

## **Additional Terms of Mortgage**

Memorandum of Mortgage 2018/4346 is amended by inserting the following:

### **27 Subsequent Charges**

27.1 If and so long as this mortgage ranks ahead of any subsequent encumbrance (whether granted with the consent of the Mortgagee or not), the party giving this mortgage must duly and punctually pay all money secured by, and comply with the terms contained or implied in, every subsequent general security agreement, encumbrance or charge.

### **28 Resource Management Act**

- 28.1 The Mortgagor will obtain, give effect to, exercise, keep current, renew and comply with all resource consents (having the meaning given to that term by the Resource Management Act 1991) and authorisations necessary or desirable in respect of the Mortgagor's continuing business or in respect of land owned or occupied by the Mortgagor.
- 28.2 The Mortgagor agrees to grant in favour of the Mortgagee a charge over any resource consent pursuant to section 122 of the Resource Management Act 1991 upon demand by the Mortgagee, such charge to be in such form and contain such terms and conditions as required by the Mortgagee, and the Mortgagor agrees to do all things necessary to enable such charge to be registered in any relevant registry.
- 28.3 The Mortgagor will not surrender, transfer, grant security over, vary or apply for the variation of or cancellation of any condition of, or deal or otherwise dispose of in any way whatever any such resource consent or authorisation without prior written consent of the Mortgagee.

### **29 Building Act**

- 29.1 The Mortgagor undertakes to:
- 29.1.1 comply with the Building Act 2004 including all regulations and building codes in connection therewith in respect of the land charged under this Mortgage;
- 29.1.2 promptly upon receipt, and promptly on request by the Mortgagee, provide to the Mortgagee copies of all building consents, building certificates, code compliance certificates, compliance schedules, annual warrants of fitness and all other notices, applications, consents, demands and requests received or made by the Mortgagor in connection with the Building Act 2004 in respect of the land charged by this Mortgage.
- 29.2 The Mortgagee shall be entitled, but not obliged, at the cost of the Mortgagor to give all notices, make all communications and applications, complete all works and do all things and take all steps on behalf of the Mortgagor as the Mortgagee may in its discretion deem necessary or desirable in order to ensure that the land charged under this Mortgage and all buildings and structures on that land complies with the Building Act 2004. The Mortgagor shall on demand pay to the Mortgagee the amount of all costs, expenses and liabilities incurred by the Mortgagee pursuant to this clause. The Mortgagor hereby irrevocably grants to the Mortgagee the right to enter on the land charged by this Mortgage, together with its employees, consultants, workmen and

contractors to undertake and complete any works which the Mortgagee may deem necessary or desirable under this clause. Notwithstanding anything else in this clause 29, the Mortgagee shall not be entitled to act under this clause 29 unless the Mortgagee has given the Mortgagor not less than 48 hours notice of the Mortgagee's intention to act under this clause 29.

### **30 Indemnities**

- 30.1 The Mortgagor shall indemnify the Mortgagee and its agents, officers and employees and save the Mortgagee and its agents, officers and employees harmless, from and against all costs, expenses, liabilities, damages, claims and charges (including legal fees and disbursements on a solicitors and own client basis) suffered or incurred by the Mortgagee its agents, officers or employees in connection with:
- 30.1.1 any action which, in the Mortgagee's sole discretion and opinion, the Mortgagee is required to undertake as mortgagee and/or in relation to the mortgage and any costs incurred by the Mortgagee;
- 30.1.2 any failure by the Mortgagor or its agents, officers or employees to comply with the Building Act 2004 and/or the Resource Management Act 1991; and/or
- 30.1.3 any liability suffered by the Mortgagee or its agents, officers or employees in connection with being an "owner" as defined under the Building Act 2004 and/or the Resource Management Act 1991 or any liabilities otherwise suffered or incurred by the Mortgagee or its agents, officers or employees under those Acts or either of them in connection with the land charged by this Mortgage.
- 30.2 For clarification purposes, all liability or loss and any costs, charges and expenses the Mortgagee incurs in connection with the matters set out in clauses 30.1.1, 30.1.2 and 30.1.3 inclusive shall form part of "the secured moneys" of all mortgages and/or other security interests granted by and/or to be granted by the Mortgagor.

### **31 Assignment of Rentals**

- 31.1 The Mortgagor as beneficial owner by this mortgage assigns to the Mortgagee by way of mortgage all the rents and other moneys now due and owing or after the execution of this mortgage to become due and owing under and by virtue of any lease or tenancy of the land or any part of the land together with power for the Mortgagee to sue for recover and give effectual discharges for the same in the name of the Mortgagor or otherwise.
- 31.2 The Mortgagee shall have power to demand and recover all such rents and other moneys by action, distress or otherwise.
- 31.3 The Mortgagee will exercise its power to receive rentals and other moneys pursuant to this clause only after the Mortgagor has made default in the due and punctual performance or observance of any covenant, condition or agreement contained or implied herein or contained or implied in any security collateral hereto or contained or implied in any agreement between the Mortgagor and the Mortgagee.
- 31.4 Production of this instrument by the Mortgagee to any lessee, tenant or other person liable for the payment of rents and other moneys assigned by this mortgage shall be sufficient authority for such lessee, tenant or other person to pay such rents

and other moneys to the Mortgagee and no such lessee, tenant or other person shall be concerned to enquire whether any event has happened to authorise the Mortgagee to require payment of such moneys to the Mortgagee.

- 31.5 The Mortgagee shall not be obliged to pay any money received by it in discharge of any outgoings affecting the land but shall be entitled to apply the same in and towards the payment of any of the moneys hereby secured.
- 31.6 For the consideration recited at the commencement of this mortgage the Mortgagor irrevocably appoints the Mortgagee and any director, secretary or manager for the time being of the Mortgagee severally the attorney of the Mortgagor for the Mortgagor in the name of the Mortgagor and on behalf of the Mortgagor:
- (a) To demand, sue for and receive all moneys assigned by this clause;
  - (b) To exercise all or any of the rights, remedies and powers vested in the Mortgagor by virtue of any such lease or tenancy as fully as if this instrument had not been executed and the Mortgagor was personally present and acting in the matter and at such time and in such manner as the Mortgagee may feel fit.
  - (c) To vary the terms of any lease or tenancy and to negotiate and execute any variation, extension or renewal of such lease or tenancy or to negotiate and execute any contract in substitution therefore.

Any such attorney shall have power from time to time to appoint a substitute or substitutes and such substitute or substitutes at pleasure to remove and the Mortgagor agrees to ratify and confirm whatsoever any such attorney and/or such substitute(s) shall lawfully do or cause to be done by virtue of this clause.

- 31.7 The demand for or receipt of rents and/or other moneys or any action under clause 31.6 hereof by the Mortgagee shall not be or be deemed to be any entry into possession of the land.