



Terms and Conditions of Loan

1. Interpretation

1.1. **Definitions:** in this Agreement, the terms defined in the First Home Loan have the meaning given to them in that document. In addition:

“Agreement” means your Simplicity First Home Loan, these Terms and any other documents related to your First Home Loan.

“Business Day” means every day except Saturday, Sunday and national public holidays (but includes provincial anniversary days).

“CCCFA” means the Credit Contracts and Consumer Finance Act 2003.

“Default” means any of the events specified as such in clause 9 of these Terms.

“Default Interest” means the rate set out in the Loan Summary.

“Interest” means Annual Interest Rate set out in the Loan Summary.

“Loan” means your Simplicity First Home Loan.

“Property” means the property described in the Security Schedule of the Simplicity First Home Loan.

“Security” means the security described in the Security Schedule of the Simplicity First Home Loan.

“Terms” means these Terms and Conditions of Loan.

“We”, “us” and “our” – means the Lender, Simplicity Home Loans Limited.

“You” and “your” – means the Borrower and if more than one, jointly and severally.

1.2. **References:** in this Agreement, unless the context otherwise requires:

- a) Reference to “person” includes any individual, company, body corporate, partnership, association or trust;
- b) References to the parties to this Agreement includes their representatives, successors, executors, administrators and permitted assigns of that party;
- c) References to clauses and schedules relate to this Agreement;
- d) Words importing one gender include any other gender;
- e) The singular includes the plural and vice versa;
- f) “\$” or “dollar” means New Zealand dollars or such other the legal currency of New Zealand from time to time.
- g) References to “written” means the reproduction of words in a visible form including by way of electronic transmission.



In addition to the terms of the Simplicity First Home Loan these Terms and Conditions form part of the Agreement between you and us. We may change the terms of the Agreement at any time but will give at least 14 days' notice before doing so.

1. LOAN

- 1.1. **Advance:** We agree to advance the Loan to you on these Terms and those contained in the Agreement. Unless otherwise agreed by us, your Loan will be drawn down in one lump sum.
- 1.2. **Terms:** The key terms and information regarding your Loan are contained in the Simplicity First Home Loan. The other terms and conditions that apply to your Loan are set out in these Terms and the other documents which constitute the Agreement between us.
- 1.3. **Conditions:** these Terms and your Agreement may be subject to conditions and eligibility as outlined in our Letter of Pre-approval previously provided to you and you will need to ensure that all conditions are satisfied prior to the Loan being advanced to you.
- 1.4. **Cancellation:** If your Loan is not drawn down on the Drawdown Date, we will have the right to cancel your Loan. Please let us know if you need to vary the Drawdown Date, as noted in the Loan Summary.

2. REPAYMENT

- 2.1. You agree to:
 - 2.1.1. Repay us the Loan Amount, pay any Interest and any other amounts that may be applicable, such as third party disbursements as noted in the Loan Summary; and
 - 2.1.2. Comply with all the obligations contained in the Agreement.
- 2.2. **Direct Debit:** Your Payments due under your Loan will be deducted by direct debit from your nominated bank account.
- 2.3. **Next Business Day:** Any Payment which is due to be made on a day that is not a Business Day will be made on the next Business Day, however, we'll treat it as if you paid on the due date.
- 2.4. **Authority:** You authorise us to deduct automatically from your nominated bank account the Payments required to be made on each Payment date or any other date.
- 2.5. **Sufficient Funds:** It is your responsibility to have sufficient funds in your nominated bank account to cover your Payments. We may deduct Payments from your nominated bank account even if this means your nominated bank account goes into overdraft or exceeds any approved overdraft limit or other borrowing limit or restriction with your bank.
- 2.6. **No Deduction:** All Payments you make under this Agreement must be made without any deduction, set-off, counterclaim or withholding on account of any tax or any other reason unless required by law. If you are required by law to make a deduction or withholding from any Payment or we are required by law to make any payment on account of any tax other than normally required, you must pay an additional amount necessary to ensure that after making any deduction or withholding, we receive an amount equal to the Payment that would have been due if no deduction or withholding had been made.
- 2.7. **Payment Application:** We may apply any Payment you make to the amount you owe us in any order we may determine from time to time, whether it be in relation to principal, interest, fees or any other amount due under this Agreement.

- 2.8. **Costs:** You must pay any costs we incur to enforce or protect our rights under this Agreement, including but not limited to all legal costs, valuation fees, other professional advisor fees, taxes, etc.

3. INTEREST

- 3.1. **Calculated Daily:** You will be charged Interest on your Loan on a daily basis from the Drawdown Date until you have repaid your Loan in full.
- 3.2. **Calculation:** To calculate your interest, we'll multiply the Annual Interest Rate, as a percentage, by the unpaid balance of the Loan Amount. This amount is then divided by 365 to determine the amount of daily interest that you are charged. The amount of interest you are charged is due and payable by you in accordance with the Payment details contained in our Loan Summary.
- 3.3. **Charged Monthly:** Interest on the balance of your Loan Amount will accrue daily based on a 365-day year calculation and will be debited monthly starting one month after the Drawdown Date, or on a specified date agreed by us.
- 3.4. **Floating:** The Annual Interest Rate is floating and may change from time to time. We may vary the Annual Interest Rate at any time. We will give you written notice of any variation to the Annual Interest Rate at least three months prior to any change taking effect.
- 3.5. **Same Term:** We are entitled to vary the amount of each of your Payments payable under this Agreement to ensure that the outstanding Loan Amount and interest payable under that this Agreement is repaid over the same number of Payments during the Term as set out in the Loan Summary.
- 3.6. **Objection:** Our decision to vary the Interest will be final and conclusive. Should you object to any variation to the Interest, you may repay all outstanding moneys owed to us in full prior to the date the variation taking effect.
- 3.7. **Default Interest:** If you do not make a Payment when it is due, we may charge you interest at the Default Interest rate on a daily basis on the overdue amount. If we decide to charge you Default Interest, we will calculate the Default Interest from the date the overdue amount became due until the date it is actually paid. The Default Interest amount will be immediately due and payable.

4. PREPAYMENT

- 4.1. You may prepay all or any part of your outstanding Loan Amount at any time without penalty by payment of:
- 4.1.1. The full or partial amount of your Loan Amount then outstanding;
 - 4.1.2. Interest at the Annual Interest Rate up to the date of prepayment;
 - 4.1.3. All discharge or third party costs and disbursements we incur in relation to discharging any Security we have in accordance with this Agreement;
- 4.2. **Contact us:** If you wish to prepay all or any part of your outstanding Loan Amount we recommend you speak to us first to make the necessary arrangements. You will not be able to reborrow any full or partial prepayment.

5. WARRANTIES

- 5.1. You represent, warrant and undertake to us that:
 - 5.1.1. You have the necessary authority and capacity to enter into a legally binding contract such as this Agreement;
 - 5.1.2. You will perform and comply with all obligations under this Agreement and engage in the transactions contemplated by this Agreement and all related documents.
 - 5.1.3. No charge, interest or encumbrance of any nature exists on or over the Security unless approved by us in writing.
 - 5.1.4. No Default has occurred, and you have no knowledge that Default is likely to occur, and you do not reasonably suspect that Default is likely to occur.
 - 5.1.5. You are solvent and able to pay all debts when they fall due.
 - 5.1.6. To the best of your knowledge, you have no pending or outstanding claims against you that may result in an adverse change to your financial position or solvency.
 - 5.1.7. You are not holding the Security on behalf of a trust or other entity and the Security will be owned by you and you as joint tenants if more than one.

6. UNDERTAKINGS

- 6.1. You jointly and severally undertake that you will:
 - 6.1.1. notify us if you are in Default immediately upon becoming aware of it or if you think there is a risk of you going into Default.
 - 6.1.2. comply with all relevant laws and regulations that apply to you and the Security.
 - 6.1.3. promptly do all things necessary to ensure our interest and Security in the Property is perfected or maintained throughout the Term of this Agreement.
 - 6.1.4. Not do anything that could adversely affect our interest in the Security in any way, including but not limited to criminal activity of any nature.
 - 6.1.5. Insure the Property in accordance with clause 8 below.
 - 6.1.6. Provide us with any information in relation to the Security that we deem necessary, including but not limited to details of insurance and proof of payment of insurance premiums.

7. SECURITY

- 7.1. Your Loan, all amounts you owe to us and your other obligations under this Agreement are secured by the Security.
- 7.2. The Security will secure the current and future money you owe us and other obligations with us.
- 7.3. You must arrange to give us your Security by the Drawdown Date.
- 7.4. You, or anyone providing the Security, must also sign any security agreements or other documents or give any authority needed to register, perfect or maintain the Security.
- 7.5. If you do not keep your Payments up to date, or you give another security over the Property to another person without our consent, you will be in Default and we may enter into possession of, and/or sell, the Property.
- 7.6. If there is a shortfall in the proceeds of sale of the Property, you will remain personally liable for any shortfall to us.

8. INSURANCE

- 8.1. **Full Replacement:** You are required to insure the Property for its full replacement value, including earthquake insurance, which must be in place prior to the Drawdown Date.
- 8.2. **Comprehensive:** Your insurance must not contain any exclusions relating to earthquake damage and be insured against risks normally covered by a comprehensive policy.
- 8.3. **Remain in Place:** Your insurance must remain in place, and the premiums paid up to date, for the full Term of the Loan until the full Loan Amount and any Interest and other charges have been repaid to us.
- 8.4. **Certificate of Currency:** You must provide us with a certificate of currency of insurance with our interest noted as an interested party/first mortgagor before the Drawdown Date.
- 8.5. **Claim Proceeds:** We may require you to utilise any proceeds from the insurance policy to repay the outstanding balance of the Loan Amount or request that the insurance company pay the insurance proceeds directly to us.

9. DEFAULT

- 9.1. You will be in Default if:
 - 9.1.1. you do not make a Payment when due in accordance with the terms of this Agreement;
 - 9.1.2. you do not comply with any of your obligations or undertakings under this Agreement;
 - 9.1.3. any of the information you have provided to us is untrue, misleading or deceptive (including by omission) in a material respect;
 - 9.1.4. you become bankrupt, insolvent or are unable to pay your debts as and when they become due and payable;
 - 9.1.5. you agree to further encumber or register another security against the Property without our prior written approval;
 - 9.1.6. your insurance of the Property lapses and the Property is not covered by an adequate insurance policy;
 - 9.1.7. in our opinion, you have not disclosed any material information within a reasonable time of receiving notice from us of the suspected non-disclosure;
 - 9.1.8. the Security becomes enforceable;
 - 9.1.9. an order is made requiring you to pay any debts of another person (including a company);
 - 9.1.10. anything has happened or happens which, in our opinion, which may have a material adverse effect on this Agreement or the Security.

10. CONSEQUENCES OF DEFAULT

- 10.1. If you are in Default we may at any time thereafter do any one or more of the following:
 - 10.1.1. call up the Loan and require you to repay the Loan and all other moneys payable under this Agreement;
 - 10.1.2. terminate this Agreement;
 - 10.1.3. enforce the Security; and/or
 - 10.1.4. enforce any of our rights we have at law and under this Agreement;

provided we comply with all relevant laws.

11. TRANSFER

- 11.1. You may not assign or transfer your rights or obligations under this Agreement to any other person.
- 11.2. We may, without notice, at any time, assign or transfer our rights or obligations under this Agreement to another person who will be able to exercise our rights and obligations instead of us. If we transfer this Agreement pursuant to this clause any reference to “we”, “us” and “our” will refer to the person we transfer the Agreement to.

12. NOTICES

- 12.1. All notices under this Agreement must be in writing and must be delivered or sent to the address or email address as noted in the Notice Details of Borrower/s in the First Home Loan.
- 12.2. All notices will be served in accordance with the CCCFA.

13. GENERAL

- 13.1. **Reliance:** You acknowledge that we have agreed to lend you the Loan Amount under this Agreement in reliance on the representations, information and warranties made by you pursuant to this Agreement.
- 13.2. **No Representation:** You acknowledge that you have relied on your own judgement and other independent advice regarding this Agreement as to its suitability for your purposes.
- 13.3. **No Waiver:** No delay or failure by us to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right, unless otherwise expressly provided by us in writing.
- 13.4. **Partial Invalidity:** any illegality, invalidity or unenforceability or any terms or provisions of this Agreement will not affect the legality, validity or enforceability of any other terms or provisions of this Agreement.
- 13.5. **Decisions:** if there is more than one Borrower any decisions, alterations, amendments, consents or approvals will need to be confirmed by all Borrowers.
- 13.6. **Time of the Essence:** Time is of the essence with respect to any of your obligations regarding Payments under this Agreement.
- 13.7. **Headings:** Clause and paragraph headings are inserted for convenience and to assist with navigation through these Terms only and they do not affect the interpretation of this Agreement.
- 13.8. **Counterparts:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- 13.9. **Law:** This Agreement is governed by the laws of New Zealand. You and we irrevocably submit to the non-exclusive jurisdiction of the court of New Zealand.



You acknowledge you have read and understood the above Terms and you agree that they apply to your Loan.

Signed by the Borrower/s:

Signature: _____

Name:

Date

Signature: _____

Name:

Date