed on it or the renovation being carried out on it; and
- where the loan is for a renovation an acknowledgement by the insurance company that it is aware that building works are being undertaken and that the Property may be vacant for a specified amount of time.

Before you can make any drawing your contribution to purchase and/or construction/ renovation on the Property must be used.

Progress Payments or Subsequent Advances

- We need not make a progress payment if any of the things referred to in section 1.3 has happened.
- We may make progress payments conditional on any matter we reasonably require.
- Any drawing must not cause the undrawn portion of the construction loan to exceed the cost to complete the building such cost to be determined by a valuer acceptable to us at your cost.
- A drawing can only be made for a purpose other than purchase of the Property if:

- (a) you give us a request for a progress payment completed and signed by the builder providing full details of all building works completed (and for which payment is requested);
 - (b) your request states that you are satisfied with the quality of the workmanship and the value of the claim;
 - (c) a valuer acceptable to us certifies to us that he or she is satisfied with the claim and the progress of the works at your cost; and
 - (d) the total of all drawings plus the amount requested and the cost to complete the works does not exceed 80% of the on-completion value of the Property and improvements on it as determined by a valuer acceptable to us at your cost.
- Before we make the final progress payment we require:
 - (a) a policy of insurance (noting our interest as first mortgagee) either for:
 - the full insurable value of the improvements on the Property on a full replacement and reinstatement basis; or
 - reinstatement or replacement to a specified total sum insured that is sufficient to reinstate or replace the improvements to an equivalent size, quality and value on the existing site;
 - (b) a final code of compliance from the local authority; and
 - (c) a completion certificate from a valuer acceptable to us at your cost showing the on-completion value of the Property and improvements on it.

Other conditions

- Any variations to the building contract which increase the total amount of the contract price by 10% or more will require our prior approval. The builder specified in the building contract cannot be replaced without our prior approval.
- You consent to us or our agents having access to the Property when reasonably required by us.

- You undertake to ensure that all consents and approvals necessary or desirable for the building works on the Property have been obtained prior to commencement of the building works.
- The building works on the Property must be completed to the specifications and within the Construction Period.
- All buildings works must be carried out in accordance with:
 - all building consents, relevant local authority bylaws, regulations and planning rules, the provisions of the Resource Management Act 1991 and the provisions of the Building Act 2004; and
 - plans, engineering details and specifications of the building works,

copies of which you are required to provide to us. Any changes to these approvals, plans or specifications will require our prior approval.

Schedule Two

Trusts

This Schedule only applies if you are or any Security Provider is a trustee and sign this Agreement or any Security as trustee of a trust.

For the purposes of this Schedule Two, 'you' and 'your' also refers to each Security Provider that is a trustee.

This Agreement and any Security will bind you both personally and as trustee of the trust.

You confirm the following:

- the relevant trust document is valid and complies with all relevant laws;
- any copy of the trust document you have given us is a true and complete copy of it and you have provided us with true and complete copies of all other relevant documents;
- you, and anyone else who signs this Agreement or any Security as trustee are properly appointed and are the only trustee(s) of the trust;
- you have not resigned or received any notice or information of the revocation by any means whatsoever of your appointment as trustee;
- you have always complied with the terms of the trust, and your duties and powers, and no one has said that you have not done so;
- unless you are recorded as an Independent Trustee in the Letter you confirm that your liability under this Agreement is your personal unlimited liability;
- there is no restriction on the Trustees' powers to borrow and guarantee the obligations of others with full indemnity to the trust assets;
- there is no restriction on the Trustees' powers to give any Security over the trust assets;
- you will properly sign this Agreement and any Security to which you are expressed to be a party under the terms of the trust and your duties and

powers as trustee, or, if all beneficiaries are over 18, you have obtained their consent;

- none of the trust assets have been resettled or set aside;
- the trust has not terminated nor has any event for the vesting of the assets occurred; and
- the trust is governed by New Zealand law.

Please note that the above are warranties, which means that we may suffer loss and have a remedy against you if any are incorrect.

You promise the following:

- you will comply with your duties as trustee;
- you will not do anything which may result in the loss of your right of indemnity from the trust assets;
- you will remain sole trustee of the trust (with anyone else who signs this Agreement or any Security as trustee);
- if, despite the above, you are replaced or rejoined as trustee, you will make sure the new trustee becomes bound to our satisfaction by this Agreement and any Security to which you are expressed to be a party, or by a mortgage or other security and arrangement which are identical in effect; and
- you will not resettle, set aside or distribute any of the assets of the trust without our consent unless compelled to do so by the relevant trust document.

If you are specified as an Independent Trustee in the Letter, your liability under this Agreement is limited to the extent that the assets of the trust (or assets that would be the assets of the trust but for the wilful default or dishonesty of the trustees of the trust) are available to meet your liability under this Agreement.

Schedule Three

Companies: Representations and warranties

This Schedule only applies if you are or any Security Provider is a company.

For the purposes of this Schedule Three, 'you' and 'your' also refers to each Security Provider that is a company.

You confirm the following:

- you are duly incorporated and validly existing under the laws of New Zealand with indefinite corporate existence and have the power and authority to own your assets and to carry on your business as presently conducted;
- you have power, and all necessary corporate action (including passing all resolutions) have been taken to authorise you to enter into, execute and deliver, exercise your rights and perform your obligations under this Agreement and any Security;
- the names and other details of your directors are as disclosed to us in writing;
- you will obtain a commercial benefit from entering into this Agreement, any Security and the transactions they contemplate, which your directors have resolved to enter into in good faith for your benefit and for proper purposes;
- the person(s) who sign(s) this Agreement or any Security or a power of attorney under which this Agreement or any Security is executed, are two or more of your directors or your sole director and witness;
- each of this Agreement and each Security to which you are expressed to be a party are duly executed on your behalf;
- your entry into, exercise of your rights and performance of your obligations under, this

Agreement and any Security do not and will not violate or contravene any applicable law or your constitutive documents nor cause any limit on your powers or the powers of your directors to be exceeded;

- no order has been made, resolution passed or legal proceedings issued (other than a vexatious or frivolous proceeding) and no corporate action has been taken, notice given or other step taken or (to the best of your knowledge and belief) threatened against you for the dissolution or re-organisation of, or for the appointment of a receiver, manager, inspector, trustee, statutory manager or other similar person in respect of you or the whole or any part of your assets;
- you have not made nor do you intend to make any assignment, arrangement or composition for the benefit of creditors generally nor has any moratorium been agreed or declared in respect of or affecting all or any material part of your indebtedness;
- your most recent accounts, whether in respect of a half-year period or full-year period, were (subject to the notes thereto) prepared in accordance with Generally Accepted Accounting Practice (audited in the case of accounts for a full-year period) and give a true and fair view of the results of your operations for the period to which they relate and your financial position as at the end of such period, and there has been no material adverse change in your financial conditions since that date; and
- you are able to pay your debts as they become due in the normal course of business.

Schedule Four

Companies: Undertakings

This Schedule only applies if you are or any Security Provider is a company.

For the purposes of this Schedule Four, 'you' and 'your' also refers to each Security Provider.

You promise to do all of the following at all times:

- without limiting any other section of this Agreement and unless we expressly agree in writing otherwise:
 - (a) maintain proper procedures to monitor and use all reasonable endeavours to ensure compliance by you and your subsidiaries with all environmental laws and directives;
 - (b) in relation to yourself and each of your subsidiaries, obtain, maintain in full effect and comply with all consents and other requirements (including, without limitation, any certificates of compliance, warrants of fitness, resource and building consents and orders) under all environmental laws and directives, which may be necessary or desirable in respect of its or their respective continuing business and/or the land, buildings, water or other property owned, occupied or otherwise used by you or any of your subsidiaries; and
 - (c) notify us of all actual or potential environmental liabilities which may have a material adverse effect on you as soon as reasonably practicable after becoming aware of such liabilities and provide us with reasonable details of the action taken or proposed to be taken in relation to such liabilities.
- not:
 - (a) without limiting any other section of this Agreement, surrender or otherwise dispose of, grant security over, apply for the change or cancellation of any condition of or otherwise deal with any consent or requirement as described above;
 - (b) create or permit to subsist any security or security interest over the whole or any part of your assets (except as otherwise expressly permitted in this Agreement or any Security and other than any security which arises by statute);
 - (c) lend or otherwise provide any other financial accommodation to, give any guarantee or like instrument in respect of, or otherwise assume any indebtedness of, any person;
 - (d) make any material change in the nature or scope of your business as presently conducted;
 - (e) either by one transaction or a series of transactions, whether related or not and whether at one time or over a period of time, dispose of all or any material part of your assets (disregarding any disposals made in the ordinary course of business on normal commercial terms and at arm's-length);
 - (f) make any distribution (as defined in section 2(1) of the Companies Act 1993);
 - (g) acquire your own shares, issue shares which are redeemable either at the option of the holder of the shares or on a date specified in your constitutive documents or exercise any option to redeem your shares;
 - (h) amalgamate or make any proposal to amalgamate with any other company; or
 - (i) enter into any major transaction as defined in section 129 of the Companies Act 1993.

HSBC's most recent QFE Disclosure Statement and Quarterly Disclosure Statement are available free of charge on request or on our website - www.hsbc.co.nz.

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