



Investor Agreement

Version: 16 December 2018

This Agreement (inclusive of the LCL Service Terms and Conditions) sets out the terms on which a person (whether an individual or institutional investor) (**you** or **your**) as an Investor agrees to use the service provided by Lending Crowd Limited (**Lending Crowd**) to lend money (through the Trustee as bare trustee) on a peer-to-peer basis to other persons.

By accepting these terms of this Agreement, an agreement is formed between you, Lending Crowd, and the Trustee.

1. Investor Eligibility Criteria

- 1.1 In addition to the Lending Crowd's eligibility criteria for becoming a member of Lending Crowd to register as an Investor you must provide details of your IRD number and NZ bank account.

2. Trustee's Role

- 2.1 You appoint the Trustee as trustee in respect of your interests in the Investment Account, and every Loan Agreement relating to a Loan Note which you hold, every such Loan, all on and subject to the terms of this Agreement. The Trustee accepts this appointment.

- 2.2 You direct and authorise the Trustee:

- (a) if you have placed a buy order to purchase a Loan Note for the amount selected (being a multiple of \$50) from a particular Loan Listing, and the Loan is subsequently Accepted, to:
 - (i) enter into the relevant Loan Agreement; and
 - (ii) apply funds held for you in the Investment Account equivalent the amount of the Loan Note purchased towards Settling that Loan, by way of investing those funds in the Loan for your benefit; and

- (b) to appoint Lending Crowd as its agent as provided in clauses 3.1 and 3.2.

- 2.3 The Trustee confirms, and the parties agree, that the Trustee holds:

- (a) the Investment Account on trust for the benefit of all Investors: and
- (b) every Loan Agreement relating to a Loan, and every such Loan, on trust for the benefit of the Investors who will or do hold Loan Notes in that Loan, in accordance with their respective participations,

in each case on and subject to the terms of this Agreement.

- 2.4 The Trustee (through Lending Crowd) is authorised to deduct from the Investment Account, any Platform Fees, Borrower Fees, Investor Fees or withholdings or deductions which are payable to Lending Crowd or Inland Revenue by transfer to the Transaction Account.

- 2.5 The Trustee further confirms, and the parties agree, that the Trustee has no power to invest, pay, or otherwise apply, any funds or property the Trustee holds for your benefit under clause 2.4 without your express direction or as provided in this Agreement.

- 2.6 The Trustee will account to you for your share (in accordance with your Loan Note) of all amounts which are received by or on behalf of the Trustee from the Borrower under a Loan in relation to which you hold a Loan Note, subject to deductions permitted under this Agreement and clause 9.3(b).

- 2.7 You acknowledge that the Trustee acts as trustee in respect of the Service. You agree that you are not entitled (whether alone or together with any other Participating Investors) to:

- (a) give the Trustee a direction that is inconsistent with this Agreement;
- (b) call for the transfer of all or any share of any Loan Note or the relevant Loan Agreement to (or as directed by) you;
- (c) terminate the trust of any such Loan and Loan Agreement; or
- (d) discharge or replace the Trustee, or appoint any person as trustee of such trust in addition to the Trustee.

3. Lending Crowd's Role

3.1 Lending Crowd will act as the Trustee's agent in:

- (a) opening and transacting the Investment Account;
- (b) concluding all Loan Agreements on the Trustee's behalf (in addition to entering into the Loan Agreements as principal);
- (c) advancing all Loans, including by Settling them;
- (d) administering all Loans (including without limitation by monitoring all amounts payable under each Loan Agreement, providing all disclosure statements required to be given under the CCCFA, by providing the Collection Services, and by amending any Loan Agreements under the LCL Service Terms and Conditions);
- (e) performing the Trustee's duties and exercising the Trustee's powers under clauses 4.1 to 4.3; and
- (f) transferring funds to the Transaction Account for deductions permitted by this Agreement, as provided in, and subject to the terms of, this Agreement.

3.2 The Trustee (which each Investor confirms) appoints Lending Crowd as the Trustee's agent to do all things referred to in clause 3.1, and all other things which are (or which Lending Crowd considers) reasonably incidental to them. Lending Crowd accepts this appointment.

4. Taxation and Returns

4.1 When you register as an Investor, as well as providing your IRD number, you must provide to Lending Crowd:

- (a) a copy of your RWT Exemption Certificate (if applicable);
- (b) the rate at which RWT should be withheld from interest payments accruing for your benefit under a Loan; and
- (c) such other tax-related information as Lending Crowd requests; and

4.2 If you do not provide Lending Crowd with a copy of your RWT Exemption Certificate (if appropriate), the Trustee (acting on behalf of the Borrower, and through Lending Crowd)) will deduct RWT from interest paid for your benefit under the Loan, at the rate you notified to Lending Crowd under clause 4.1(b) (or at such higher rate as the law may require). If you do not provide Lending Crowd with your RWT rate (as required under clause 4.1(b)), you will automatically have RWT deducted at the maximum rate (currently 33%).

4.3 You acknowledge and agree as follows:

- (a) Lending Crowd, the Trustee, and the Borrower do not have to reimburse you for any amount that is deducted or withheld, whether under clause 4.2 or any legal requirement, from any interest paid for your benefit. References in this Agreement to amounts being paid to you are to be read accordingly;
- (b) if Lending Crowd, the Trustee, or the Borrower becomes liable to make any payment of, or on account of, tax in respect of any Loan, you will indemnify them in respect of that liability; and
- (c) references on the Website to interest rates and rates of return are expressed as gross returns, before deduction of any fees or without any withholding or deductions, unless otherwise specified.

4.4 You acknowledge and agree that:

- (a) a Borrower is entitled to prepay all of the relevant Loan early prior to the end of the Repayment Period, without penalty, provided that all interest, fees, and charges payable under the Loan Agreement accrued to the date of prepayment are also paid, to the Trustee on behalf of the Participating Investors; and
- (b) the Trustee (acting through Lending Crowd), in the circumstances set out in:
 - (i) clause 6.5(e)(iii) of the LCL Service Terms and Conditions, in its discretion as it considers fit, may; or
 - (ii) clause 6.5(e)(ii) of the LCL Service Terms and Conditions, will, assign the relevant Loan Agreement to Finance Direct in consideration of which Finance Direct shall pay to the Trustee on behalf of the Participating Investors an amount equal to the amount of relevant Loan outstanding and all interest, fees, and charges payable under the Loan Agreement accrued to the date of assignment.

You accept that such early prepayment or payment will affect your returns under the Loan and the relevant Loan Note. You further accept and agree that your returns may be affected if the Loan Agreement is varied under the LCL Service Terms and Conditions.

5. Investment Account

5.1 You acknowledge and agree as follows:

- (a) all amounts you want to invest through the Service will be credited to the Investment Account;
- (b) when you place a buy order to purchase a Loan Note for the amount selected (being a multiple of \$50) from a particular Loan Listing, the amount of that Loan Note will be "locked" in the Investor Account and show as an "Under Offer" Loan Note until the earlier of:
 - (i) the relevant Loan being Accepted by the Borrower, a Loan Agreement being concluded pursuant to the LCL Service Terms and Conditions and the funds being disbursed to the Borrower;
 - (ii) the expiry of the Listing Period where the Loan is not Fully Funded; or
 - (iii) the withdrawal of the Loan Listing prior to the Loan being Fully Funded or Accepted.

During this period, you will not be able to use the amount of the Loan Note for any other offer to purchase a Loan Note or to withdraw that amount from the Investor Account;

- (c) If the relevant Loan is Accepted by a Borrower:
 - (i) Lending Crowd is authorised to deduct the amount of your Loan Note from the Investment Account; and
 - (ii) the Trustee (through Lending Crowd) will enter into the Loan Agreement and apply the amount of your Loan Note to fund Settlement. Lending Crowd will do this by transferring the Platform Fee, any Borrower Fees and withholdings or deductions (which are then payable to Lending Crowd or Inland Revenue) to the Transaction Account at Settlement or promptly thereafter, and paying the balance of the Loan Amount to the Borrower to their Nominated Account or as the Borrower directs at Settlement;

- (d) subject to clause 9.3(b), if the Trustee or Lending Crowd (as its agent) receives any Loan Repayments and other amounts payable by the Borrower to the Trustee, once the funds have cleared (prior to which the Trustee or Lending Crowd will hold pending clearance), those payments will be credited to the Investment Account, where it will be held on trust for you and each other Participating Investor in proportion to your and their respective Loan Notes. The relevant Investor Fees and any Collection Costs owed to Lending Crowd and any withholdings or deductions on account of RWT or otherwise will then be deducted firstly from the part of those amounts being interest paid by the Borrower, and then from any principal amount of the Loan Notes, by transfer to the Transaction Account at any time payment of the same is due or promptly thereafter. Your share of the balance of interest and the principal amount of the Loan Note paid (each rounded to the nearest cent using Swedish rounding) will be detailed in your Investor Account. All monies received the Trustee or Lending Crowd (as its agent) in respect of amounts payable by the Borrower will be credited to the Investor Accounts in full (i.e. there will be no odds or evens unallocated to any Investor); and
 - (e) you may at any time request Lending Crowd to transfer any unallocated cleared funds that are held in the Investment Account for your benefit, from the Investment Account to your Nominated Account. Lending Crowd will action the transfer within 2 Business Days.
- 5.2 You also agree that any interest generated on your cash held in the Investment Account will accrue for the benefit of Lending Crowd and will be deducted from the Investment Account by transfer to the Transaction Account. Such interest accrues daily and is paid to Lending Crowd within two Business Days after the Investment Account is credited with interest.

6. Loan Note Purchase Process

- 6.1 You will be able to invest in any Loan by placing a buy order to a Loan Note for the amount selected (being a multiple of \$50) from a Loan Listing during the Listing Period, provided that you have sufficient unallocated cleared funds (sic "cash") in your Investor Account at that time which are not otherwise "Under Offer".
- 6.2 A buy order to purchase a Loan Note is a legally binding offer by you to lend (through the Trustee) to the relevant Borrower the amount of the Loan Note selected, on the terms set out in the relevant Loan Listing and otherwise as set out in this Agreement.
- 6.3 You may place a buy order to purchase a Loan Note from a Loan Listing at any time, provided that you have sufficient unallocated cleared funds held for you in the Investor Account at that time.
- 6.4 Once you have placed a buy order to purchase a Loan Note, you cannot withdraw it. Your buy order to purchase the Loan Note will remain open for acceptance for the Listing Period. Upon the Loan being disbursed to the Borrower, the amount of your Loan Note will show as an "Open Loan Note" in your Investor Account.
- 6.5 You may not be successful with your buy order to purchase a Loan Note regardless of what the unfunded balance of the relevant Loan is shown to be on the Website when you submit your buy order.

7. Loan Agreement

- 7.1 The proposed Loan will become an Accepted Loan upon the Borrower and any Guarantor electronically signing the Loan Agreement in accordance with Lending Crowd's requirements.

8. Your Rights

8.1 In respect of any Loan Note, you acknowledge and agree as follows:

- (a) your interests in that Loan Note and the related Loan Agreement are legally held on trust for your benefit by the Trustee, on the terms set out in this Agreement. No Borrower is entitled to any information which would enable the Borrower to identify you as an Investor of that Loan;
- (b) your interests in that Loan Note and the related Loan Agreement cannot be dealt with;
- (c) you will be entitled to receive your share (in accordance with your Loan Note and rounded to the nearest cent) of any Loan Repayments actually received in cleared funds, together with default interest and any fees paid by the Borrower to which you are entitled, after deduction and payment to Lending Crowd of the relevant Investor Fees and any Collection Costs, and after deduction and payment over of any withholdings or deductions on account of RWT or otherwise;
- (d) you cannot personally pursue the Borrower if the Borrower defaults on any of its obligations under the Loan Agreement;
- (e) you will not be provided with any information which would enable you to identify the Borrower (unless required by law or to enable you to comply with your obligations under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (NZ) (or equivalent legislation in other countries));
- (f) you do not have any contractual relationship with other Participating Investors (whether in the nature of partnership, joint venture, or otherwise) by virtue of holding a Loan Note in relation to the same Loan; and
- (g) you and the other Participating Investors beneficially co-own the Loan as owners in common (in accordance with your respective Loan Notes), and not as joint owners. Accordingly, if you die, your interest in the Loan Note will be an asset in your estate; it will not devolve on the surviving Participating Investors.

9. Fees & Collection Services

9.1 You will pay Lending Crowd the following Investor Fees:

- (a) a pro-rata proportion (based on the relevant Loan Note) of a fee (**Interest Flex**) for collecting the amounts payable by the Borrower, monitoring the payments, administering the Investment Account, and keeping such accounts in respect of each Investor as are needed to identify that Investor's beneficial share of the amounts collected under the Loan that are held in the Investment Account. The Interest Flex will be equal to a fixed percentage (assigned to Loans by Lending Crowd) of all interest Lending Crowd collects or recovers under the Loan and such percentage will depend on the source of the Loan (for example, without limitation, directly from a Borrower enquiry or indirectly from a referral from a Referrer in the case of Referred Loan). If no interest is received, then no Interest Flex is payable; and
- (b) any new types of Investor Fees introduced pursuant to clause 10.2 of the LCL Services Terms and Conditions.

9.2 The relevant Investor Fees and Collection Costs in respect of a Loan are payable as a deduction from the Loan Repayments and any other amounts owed to the Trustee under the Loan and recovered by Lending Crowd from the relevant Borrower by transfer to the Transaction Account. If any Loan Repayments or other amounts due to the Trustee are not recovered by Lending Crowd in providing the relevant Collection Services, subject to clause 9.3(b):

- (a) each Investor will receive a pro-rata proportion of any amounts actually recovered (after deduction of any withholdings or deductions on account of RWT or otherwise, of the relevant Investor Fees, and of Collection Costs incurred in respect of that Loan) based on the relevant Loan Note; and

- (b) neither you nor the Trustee will be obliged to pay any relevant Investor Fees or Collection Costs to Lending Crowd, except on the amounts actually recovered.

9.3 You acknowledge and agree that:

- (a) you have no right or ability to carry out any of the Collection Services in respect of your Loan Note, any related Loan or any related Loan Agreement;
- (b) notwithstanding any other clause of this Agreement, you have no right to any monies recovered in respect of your Loan Note, any related Loan or any related Loan Agreement beyond the expiry of the Collection Period or assignment to the Trustee at Lending Crowd's discretion during the Collection Period, and in relation thereto you (and as necessary, the Trustee on your behalf) are deemed to have assigned all your right, title and interest in your Loan Note, any related Loan or any related Loan Agreement to the Trustee with effect from the date immediately following the expiry of the Collection Period or the date of assignment to the Trustee (whichever is the earliest); and
- (c) if at the end of the Repayment Period the Borrower has repaid in full the Loan Amount due to the Trustee (on behalf of the Participating Investors), the final principal payment received by you in respect of your Loan Note shall be in full and final settlement of such principal amount notwithstanding that, due to round-to-even rounding by the Trustee or Lending Crowd (as its agent) of amounts payable to Investors, you have either received in repayment slightly more or less than the total principal amount of your Loan Note due to you.

10. Definitions & Interpretation

- 10.1 In this Agreement, terms defined in the LCL Service Terms and Conditions shall bear the same meaning unless the context requires otherwise.
- 10.2 In this Agreement, the terms regarding interpretation set out in the LCL Service Terms and Conditions shall apply *mutatis mutandis*.