



Rabobank

General Security Deed

Talk to the world's leading food and agribusiness bank

Rabobank New Zealand Limited

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THIS DEED is made the _____ day of _____ 20 _____

PARTIES The person(s) described as the Debtor in Schedule 1 (the "Debtor"); and
RABOBANK NEW ZEALAND LIMITED (the "Bank")

Section A Background

- A. At the request of the Debtor, the Bank has agreed, or may agree, to provide certain Financial Services to, or for the benefit of, or at the request of, the Debtor upon the terms and conditions contained in the Financial Documents.
- B. As a condition of the Bank's consideration as to whether to agree to provide the Financial Services, the Bank has required the Debtor to enter into and execute this deed to secure payment to the Bank of all the Money Secured.

Section B Security interest and charge

The Debtor in accordance with the terms of this deed hereby:

- (a) grants to the Bank a Security Interest in all Personal Property; and
- (b) charges in favour of the Bank all Non-Personal Property,

as security for the payment of all Money Secured and for the due and faithful performance and observance of the Secured Obligations.

NOTE: Where the collateral includes motor vehicles or aircraft which, in either case, are required by the General Instructions to Solicitors to be specifically secured, Schedule 2 should be completed.

Section C Schedule One: Debtor

If individual/s

First name	Middle name(s), if any	Surname	Date of birth
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Residential address

First name	Middle name(s), if any	Surname	Date of birth
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Residential address

First name	Middle name(s), if any	Surname	Date of birth
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Residential address

NOTE: The name of each individual must be the Debtor's current name as it appears on an official document such as a birth certificate, passport or driver's licence)

If Company

Company name	Incorporation number
<input type="text"/>	<input type="text"/>

Name and address of person acting on behalf of the Company

If trust

Trust name

Names and addresses of trustees:

First name

Middle name(s), if any

Surname

Address

First name

Middle name(s), if any

Surname

Address

First name

Middle name(s), if any

Surname

Address

If another organisation (including partnerships)

Type of organisation:

incorporated society

industrial and provident society

partnership

incorporated charitable trust board

building society

friendly society or credit union

Other (Please specify)

Organisation name

Incorporation number

Name and address of person acting on behalf of the Organisation

Section D Schedule Two: Serial-numbered goods

Motor Vehicles

Make or manufacturer's name

Model

Year of manufacture

Registration number, if any

Vehicle identification number, if any

Chassis number, if any (required only if the vehicle has no vehicle identification number)

Aircraft

Make or manufacturer's name

Model

Year of manufacture

Aircraft class

Registration number, if any

Nationality mark*, if any

Serial number provided by manufacturer*, if any

* Marks and serial numbers to be as they appear in the certificate of registration issued by the Director of Civil Aviation.

Section E Signed as a deed by the Debtor

Execution instructions:

1. Where the Debtor is one or more individuals then the signature of each individual must be witnessed
2. Where the Debtor is a company then execution should be by two directors or, if there is only one director, then that director's signature must be witnessed
3. Where the Debtor is described as a trust then this deed must be signed in accordance with the trust deed or governing document
4. Where the Debtor is described as a partnership then this deed must be signed in accordance with the partnership deed
5. Where the Debtor is an incorporated society then its common seal must be affixed by its authorised officers in accordance with its rules

Debtor's signature

Debtor's Name

Signature of witness

Print name

Occupation

Address

Debtor's signature

Debtor's Name

Signature of witness

Print name

Occupation

Address

Debtor's signature

Debtor's Name

Signature of witness

Print name

Occupation

Address

Signed for and on behalf of (name of Debtor Company)

Signature of director

Name of director

Signature of director

Name of director

Signature of witness

Print name

Occupation

Address

Signed for and on behalf of (name of Debtor Company)

Signature of director

Name of director

Signature of director

Name of director

Signature of witness

Print name

Occupation

Address

Section F

1. DEFINITIONS

1.1 In this deed, the following definitions apply unless the context otherwise requires:

“Accession”, “Account Receivable”, “Aircraft”, “Chattel Paper”, “Financing Change Statement”, “Financing Statement”, “Goods”, “Inventory”, “Investment Security”, “Land”, “Motor Vehicle”, “Negotiable Instrument”, “Proceeds”, “Register”, “Security Interest”, “Security Agreement”, “Serial-Numbered Goods”, “Verification Statement” each has the meaning given to that term in the Act.

“Act” means the Personal Property Securities Act 1999 and, where the context requires, includes the Personal Property Securities Regulations 2001.

“after-acquired property” has the meaning given to that term in the Act, but also includes that which has become personal property during the time that the Debtor has had rights in it.

“Attorney” means any attorney appointed under this deed or any Financial Document.

“Bankruptcy” includes:

- (a) winding-up or dissolution, liquidation, interim liquidation, receivership, statutory management, the declaration to be a corporation at risk under the Corporations (Investigation and Management) Act 1989, administration, reconstruction, bankruptcy or the commission of an act of bankruptcy within the meaning of the Insolvency Act 2006;

- (b) cancellation or suspension of registration, or the happening of any event on which the Debtor is to terminate, under the legislation under which the Debtor is incorporated or was established or under its constitutive documents, the giving of a direction by the registrar under the relevant legislation prohibiting the Debtor from carrying on any activity, or the suspension of the powers of the officers of the Debtor, or the suspension of the constitution of the Debtor, by that registrar;
- (c) assignment for the benefit of creditors, or arrangement or compromise with creditors; and
- (d) any analogous event.

"Blocked Deposit" means any deposit agreed as such by the Debtor and the Bank and includes any deposit that replaces or supersedes such a deposit.

"Business Day" means a day on which registered banks (within the meaning of the Reserve Bank of New Zealand Act 1989) in New Zealand are open for the transaction of general banking business.

"Capital" means the capital and share premiums of the Debtor (where it is a Company), called or uncalled, paid or unpaid.

"Civil Aviation Rules" means the rules set by the relevant Minister of the Crown in respect of civil aviation.

"Collateral Security" means any Encumbrance, Guarantee or other document or agreement at any time given by any person to secure, or in support of, all or any part of the Money Secured.

"Companies Act" means the Companies Act 1993.

"Company" has the meaning given to that term in the Companies Act and also includes "overseas company" as defined in the Companies Act.

"Co-operative Dairy Company" means a co-operative company that is registered as a co-operative dairy company under section 35 of the Co-operative Companies Act 1996.

"Debtor" means the person(s) whose details are set out in Schedule 1, and, where two or more persons are so described, the expression "the Debtor" refers to all of those persons jointly and each of them severally.

"Demand" and **"On Demand"** means demand being made by notice in writing signed by the Bank or any officer, employee or agent of the Bank served upon the Debtor in accordance with clause 19.

"Distribution" has the meaning given to that term in the Companies Act.

"Encumbrance" means a Security Interest, mortgage, charge, pledge, lien, assignment by way of security, financial lease, hypothecation, encumbrance, fixed or floating charge or other security interest given or arising in respect of any assets, present or future, and any arrangement which has the practical effect of preferring any creditor over unsecured creditors.

"Event of Default" means any of the events mentioned in clause 10.1.

"Financial Documents" means all documentation, including the Standard Loan Terms and any facility and security documents, which sets out the terms and conditions applicable to any Financial Services, and includes this deed and any Collateral Security.

"Financial Services" means any services or facilities provided by the Bank to, or for the benefit of, or at the request of the Debtor.

"Guarantee" means any guarantee, indemnity, letter of credit or other arrangement whereby a person is liable for the debts of another.

"Guarantor" means any person who at any time executes any Guarantee to the Bank in respect of any obligations of the Debtor.

"Indebtedness" means any indebtedness, present or future, actual or contingent, secured or unsecured, as principal or surety in relation to money borrowed, raised or otherwise owing or any financial accommodation whatever.

"Issuer", in relation to any Securities which are within the Secured Property, means the issuer of those Securities.

"Livestock" means the livestock (if any) the subject of the Encumbrance created by this deed.

"Major Transaction" has the meaning given to that term in the Companies Act.

"Material Adverse Effect" means a material adverse effect on:

- (a) the ability of the Debtor or any Guarantor to perform its obligations under a Financial Document;
- (b) the security position (including in relation to any Guarantee) of the Bank; or
- (c) the financial condition or business of the Debtor or any Guarantor.

"Money Secured" means all money (including all interest, commissions, costs and other lawful charges) which is or may from time to time be owing to the Bank either by the Debtor solely (and, if more than one Debtor is named as the Debtor, then severally by each Debtor so named), or jointly by the Debtor with any other person (including any other Debtor), whether or not owing in respect of Financial Services.

"Non-Personal Property" means the Debtor's present and future assets and undertaking which are not Personal Property.

"Officer of the Bank" means any director, general manager, manager (including those with the word "manager" in their title), secretary or solicitor of the Bank or other person authorised by the Bank for the relevant purpose.

"Permitted Encumbrance" means:

- (d) an Encumbrance created by this deed or any Collateral Security;
- (e) a lien arising by operation of law in the ordinary course of business of the Debtor; and, in addition, other than in relation to any Secured Property described in Schedule 2, also includes:
 - (f) an Encumbrance over assets securing some or all of the purchase price of those assets granted in the ordinary course of business of the Debtor;
 - (g) a Security Interest within the meaning of section 17(1)(b) of the Act (other than as constituted by a transfer of any Account Receivable or any Chattel Paper), to the extent that the relevant lease or consignment does not secure payment or performance of an obligation.

"Personal Property" means all personal property and after-acquired property in which the Debtor has, or acquires, rights, and includes any resource consent (as defined in the Resource Management Act 1991) but does not include any goods that are used or acquired for use primarily for personal, domestic or household purposes or any property to which, for any reason and for so long as, the Act does not apply and "personal property" has the meaning given to it in the Act.

"Receiver" means a receiver, receiver and manager, or manager, appointed under this deed or any other Financial Document, and when two or more persons are appointed as a Receiver the expression "Receiver" is a reference to each of them severally as well as to any two or greater number of them jointly.

"Related Company" has the meaning given to that term in subsection 2(3) of the Companies Act, but on the basis that the Debtor is to be regarded, for the purpose of this definition, as a Company.

"Rights" means all:

- (h) Distributions;

- (i) options or rights to take up any Securities of any nature; and
 - (j) other rights, money or Securities of any nature, attributable to or arising from any Securities;
- and includes all Proceeds of any Rights, all documents of title relating to any Rights, and all of the Debtor's present and future rights in relation to those Rights, Proceeds and documents of title.

"Secured Obligations" means the covenants, conditions and agreements contained or implied in this deed or in any other Financial Document.

"Secured Property" means the Personal Property and the Non-Personal Property the subject of the Encumbrance created by this deed.

"Security" has the meaning given to that term in the Securities Act 1978, and includes Investment Securities.

"Standard Loan Terms" means the general terms and conditions applying to any Financial Services.

"Subsidiary" has the meaning given to that term in the Financial Reporting Act 1993, but on the basis that the Debtor is to be regarded, for the purpose of this definition, as a Company.

"Supplying Shareholder" has the meaning given to that term by section 34 of the Co-operative Companies Act 1996.

"Taxes" means any present or future tax, levy, impost, duty, charge, fee, deduction or withholding of any nature and whatever called, imposed by an agency, on whomever imposed, levied, collected, withheld or assessed, and "taxation" is to be construed accordingly.

2. INTERPRETATION

- 2.1 Unless the context otherwise requires in the interpretation and construction of this deed the following apply:
- (a) The term "this deed" and related expressions means this document including schedules.
 - (b) The term "person" includes an individual, company, corporation, firm, partnership, joint venture, association, society, organisation, entity and trust (in each case whether or not having separate legal personality).
 - (c) The masculine gender includes the feminine gender, and vice versa. The singular includes the plural, and vice versa.
 - (d) Reference to a party to this deed or to another agreement or document includes the party's successors and permitted substitutes or assigns.
 - (e) References to legislation include all amendments, consolidations or replacements to it, or regulations or other subordinate legislation under it.
 - (f) Reference to a law includes present or future common or customary law and any statute, statutory instrument, subordinate legislation, regulation, by-law, order or other legislative measure or any judgment or judicial or administrative order or determination or decision, in any jurisdiction.
 - (g) Headings are for guidance only and are not to be utilised as an aid to the interpretation of any clause.
 - (h) References to "writing" and "written" are to be construed in accordance with section 16 of the Act.
 - (i) References to Schedules, clauses and paragraphs are, unless the context otherwise requires, to the Schedules, clauses and paragraphs of this deed.
 - (j) Any expression cognate with an expression defined in this deed will have a meaning corresponding to the defined expression.
 - (k) A covenant not to do anything also constitutes an obligation not to permit or cause that thing to be done.
 - (l) A right granted or reserved may be exercised from time to time and at all times.
 - (m) No paragraph or clause will limit another, and an example or instance does not limit what else might be included.

- (n) Reference to the "ordinary course of business" of a person means the ordinary course of that person's ordinary business.
- (o) Reference to an "asset" includes any real or personal, present or future, tangible or intangible property, right or asset (including personal property, insurance policies, records, software, intellectual property, and unpaid capital) and any right, interest, revenue or benefit in, under or derived from, represented by or related to, any property, right or asset.
- (p) Reference to a consent by the Bank means a prior written consent.
- (q) Reference to an "agreement" includes an Encumbrance, Guarantee, undertaking, deed, agreement or legally enforceable arrangement whether or not in writing. Reference to a "document" includes an agreement (as so defined) in writing, or a certificate, notice, instrument or document.
- (r) Reference to an agreement or document is to the agreement or document as amended, novated, supplemented or replaced from time to time, except to the extent prohibited by a Financial Document.

3. PAYMENT

3.1 The Debtor will:

- (a) duly and punctually pay to the Bank in the manner and at the times agreed on between the Debtor and the Bank, and failing agreement On Demand, all Money Secured; and
- (b) pay to the Bank On Demand interest on all Money Secured from time to time due and payable by the Debtor to the Bank on which no interest is otherwise payable (subject to any express agreement or arrangement between the Debtor and the Bank). Such interest will accrue (both before and after judgment) on a daily basis and will be calculated on any such unpaid amount from the due date to the date of actual receipt by the Bank at a rate equivalent to the aggregate from time to time of the Bank's cost of funds and such margin as the Bank determines to be applicable given the Debtor's circumstances.

- 3.2 Any money payable under this deed must be paid to the Bank no later than 3.00 p.m. on the date for payment or (if the date for payment is not a Business Day) on the immediately preceding Business Day. If the Debtor makes payment after the requisite time on any day, that payment will be treated as having been received on the next Business Day.

4. SECURITY INTEREST AND CHARGE

- 4.1 The Security Interest in Personal Property created by this deed is a Security Interest, and this deed is a Security Agreement, each for the purposes, and within the meaning, of the Act. In relation to any Account Receivable, the Security Interest created by this deed takes effect as a transfer.
- 4.2 The charge in Non-Personal Property created by this deed is a fixed charge except to the extent to which it may not be fully effective as a fixed charge in which case it shall be a floating charge.
- 4.3 This deed, and the Security Interest and charge created by this deed, will remain in full force and will be a running and continuing security for the payment of the Money Secured and for the due performance and observance of the Secured Obligations, even if:
- (a) any sum may from time to time be paid to the Bank;
 - (b) any current or other account between the Debtor and the Bank at any time is or appears to be in credit; or
 - (c) there is a settlement of account or any other matter or thing whatsoever;
- until a final discharge of this deed has been executed by the Bank.
- 4.4 If any payment or other transaction secured by this deed is void, voidable or required to be repaid by any law, that payment or other transaction will not affect the Debtor's liability to the Bank even if this deed has already been released. In those

circumstances the Bank will be restored to the position it had been in prior to that release, payment or other transaction, and the Debtor must do all things and sign all documents which may be necessary to restore the Bank to that position.

5. INSURANCE

5.1 During the continuance of this deed the Debtor will:

- (a) keep insured with an insurer approved by the Bank, in the name of the Bank and of the Debtor, all insurable Secured Property to its full insurable value against loss or damage by fire, earthquake (including natural disaster as defined in the Earthquake Commission Act 1993), theft, burglary and such other risks as it is prudent (in accordance with best commercial practice) to insure against and all other risks which the Bank may require; and
- (b) subject to the rights of the holder of any prior Encumbrance, apply all money received by virtue of any insurance policy with respect to Secured Property at the option of the Bank either:
 - (i) in or towards making good the loss or damage in respect of which such money has been paid; or
 - (ii) towards payment of the Money Secured, even if the time for payment of any Money Secured has not arrived.

6. DEBTOR'S GENERAL COVENANTS

6.1 The Debtor will, for so long as any Secured Obligation remains outstanding and unless the Bank consents otherwise in writing:

- (a) immediately give written notice to the Bank of any Event of Default on becoming aware of the occurrence of such Event of Default;
- (b) do everything necessary (including making payments) to maintain, preserve, replace or renew the Secured Property and maintain the value of, and the Debtor's and the Bank's rights, interests and priorities in, the Secured Property;
- (c) observe the terms and conditions of, and keep in force, all leases, licences and authorities, and obtain all renewals of them which are material for the ownership, use or operation of the Secured Property or for the purposes of the Debtor's business;
- (d) duly and promptly pay all registration and other fees, charges, taxes, rents and other outgoings payable in respect of ownership and operation of the Secured Property (and, on the request of the Bank, provide a receipt for each of those payments) and comply in all material respects with all relevant laws concerning the use of the Secured Property;
- (e) comply with and observe all laws now or in the future in force and all requirements and orders of any authority, statutory or otherwise, where non-compliance may have a Material Adverse Effect;
- (f) immediately on request by the Bank, supply details of the financial position of the Debtor (which, if the Debtor is a Company, will comply with the requirements of the Financial Reporting Act 1993) and any information concerning the Debtor or the Secured Property which the Bank requires, each in form and substance satisfactory to the Bank;
- (g) if, in the opinion of the Bank:
 - (i) the financial condition or business of the Debtor has or may have, or the operations of the Debtor have or may have, materially deteriorated or is or are likely to materially deteriorate;
 - (ii) the value of the Secured Property has, or may have, materially diminished or is likely to materially diminish; or
 - (iii) there is, or may be, a material environmental issue affecting all or any of the Secured Property, at the Bank's request, but at the sole cost of the Debtor:
 - (iv) arrange for an environmental audit to be undertaken in respect of all or any of the Secured Property, by

duly qualified environmental assessors that have been approved by the Bank;

- (v) arrange for an audit of management processes by a duly qualified management consultant approved by the Bank;
 - (vi) provide copies of each such audit report to the Bank promptly upon completion of the same; and
 - (vii) promptly carry out and implement any recommendations as may be made in any audit report prepared pursuant to this clause 6.1(g);
 - (h) immediately give written notice to the Bank of any matter, or the occurrence of any event, which may have a Material Adverse Effect;
 - (i) immediately give written notice to the Bank of the details of any Land or other Non-Personal Property acquired or agreed to be acquired by the Debtor which would comprise part of the Secured Property;
 - (j) if anyone other than the Bank registers a caveat or a Financing Statement in relation to any Secured Property other than in respect of a Permitted Encumbrance, do everything in its power to remove it;
 - (k) immediately give written notice to the Bank if any event occurs (including the change of name of the Debtor, the transfer of any Personal Property in breach of this deed, and the acquisition by the Debtor of any Serial-Numbered Goods) in respect of which it may be desirable for the Bank to register a Financing Statement or Financing Change Statement;
 - (l) immediately give written notice to the Bank of the acquisition (by purchase, subscription or otherwise) or formation by the Debtor of any Subsidiary, provide the Bank with a copy of the most recent financial statements of any Subsidiary acquired by the Debtor, and do everything necessary to ensure that the Subsidiary provides the Bank with any Encumbrance or Guarantee which the Bank may require, in form and substance and priority satisfactory to the Bank;
 - (m) ensure that (where applicable) each item of Secured Property is only operated in a proper manner and by a person who is qualified or otherwise fit to do so;
 - (n) ensure that (where applicable) each item of Secured Property is only used for the purpose for which it is designed, in accordance with the manufacturer's instructions, with regard to its design capabilities and limitations and without exceeding its rated capacity;
 - (o) provide to the Bank and any Officer of the Bank, and ensure that each person in possession of any Secured Property will so provide, full and unfettered access at all reasonable times:
 - (i) to the Secured Property; and
 - (ii) to inspect and take copies of or extracts from all books of account, vouchers, records, documents and agreements relating in any way to the Debtor, its management, business or property;
 - (p) upon the Bank's request and in accordance with the terms of that request, call up its uncalled Capital;
- and, in addition, in relation to Secured Property which is Securities:
- (q) if any Right arises in relation to the Securities held by the Debtor, promptly provide full details of that Right to the Bank, and advise the Bank whether or not it intends to exercise all or any part of that Right;
 - (r) if the Bank is the holder of Securities, permit the Bank:
 - (i) to pay such calls or other amounts it considers desirable to maintain the value of the Securities;
 - (ii) to accept offers for purchase of the Securities where the Bank considers that failure to accept such offer may have a Material Adverse Effect; and
 - (iii) to exercise all other rights which it or the Debtor may have as holder of the Securities;

- (s) immediately (unless advised to the contrary by the Bank) pay to the Bank any money received by the Debtor in respect of:
- (i) Proceeds of the Securities; and
 - (ii) Distributions;
- (t) duly and punctually pay to the relevant issuer of any Security that is Secured Property, all calls and other amounts that may be or become payable and promptly notify the Bank when any such payment has been made;
- (u) not exercise any voting rights in respect of the Security if an Event of Default has occurred and while it is continuing;
- (v) not at any time exercise or, subject to clause 6.1(u), refrain from exercising, any voting rights in respect of the Security in a manner which could reasonably be expected to adversely affect the security created by this deed or the interests of the Bank;
- (w) upon receipt, deliver to the Bank a copy of any resolution passed by holders of the Security which could materially adversely affect the value of the Security;
- (x) comply with any terms of issue of, and any law relating to, the Security (including any law relating to the disclosure of substantial security holdings);
- (y) in addition, if the Issuer is a Co-operative Dairy Company, notify the Bank immediately if:
- (i) the Debtor ceases to be a Supplying Shareholder in relation to the Issuer; or
 - (ii) the amount or estimated amount of milk or milk solids supplied by the Debtor is less than the minimum amount (if any) in the constitution of the Issuer below which the Issuer may not allot shares to a person in the position of the Debtor; or
 - (iii) the Issuer refuses to accept any milk offered by the Debtor for supply to the Issuer;
- and, in addition, in relation to Secured Property which is Livestock:
- (z) identify the Livestock with an eartag or permanent earmark and/or brand as agreed by the Bank.
- 6.2 For any Goods that are Secured Property the Debtor will, where relevant:
- (a) ensure that those Goods are serviced in accordance with the manufacturer's instructions;
 - (b) ensure that those Goods are safely housed or otherwise kept on the Debtor's premises when not in use;
 - (c) not permit those Goods to be operated in any manner contrary to law or in connection with any unlawful trade or to carry any cargo that will expose those Goods to penalty or forfeiture; and
 - (d) if the Bank so requests, affix to any Goods of the Debtor a suitable plate or sign to draw the Bank's interest in those Goods to the attention of other persons and not remove or change that plate or sign, or any name, name plate, registration plate, identification number or mark on any of those Goods, without the Bank's prior written consent.
- 6.3 In addition to the provisions relating to Goods, for any Motor Vehicles that are Secured Property the Debtor will, where relevant:
- (a) keep that Motor Vehicle licensed and registered in compliance with all laws;
 - (b) not change that Motor Vehicle's registration number without first giving the Bank ten Business Days' written notice of what the new registration number will be;
 - (c) if a vehicle identification number has not already been allocated to that Motor Vehicle, immediately notify the Bank in writing of any vehicle identification number that is allocated; and
 - (d) at the Bank's request, produce to the Bank all relevant certificates of registration and licensing papers.
- 6.4 In addition to the provisions relating to Goods, for any Aircraft that is Secured Property the Debtor will, where relevant:
- (a) comply with (and ensure any operator or pilot of that Aircraft complies with) all laws affecting that Aircraft or its use or possession (including the Civil Aviation Rules);
 - (b) ensure (or ensure any operator of that Aircraft ensures) that:
 - (i) a valid certificate of registration for that Aircraft under the Civil Aviation Rules is obtained and maintained in full force and effect and will immediately provide the Bank with a copy of any new or replacement certificate of registration;
 - (ii) a current airworthiness certificate issued under the Civil Aviation Rules is held for that Aircraft and has not been suspended or revoked;
 - (iii) airworthiness directives issued under the Civil Aviation Rules are complied with;
 - (iv) the general maintenance, operating and flight requirements of the Civil Aviation Rules, and any maintenance schedules and mandatory operational modifications required by the manufacturers of that aircraft and aviation authorities, are complied with;
 - (v) an air operator certificate for any air operations, and an agricultural aircraft operator certificate for any commercial agricultural aircraft operations, for which that aircraft is used is obtained and maintained in full force and effect; and
 - (vi) all other aviation documents and certificates necessary for the operation of that Aircraft are obtained and maintained in full force and effect;
 - (c) not part with possession or control of that Aircraft and not permit that Aircraft to be chartered or leased without the Bank's prior written consent;
 - (d) pay (or ensure any operator of that Aircraft pays) all rents, landing and other tax and costs payable in respect of that Aircraft or its operation;
 - (e) notify the Bank of any change to the aircraft class, registration mark, nationality mark or serial number provided by the manufacturer of that Aircraft, as these classes, marks and numbers appear in its certificate of registration;
 - (f) notify the Bank in the event of any damage to that Aircraft necessitating repair by a licensed aircraft maintenance engineer;
 - (g) not allow that Aircraft to be:
 - (i) operated except in accordance with the Civil Aviation Rules;
 - (ii) operated by a person who may not lawfully do so; or
 - (iii) used in any way that would entitle the insurer to disclaim liability under the insurance policy for that Aircraft; and
 - (h) at the Bank's request, provide to the Bank any certificate, technical log, maintenance record or similar document, or any other aviation documents, as well as receipts for all tax and costs payable in connection with any certificate, technical log, maintenance record or other aviation document.
- 6.5 Each Blocked Deposit must be held on the basis that the Debtor will have no right to withdraw any moneys from the Blocked Deposit, except:
- (a) for the purpose of complying with its obligations under the Financial Documents to make payments to the Bank; or
 - (b) with the prior written consent of the Bank.
- 7. THE DEBTOR'S NEGATIVE COVENANTS**
- 7.1 The Debtor will not without the prior consent of the Bank (which consent may be withheld at Bank's sole discretion or given subject to such conditions as the Bank thinks fit):
- (a) sell, lease, transfer or otherwise dispose of or part with possession of, or agree to sell, lease, transfer or otherwise dispose or part with possession of, all or any part of the

- Secured Property other than for disposals of Inventory or the collection of any Account Receivable in each case in the ordinary course of business of the Debtor prior to the occurrence of an Event of Default;
- (b) do, or omit to do, anything which does or could reasonably be expected to:
- (i) render any of the Secured Property, any right or interest of the Debtor in the Secured Property, or any Security Interest created by this deed or any Collateral Security invalid or unenforceable, or liable to forfeiture or cancellation;
 - (ii) cause or contribute to a material deterioration in the value of the Secured Property; or
 - (iii) prejudice or otherwise adversely affect any Security Interest created by this deed or any Collateral Security;
- (c) create or permit to subsist any Encumbrance in or over all or any part of the Secured Property, other than a Permitted Encumbrance;
- (d) other than in the ordinary course of business of the Debtor and prior to an Event of Default, remove or permit to be removed any of the Secured Property to any place outside New Zealand;
- (e) allow any Secured Property to be or become an Accession other than to Secured Property, or to become attached to Land or buildings other than Secured Property in such a way as to become a fixture;
- (f) other than in the ordinary course of business of the Debtor and prior to an Event of Default, create or allow to exist any right of set-off, netting or combination in respect of, waive or abandon any rights in relation to, or otherwise dispose of or part with possession of, any of its Accounts Receivable, Chattel Paper, Securities or Negotiable Instruments which are part of the Secured Property;
- (g) assume the liabilities of any other person;
- and, in addition, in relation to Secured Property which is Securities:
- (h) transfer or otherwise dispose of any Securities, other than by surrender to the Issuer where the Issuer is a Co-operative Dairy Company and the surrender is required by the constitution of that Issuer and is a result of a decrease in the amount of milk or milk solids supplied by the Debtor to the Issuer;
- (i) agree with the Issuer to a surrender price for all or any of the Securities, which price is less than the nominal value (if any) stipulated in the Issuer's constitution;
- and, in addition, if the Debtor is a Company:
- (j) acquire its own shares, issue shares redeemable at the option of the holder of the shares or on a date specified in the Debtor's constitution, exercise any option to redeem a share in the Debtor, or give financial assistance to a person for the purpose of or in connection with the purchase of a share issued or to be issued by the Debtor;
 - (k) enter into a Major Transaction, unless that Major Transaction has been unanimously approved by the shareholders of the Debtor or, if the Bank so consents, by a special resolution within the meaning of the Companies Act;
 - (l) call up or receive in advance of calls all or any part of the uncalled Capital of the Debtor or enter into any arrangement with any shareholder limiting the ability of the Debtor to call up or obtain payment of any uncalled Capital;
 - (m) declare or pay or make Distributions in any year exceeding in total the net after-tax profit of the Debtor for the immediately preceding year;
 - (n) re-issue any Securities redeemed by it;
 - (o) enter into or become the subject of an amalgamation under the Companies Act; or
 - (p) lend or advance money to any Related Company or to any shareholder or director of any Related Company, or (except in the ordinary course of the business of the Debtor) lend or advance money to any other person.
- 7.2 The Debtor must promptly pay all proceeds from any dealing with the Secured Property (whether in accordance with clause 7.1(a) or otherwise) into its usual working current account with the Bank or such account as may from time to time be designated by the Bank for that purpose.
- 7.3 If the Debtor is described as a trust or trustees, during the continuance of this deed, the trustees will ensure that:
- (a) no existing trustee is removed or retires as a trustee of the trust;
 - (b) no vesting date under the trust deed is determined;
 - (c) no restriction or limitation on the right of indemnity of any trustee of the trust is created;
 - (d) the trust deed is not varied or revoked; and
 - (e) the powers of the trustees are not delegated, and no power of appointment under the trust deed is exercised;
- without the prior consent of the Bank (which consent may be given subject to such conditions as the Bank thinks fit).
- ## 8. VOTING RIGHTS
- 8.1 The Debtor may exercise its voting rights in respect of Secured Property which is Securities, so long as:
- (a) no Event of Default has occurred; and
 - (b) the resolution voted on does not relate to the Bankruptcy, amalgamation or reconstruction of the Issuer of the Securities, an alteration to the constitution of the Issuer, or any other event reasonably likely to diminish the value of the Securities.
- ## 9. THE BANK'S OPTION TO PERFORM
- 9.1 If and whenever the Debtor fails to observe or perform any of the Secured Obligations then the Bank (without prejudice to the Bank's other rights and remedies) will be entitled but not obliged to pay all money and do all things which the Bank considers necessary or desirable to remedy any such failure or otherwise to protect the Encumbrance created by this deed.
- 9.2 The Bank, any Officer of the Bank, any Receiver or any Attorney may complete any document which at any time is executed by or on behalf of the Debtor and deposited with or provided to the Bank in respect of any Financial Document, and may complete that document in favour of the Bank, any purchaser or a nominee of either of them.
- 9.3 The Debtor undertakes and agrees to pay to the Bank On Demand any money at any time expended by the Bank for any of the purposes specified in this clause 9 (including all legal costs as between solicitor and own client), and until paid such money will form part of the Money Secured.
- ## 10. EVENT OF DEFAULT
- 10.1 It will be an Event of Default if:
- (a) the Debtor defaults in payment on the due date of all or any part of the Money Secured;
 - (b) the Debtor breaches or defaults in the observance or performance of any of the Secured Obligations;
 - (c) any representation, warranty or statement made by, or on behalf of or in relation to, the Debtor in any certificate, statement, legal opinion or notice provided in connection with this deed or any of the Financial Documents proves to be incorrect in any material respect or, if repeated at any time with reference to the facts and circumstances subsisting at that time, would not be accurate in all material respects;
 - (d) any Indebtedness of the Debtor or any Guarantor is not paid when due (or within an applicable grace period) or becomes,

- or becomes capable of being, declared due and payable before its stated due date;
- (e) the Debtor or any Guarantor ceases, or threatens to cease, to carry on its business;
- (f) any step is taken for the Bankruptcy of the Debtor or any Guarantor, or the total liabilities (including contingent liabilities at face value) of the Debtor to its creditors exceed the total assets of the Debtor (excluding intangible assets), or any Debtor or Guarantor who is an individual dies;
- (g) without the prior consent of the Bank, a resolution is passed or purports to have been passed altering any constitutive document of the Debtor or any Guarantor in a manner which may have a Material Adverse Effect;
- (h) the Bank considers that any part of the Secured Property is "at risk" within the meaning of section 109 of the Act;
- (i) there is any default (however described) under any Encumbrance over any asset of the Debtor or any Guarantor, or any such Encumbrance becomes enforceable;
- (j) any lease or licence of any premises from which the Debtor is carrying on all or any part of its business is determined by reason of any default on the part of the Debtor, or the Debtor commits any other breach of any such lease or licence of any such premises, including non-payment of any rent for a period of 14 days after due date for payment;
- (k) in the opinion of the Bank or any Officer of the Bank, the Money Secured or any part is applied for any purpose other than the purpose for which it was advanced by the Bank; or
- (l) in the opinion of the Bank there occurs at any time any event which (whether on its own or in conjunction with other events) may have a Material Adverse Effect.

10.2 At any time after the occurrence of an Event of Default (whether or not it is continuing) the Bank may:

- (a) subject to expiry of any applicable notice period required by any law, give written notice to the Debtor declaring all the Money Secured to be immediately due and payable, in which case the Debtor must immediately pay the Money Secured; and/or
- (b) give written notice to the Debtor terminating any obligation of the Bank to provide further financial accommodation; and/or
- (c) subject to expiry of any applicable notice period required by any law, take enforcement, recovery or other action which it is entitled to by this deed or any other Financial Document, by law or otherwise.

11. APPOINTMENT OF RECEIVER BY BANK

11.1 At any time after the occurrence of an Event of Default (whether or not it is continuing), the Bank may:

- (a) appoint any person to be a Receiver of all or any part of the Secured Property; and
- (b) remove any Receiver, whether or not appointing another or others in their place.

11.2 Every Receiver will be the agent of the Debtor (unless precluded by law) and the Debtor will be solely responsible for that Receiver's acts or defaults. Every Receiver will (in addition to the statutory powers now or in the future available to a Receiver) have power:

- (a) to take possession of, and manage, all or any part of the Secured Property;
- (b) to carry on any business or businesses of the Debtor and for that purpose (but subject to the consent of the Bank) to make or procure advances and, to the extent the Receiver may think expedient, to secure those advances by mortgage or charge in priority or subsequent to the Money Secured or otherwise;
- (c) to make and effect all repairs and insurance and to do all other acts which the Debtor might do in the conduct of its business or for the protection or improvement of the Secured Property;

- (d) to appoint and discharge managers, officers and agents at such remuneration and generally on such terms as the Receiver determines;
- (e) to sell all or any part of the Secured Property in such manner and on such terms as the Receiver thinks fit;
- (f) to let or bail all or any part of the Secured Property on such terms as the Receiver thinks fit;
- (g) to compromise, settle, arrange and submit to arbitration any accounts, debts, claims, questions or disputes which arise in connection with any of the Secured Property or relating to this deed;
- (h) to bring, take, defend, compromise, submit to arbitration and discontinue any actions, suits or proceedings in relation to the Secured Property or the Debtor, or in any way relating to this deed;
- (i) to demand and recover income from the Secured Property and give valid receipts for all money and execute and do all assurances, instruments, acts, agreements, matters and things which the Receiver thinks necessary or expedient for realising the Secured Property;
- (j) to use the name of the Debtor in any proceedings;
- (k) to execute in the name and on behalf of the Debtor all mortgages, transfers, assignments, leases, bailments, agreements and assurances necessary to vest in any mortgagee, purchaser, assignee, lessee or bailee any part of the assets mortgaged, sold, assigned, let or bailed, and to execute all other agreements, instruments and writings in relation to any of the powers given by this deed or in law which the Receiver considers necessary or expedient;
- (l) to retain out of any money received by the Receiver a reasonable sum as remuneration for the Receiver's services as a receiver;
- (m) if the Debtor is a Company, to call up all or any portion of the unpaid Capital of the Debtor and to enforce the payment of any calls made and unpaid;
- (n) to execute in the name and on behalf of the Debtor in accordance with any method of contracting prescribed by law any conveyance, transfer, agreement in pursuance and/or furtherance of any of the powers of the Receiver;
- (o) generally to do or cause to be done such acts and things in respect of the Secured Property as the Receiver might do or cause to be done if the Receiver had absolute ownership of the Secured Property; and
- (p) to delegate to any person or persons all or any of the powers and discretions vested in the Receiver by virtue of this deed or by law.

12. REALISATION OF PROPERTY BY BANK

12.1 At any time after an Event of Default (whether or not continuing), and whether or not a Receiver has been appointed, the Bank may to the extent permitted by law, in its own name, in the name of the Debtor, through agents or otherwise, exercise any power, right, authority, discretion or remedy which is conferred on the Bank, an Officer of the Bank, a Receiver or an Attorney by a Financial Document or by law (including the Act) in relation to the Secured Property. The Bank may (subject to any law) exercise any such power, right, authority, discretion or remedy without giving notice and without taking possession or being liable as mortgagee in possession.

12.2 The Bank may at any time give up possession of the Secured Property and may at any time withdraw or terminate any receivership.

13. NO ENQUIRY

13.1 No person dealing with the Bank, any Receiver, any Attorney, or any agent of any of them, will have any obligation to enquire:

- (a) whether any act of the Bank, Receiver, Attorney or agent is valid, or whether the appointment of the Bank, Receiver, Attorney or agent is properly constituted or exercised; or
- (b) whether the Encumbrance created by this deed has become enforceable; or
- (c) whether the powers which the Bank, the Receiver, Attorney or any agent is purporting to exercise have become exercisable; or
- (d) whether any Money Secured remains due or unpaid; or
- (e) as to the necessity for, or expediency of, the stipulations or conditions subject to which any sale, lease or mortgage or other disposition is made; or
- (f) otherwise as to the collection or conversion of any money or assets;

nor will such person have any obligation to see to the application of any money paid to the Bank, Receiver, Attorney or agent. The remedy of the Debtor in respect of any actionable impropriety or irregularity in the execution of any such power will be in damages only.

14. DISTRIBUTION

14.1 Any amounts received by a Receiver or by or on behalf of the Bank in relation to the Secured Property or Money Secured will be applied by the Bank or any Receiver (as the case may be), subject to any claims ranking in priority to this deed:

- (a) *first* in payment of all costs, charges and expenses of and incidental to the appointment of the Receiver and the exercise by the Receiver of all or any of the rights, remedies and powers under this deed, including the reasonable remuneration of the Receiver;
- (b) *secondly* in or towards payment to the Bank of all costs, charges and expenses of and incidental to the exercise by the Bank of any of the Bank's rights, remedies and powers under this deed;
- (c) *thirdly* in or towards payment to the Bank of all the Money Secured; and
- (d) *fourthly* in payment of any surplus to the Debtor or any other person entitled to that surplus.

14.2 Clause 14.1 is subject to any law governing the application of proceeds including sections 152, 153 and 185 of the Property Law Act 2007, sections 116A and 117 of the Personal Property Securities Act 1999 and sections 30 to 30D of the Receiverships Act 1993.

15. NO LIABILITY

15.1 To the extent permitted by law, neither the Bank nor any Receiver nor any Attorney will be liable:

- (a) to account as mortgagee in possession;
- (b) to account for anything except actual receipts;
- (c) for any loss on realisation;
- (d) for any accidents occurring in the operations carried on by it; or
- (e) for any negligence, default or omission for which a mortgagee in possession might be held liable.

16. NO MERGER

16.1 Nothing in this deed or in any Financial Document merges in, or in any other way prejudicially affects or is prejudicially affected by, any other Encumbrance or Financial Document, or any judgment, right or remedy against any person which the Bank or any person claiming through the Bank may have at any time.

17. BANK UNDER NO DUTY TO MARSHAL

17.1 The Bank has no duty to marshal in favour of the Debtor or any other person.

18. WAIVER

18.1 Neither failure nor delay on the part of the Bank to exercise any right, power or privilege under this deed will operate as a waiver of that right, power or privilege. No single or partial exercise of any right, power or privilege under this deed will operate as a waiver of that right, power or privilege. No single or partial exercise of any right, power or privilege under this deed will preclude any other or further exercise of that right, power or privilege or the exercise of any other right, power or privilege.

18.2 The remedies provided in this deed are cumulative and not exclusive of any remedies provided by law.

18.3 No waiver of any of the Bank's rights under this deed will be effective unless that waiver is in writing signed by the Bank or by an agent of the Bank duly authorised in writing by the Bank.

19. NOTICE

19.1 Any notice served on the Debtor may be:

- (a) delivered personally to the Debtor or the Debtor's agent or personal representative; or
- (b) sent through the post to the place where the Debtor or the Debtor's agent or personal representative resides, carries on business or has its registered office, or to the Debtor's last known principal place of residence or business; or
- (c) sent by facsimile to the Debtor's, or its agent's or personal representative's, last known facsimile number.

19.2 If a notice to the Debtor is sent through the post it is to be regarded as having been received on the day following the date on which it is posted. If a notice to the Debtor is sent by facsimile it is to be regarded as having been received when the sending machine receives a confirmation that it has been sent in its entirety.

19.3 The Debtor may give notice to the Bank by delivering, posting or faxing a notice to an officer at the Bank who has the responsibility for and knowledge of the transaction to which this deed relates.

19.4 The modes of service provided by clauses 19.1 to 19.3 do not limit any other sufficient and lawful modes of service and are subject to any mandatory provisions in any statute.

20. FURTHER ASSURANCE

20.1 The Debtor will, if and whenever requested by the Bank, at its own cost:

- (a) execute and do all registrations, mortgages, Security Interests, transfers, assurances and things (including delivery of documents) as the Bank reasonably requires for securing, protecting or perfecting the Secured Property and the Encumbrances and priorities provided for in this deed, including providing all information which the Bank requests in order to complete and register a Financing Statement or Financing Change Statement in respect of the Debtor, the Secured Property and this deed; and
- (b) from time to time after an Event of Default (whether or not it is continuing), execute and do all such registrations, mortgages, Security Interests, transfers, assurances and things as the Bank requires for facilitating the realisation of the Secured Property and for exercising all the powers, authorities and discretions conferred on the Bank, any Receiver or any Attorney, including:
 - (i) executing all documents or agreements in respect of the Secured Property whether in favour of the Bank or the Bank's nominee;
 - (ii) performing or causing to be performed all acts and things requisite or desirable according to law for the purpose of giving effect to the carrying out or exercise of any of the said powers, authorities and discretions; and
 - (iii) giving all notices, orders and directions which the Bank considers expedient.

21. POWER OF ATTORNEY

- 21.1 The Debtor irrevocably appoints the Bank, each Officer of the Bank and every Receiver severally to be its attorney and in its name and on its behalf to enter into, execute, sign and do all assurances, agreements, instruments, acts and things which the Bank considers necessary or expedient.
- 21.2 The Debtor irrevocably appoints the Bank and each Officer of the Bank and every Receiver severally its attorney to do anything which the Debtor is obliged to do under or in relation to any Financial Document or which the Bank or any Receiver is authorised or empowered to do under any Financial Document or under law, but only at the times that the Bank or a Receiver would have been able to do it.
- 21.3 An Attorney may at any time do anything which the Bank or the Attorney considers necessary or expedient to preserve, perfect or give effect to the security and other provisions in this deed.
- 21.4 The power of attorney granted by the Debtor to the Bank, each Officer of the Bank and every Receiver under this clause includes full power in the name of the Debtor and on behalf of the Debtor to do all things necessary to observe or perform the Secured Obligations and to act in any matter relating to any rights, remedies or benefits arising in relation to the Secured Property and, in any matter relating to Securities which are Secured Property, including the rights:
- (a) to complete a proxy for any meeting of an Issuer;
 - (b) to attend and vote at any meeting of an Issuer;
 - (c) to call a meeting of members of an Issuer; and
 - (d) to execute a transfer of, or Security Interest in, the Securities and do all things necessary to complete the sale in whole or in part of the Securities.

22. COSTS

- 22.1 The Debtor will pay the costs, charges and expenses (including those between solicitor and own client) of and incidental to:
- (a) the preparation, execution and registration of this deed;
 - (b) the exercise or attempted exercise of any power contained or implied in this deed; and
 - (c) the discharge or any partial discharge of this deed; including those arising from the need for, or desirability of, the registration of a Financing Statement or Financing Change Statement, or compliance by the Bank with section 162 of the Act.

23. GOVERNING LAW

- 23.1 This deed will be governed by and construed in accordance with the law for the time being in force in New Zealand and the Debtor accepts for itself and in respect of its assets, generally and unconditionally, the non-exclusive jurisdiction of the courts of New Zealand.

24. CERTIFICATES

- 24.1 A certificate signed by the Bank, any Officer of the Bank, or any person authorised by the Bank for the purpose, stating the amount owing by the Debtor, or stating any other act, matter or thing, as at any date stated will (except as is otherwise expressly provided in this deed or in the case of manifest error) be conclusive evidence of the facts stated.

25. SEARCHING THE REGISTER

- 25.1 The Debtor consents to the Bank searching the Register in relation to information about the Debtor and the Secured Property.

26. VERIFICATION STATEMENTS

- 26.1 The Debtor waives its right to receive a copy of any Verification Statement in respect of any Financing Statement or Financing Change Statement registered by or on behalf of the Bank.

27. CONTRACTING OUT OF THE ACT

- 27.1 The Debtor agrees that, to the extent permitted by law, in respect of any arrangement between the Debtor and the Bank:
- (a) the Debtor has no rights under (or by reference to) sections 114(1)(a), 133 or 134 of the Act;
 - (b) the Debtor has none of the rights referred to in sections 116, 120(2), 121, 125, 129 and 131 of the Act; and
 - (c) where the Bank has rights in addition to those in Part 9 of the Act, those rights shall continue to apply and, in particular, shall not be limited by section 109 of the Act;
- and the Debtor agrees to indemnify the Bank for any costs incurred by it in relation to the above.
- 27.2 The provisions of the Consumer Guarantees Act 1993 are contracted out of to the maximum extent permitted by that enactment.
- 27.3 Despite any other provision to this deed, there is no intention to contract out of the Credit (Repossession) Act 1997 where it may apply, and any provision which has such an effect will be ineffective to that extent.

28. IMPLIED COVENANTS

- 28.1 The covenants, conditions and powers in Schedule 2 to the Property Law Act 2007 shall, for the purposes of this deed, be negated or varied insofar as any of them contradicts, or is inconsistent with, the terms of this deed.