

General Instructions to solicitors acting for Rabobank New Zealand Limited

This document is to be read together with the Solicitor's Instruction Letter that we emailed to you and any other written instructions we have provided (together the "**Instructions**"). Capitalised terms not defined in the Instructions have the meanings given to them in the Bank's Standard Loan Terms.

1. Acting for the Bank and other Relevant Persons

The Bank has no objection to your acting for other Relevant Persons or parties to the transaction provided you consider there is no conflict in doing so, acting to the standard of a prudent and competent solicitor. If a conflict of interest arises then you must seek further instructions from the Bank immediately.

2. Standard documents and documents produced by the Bank

The Security documents required by the Bank are set out in the Solicitor's Instruction Letter and in the Letter of Offer.

The documents the Bank requires you to use are either enclosed with these Instructions or templates are available to download from the Bank's website <http://www.rabobank.co.nz/downloads> under the heading **Solicitors resources**.

You must not change these documents or any other Contract document without the Bank's prior approval (other than in the circumstances set out in the following paragraph). Any document drafted by you must be submitted to the Bank for approval prior to execution.

The Letter of Offer contains a standard limitation for any independent trustee. The Bank considers that it is of no benefit to an independent trustee for that limitation to be replicated in any other document (e.g. a Guarantee or Security Agreement). However, you may replicate that limitation in other documents if you wish.

3. Insurance

You must ensure that every insurance requirement in the Contract is satisfied and that details of each insurance policy are set out in Schedule Three of the Solicitor's Certificate.

4. Execution of documents

Execution of documents by companies, trusts, partnerships, limited partnerships and incorporated societies

Paragraph 4(b), (c) and (d) of the Solicitor's Certificate contain certifications by you regarding capacity of and execution of documents by companies, trusts, partnerships, limited partnerships and incorporated societies.

If the legal capacity of any Relevant Person to act as required is in doubt, then the matter must be brought to the Bank's attention immediately for further instructions.

For the purposes of these Instructions, if the Relevant Person is an estate, it is to be treated as a trust in all respects and the executors of the estate are to be treated as trustees. All provisions of these Instructions (with any necessary changes) and the certifications given in the Solicitor's Certificate, as relevant to the trustees of a trust, also apply to a Relevant Person that is an estate. **You must obtain the Bank's prior written consent prior to documenting any transaction in which a Relevant Person is an estate.**

Electronic execution of documents

All documents are required to be executed by Relevant Persons in wet ink unless the Bank has approved electronic signing. Requests to sign documents electronically will be considered on a case by case basis and may be subject to specific conditions imposed by the Bank.

Execution under power of attorney

The Bank will consider requests to execute documents under a power of attorney (including an enduring power of attorney) on a case by case basis. We may not always agree to let an attorney sign, so it is important to notify the Bank as soon as you become aware that this may be required.

The Bank will require (at a minimum) the following, prior to making decision:

- a) a wet ink certified copy of the power of attorney document posted to the Bank (details in below section);
- b) your confirmation that the attorney has the power and capacity to sign (as evidenced by your provision of a completed Solicitor's Certificate);
- c) a certified true copy of the ID and proof of address for each attorney along with any other customer due diligence checks that the Bank requires in respect of each attorney;
- d) if the power of attorney is for a trustee of a trust:
 - i) the relevant circumstances in the Trusts Act 2019 must apply;
 - ii) the power of attorney must contain a deed of delegation which specifically authorises the attorney to act on behalf of the grantor as trustee; and
 - iii) executing by power of attorney must not be prohibited or restricted by the Trust Deed.

If the Bank approves execution of the documents by an attorney, that approval will be limited to the specific documents under consideration at the time and not amount to an enduring approval. The Bank will also require a certificate of non-revocation executed by the attorney(s) and dated on or after the date the documents are signed.

5. Credit Contracts and Consumer Finance Act 2003

The Contract is not a consumer credit contract for the purposes of the Credit Contracts and Consumer Finance Act 2003. You must notify the Bank immediately if you have any reason to suspect that the Contract may be a consumer credit contract for the purposes of the Credit Contracts and Consumer Finance Act 2003.

6. Costs

The Borrower or any person (other than the Bank) for whom you act will need to pay your costs and disbursements in respect of this transaction, including any costs or disbursements charged for acting for the Bank.

7. Settlement

The Bank requires you to complete and execute a Solicitor's Certificate. Please download it from our website www.rabobank.co.nz/downloads under the heading **Solicitors resources**.

As soon as they are available, but no less than three Business Days before settlement, you must email the following documents to securities@rabobank.com:

- a) all pages of the Solicitor's Certificate, including any non-completed schedules;
- b) each insurance certificate of currency;
- c) the Letter of Offer signed by the Borrower and each Guarantor if executed in your presence and/or not already provided directly to the Bank by the Borrower;
- d) all completed Security documents (duly executed by each Relevant Person that is party to it) as detailed in the Letter of Offer, and as recorded by you in Schedule One of your Solicitor's Certificate; and
- e) a complete copy of any agreement or other document specifically mentioned in the Contract and affecting any property to be secured to the Bank (duly executed by all parties if appropriate), for approval prior to settlement.

In the event that your Solicitor's Certificate is not able to be provided in accordance with the above timeframes due to insurance certificates not being available until closer to the settlement date, please forward items c), d) and e) as soon as they are available, with the Solicitor's Certificate to follow before settlement.

Each document must:

- a) be scanned individually and named appropriately (i.e. Guarantee, GSA, Mortgage etc.);
- b) be legible;
- c) be in PDF or TIF format;
- d) be in resolution 300 x 300 dpi, or better; and
- e) not be in colour.

Each email containing a document must not be more than 10 megabytes in size. It is acceptable to split the documents between two or more emails if required in order to keep the size of each email under 10 megabytes. The Bank does not require you to provide originals of any of the above documents, including Securities.

You must ensure that all conditions precedent are satisfied (or will be satisfied upon settlement) prior to issuing your Solicitor's Certificate.

Additional requirements for trusts, partnerships, limited partnerships and estates

If any Relevant Person is a trust, partnership or limited partnership, you must provide the Bank with a certified and complete copy of the following executed documents, prior to settlement:

- a) trust or partnership deed;
- b) any document amending the original deed; and
- c) any document by which any new or additional trustee or partner has been appointed or by which any trustee or partner has retired.

8. Original documents

Any original documents that you are required to send to us are to be sent to Rabobank New Zealand Limited, either by post: P O Box 19 373, Hamilton 3244, or couriered to Level 4, 32 Hood Street, Hamilton 3244.

9. Specific instructions for guarantors

The Bank requires each Guarantor to obtain legal advice. Unless you are aware that the Guarantor is actually under the undue influence of the Borrower or that the Borrower has made misrepresentations to the Guarantor, or if you otherwise consider, acting to the standard of a prudent and competent solicitor, that the Guarantor should obtain independent advice, you may provide the necessary legal advice.

Unless the Bank expressly approves otherwise, you must meet the Guarantor, face-to-face, in the absence of the Borrower or any other party. A meeting via video conferencing (Skype, Zoom, Facetime or similar) is acceptable.

The minimum legal advice you must give the Guarantor is to explain the nature of the Securities (including the Guarantee) and the practical consequences these will have for the Guarantor if they sign them.

Where it is apparent that any Guarantor may not receive any benefit from the transaction or otherwise may be at a disadvantage in relation to the Borrower (i.e. there is a non-commercial relationship between the Guarantor and the Borrower) the following advice must also be provided:

- a) You must point out the seriousness of the risk involved, including:
 - i) the purpose of the proposed facility;
 - ii) the amount and principal terms of the new facility;
 - iii) that the Bank might increase the amount of the facility, or change its terms, or grant a new facility, without reference to the Guarantor;
 - iv) the amount of the Guarantor's liability under the Guarantee at the date the Guarantee is provided, and the potential impact of paragraph iii) above; and
 - v) discussing the Guarantor's financial means, including the Guarantor's understanding of the value of the property being charged and whether the Guarantor or the Borrower have any other assets out of which repayment could be made if the Borrower's business should fail or the Borrower is otherwise unable to make required payments under the facility.
- b) You must state clearly that the Guarantor has a choice. Explanation of the choice facing the Guarantor will require some discussion of the present financial position, including the amount of the Borrower's present indebtedness to the Bank.
- c) You must then check whether the Guarantor wishes to proceed. The Guarantor must be asked whether they are content that you confirm to the Bank you have explained to the Guarantor the nature of the Security documents and the practical implications they may have for the Guarantor, or whether, for instance, the Guarantor would prefer you to negotiate with the Bank on the terms of the transaction. Matters for negotiation could include a specific or lower limit to the Guarantor's liabilities. You must obtain the Guarantor's authority before giving the Solicitor's Certificate.
- d) If you are aware or suspect that the Guarantor is or may be under the undue influence of the Borrower, the Borrower has or may have made misrepresentations to the Guarantor or you otherwise consider, acting to the standard of a prudent and competent solicitor, that the Guarantor should obtain independent advice, you must tell the Guarantor that:
 - i) you cannot advise the Guarantor;
 - ii) the Guarantor must obtain legal advice from another lawyer; and
 - iii) you are willing to recommend another lawyer if the Guarantor wishes.
- e) Where the Guarantor obtains legal advice from another lawyer, you must contact that lawyer, ask him/her to provide the advice set out above and obtain written confirmation from that lawyer that he or she has provided that advice. That confirmation should then be annexed to your Solicitor's Certificate.

10. Specific instructions for mortgages of land

Searches

You must carry out searches in respect of the land to be mortgaged to the Bank and such other searches in respect of every Relevant Person as would be carried out by a prudent solicitor on behalf of a prudent lender.

If searches indicate that the area(s) or legal description of land shown in the Letter of Offer may not be correct, that there is a problem with access, or that the security and priority the Bank is being offered may not be available, then you must bring the matter to the Bank's attention immediately for further instructions.

You must obtain guaranteed searches of land to be mortgaged to the Bank and you must certify, in paragraph 5(c) of the Solicitor's Certificate that you have obtained those searches.

The Bank does not require a copy of your guaranteed searches. However, you must ensure that Schedule Two of the Solicitor's Certificate is completed, including specifying the references to title, area and proprietorship for each of the properties specified in the Letter of Offer.

Please note that under paragraph 8 of the Solicitor's Certificate the Bank requires a search copy of each record of title evidencing registration of the mortgage. For a new mortgage, this may occur by the LINZ "notice to mortgagee" function, however for variations of existing mortgages, you will need to email search copies to us.

If the land is "residential land", as that term is defined under the Overseas Investment Act 2005, you must obtain a completed and signed Residential Land Statement (as required by section 51A of the Overseas Investment Act 2005) from the mortgagor and forward a scanned copy to the Bank.

Rates

You must confirm with the relevant authority that all rates have been paid or will be paid on settlement and that there are no outstanding notices affecting the property to be mortgaged to the Bank.

Priorities / Variations

The mortgage must record a priority limit for the purposes of section 92(1) of the Property Law Act 2007, being the amount specified in the Letter of Offer or, if none is specified, please contact the Bank. A priority limit specified by the Bank is an amount without more for the purposes of section 92(3)(b) of that Act (i.e. the amount expressed includes interest).

If a first mortgage is already registered to a third party which is not being discharged on settlement, and the Bank requires a registered first mortgage and has consented to the second mortgage remaining, you are instructed to ensure, through the Landonline e-dealing system, that the prior ranking mortgagee subordinates its mortgage to the Bank's mortgage. The Bank does not require a Deed of Priority in these circumstances.

Where the Bank requires the insertion of a new priority limit for an existing mortgage in favour of the Bank, you are instructed to complete this through the Landonline e-dealing system. The Bank does not require a Deed of Priority in these circumstances.

If the Bank is taking a second ranking mortgage, you must ensure that the written consent of any prior mortgagee(s) is obtained and written confirmation of the amount owing to any such prior mortgagee is provided to the Bank prior to settlement.

Landonline e-dealing

In accordance with the Land Transfer Act 2017, the Land Transfer Regulations 2018, and the current New Zealand Law Society Property Law Section Guidelines, you must provide your undertaking to the Bank that you have obtained satisfactory authorisation, identification, pre-validation and compliance documentation and assurances to enable our mortgage to be registered electronically, including the necessary Land Transfer Tax Statement duly signed by each mortgagor. A certification to this effect is contained in the Solicitor's Certificate.

You will need to further undertake that you are using the Authority and Instruction Form that has been approved by the New Zealand Law Society and the Registrar-General of Land and has been witnessed in accordance with New Zealand Law Society Guidelines. You must hold the original or a scanned copy of the Authority and Instruction Form in accordance with New Zealand Law Society Guidelines and must make that original or scanned copy available to the Bank promptly if requested.

We do not require a paper mortgage to be signed, but do require that you ensure the mortgagors understand that they are entering into an all obligations form of mortgage with the required priority limit.

Unit Titles

If a mortgage is being taken over a stratum estate under the Unit Titles Act 2010, you must ensure that the rules of the body corporate are not prejudicial to the Bank's interests as mortgagee and that the body corporate gives a certificate under section 147 of that Act in the Bank's favour.

11. Specific instructions for Security Agreements

Each Security document which evidences, includes or comprises a Security Interest is a **"Security Agreement"**. Each Security Agreement must be listed in Schedule One of the Solicitor's Certificate.

Personal Property Securities Act 1999

The Bank will undertake online registration of its personal property security interests. In order to do this the Bank requires that you verify and then provide to it certain information, and certify as to its accuracy.

Searches

Where the Securities include one or more **new** Security Agreements, the Bank requires the following searches of the Personal Property Securities Register:

- a) The full and correct name of each Relevant Person as verified by you in accordance with the Personal Property Securities Regulations 2001.
- b) Every serial number pertaining to particularised serial-numbered goods in which a perfected security interest is to be taken.
- c) Where the debtor is a trust or partnership, you must search under the trust/partnership name and the individual names of each trustee/partner.
- d) Where the debtor is a company or a limited partnership you must search using the company number or the limited partnership number (as applicable).
- e) Where the debtor has a New Zealand Business Number (NZBN) you must search using the NZBN.

The results of these searches must be stated in the Solicitor's Certificate.

PMSIs

All registrations in respect of purchase money security interests ("**PMSI**") must be clearly identified as such in your Solicitor's Certificate in Schedule Two. The presence of registrations which are solely PMSIs is acceptable. All existing non-PMSI security interests registered against any Security Provider that will provide a Security Agreement must be discharged unless the Bank expressly in writing agrees otherwise. If you are in doubt as to whether a registration relates to a PMSI, or the registration also includes a security interest in respect of all present and after acquired property, you must contact the relevant secured party to conclusively determine the status of the security interest. If the security interest is a PMSI, you must either obtain written confirmation of that fact or get the secured party to amend the PPSR registration to restrict it to the relevant PMSI.

Prior ranking General Securities

Please contact the Bank for instructions if a non-PMSI third party security interest is already registered in respect of property over which the Bank requires a first ranking security interest and the third party is not willing to discharge its security interest. The Bank may agree that the third party security interest need not be discharged, and will provide written instructions to confirm this, which may be conditional on the following:

- a) **Subordination of prior ranking security interest:** the third party security interest being subordinated in priority to the Bank's security interest. In those circumstances, you are instructed to ensure the subordination is completed, by both:
 - i) arranging for the completion and execution of an appropriate New Zealand Bankers' Association standard subordination/priority document; and
 - ii) recording the subordination by way of a financing change statement registered on the PPSR.
- b) **To be limited to a specified priority limit:** the third party security interest being limited to specified priority limit. In those circumstances, you are instructed to ensure that the third party has priority up to a priority limit agreed to by the Bank (and that the Bank otherwise has second ranking priority, with a specified priority limit) by arranging for the completion and execution of an appropriate New Zealand Bankers' Association standard subordination/priority document.

If the Bank's and/or a third party's priority limit to be included in the priority document is not specified in the Letter of Offer, you must contact the Bank to obtain it. Each priority limit specified by the Bank is an amount without more for the purposes of section 92(3)(b) of the Property Law Act 2007 (i.e. the amount expressed includes interest).

Preparation and completion of Security Agreement and ancillary documents

Livestock or crops: If the collateral includes livestock or crops:

- a) Additional details for livestock or crops are not required.
- b) Where the livestock charged is grazing on or occupying land not owned by the Security Provider, the Bank will send a notice of security interest to the land owner.

Fonterra shares: If the collateral includes Fonterra Co-Operative Group Limited ("Fonterra") shares, units in the Fonterra Shareholders' Fund or any other securities related to Fonterra, these Instructions to act will also include Fonterra forms. Under paragraphs 3 and 4 of the Solicitor's Certificate you will certify as to the preparation and execution of the Fonterra forms as part of the securities being taken by the Bank. These Fonterra forms must all be completed by the Security Provider and returned to the Bank together with your Solicitor's Certificate. You must notify the Borrower that the Bank may charge the Borrower with any fees associated with Fonterra-related securities taken by the Bank, on settlement and at any time in the future, at its discretion.

Other dairy company shares: If the collateral includes shares or other securities issued by another dairy company, the Bank will arrange registration of the charge with the dairy company at its discretion including charging to the client any registration fees applicable.

Serial numbered collateral: If the Contract indicates that the Bank will rely for security on any particularised serial-numbered collateral (i.e. motor vehicles or aircraft) you must obtain all serial numbers required under the Personal Property Securities Regulations 2001 and complete the description of the collateral in the Security Agreement, including all such serial numbers.

Completion and execution: You must ensure that all general/specific Security Agreements are completed and executed in accordance with the requirements of the Personal Property Securities Act and Regulations. All fillable fields must be completed with the appropriate information, or "n/a" if not applicable. If you have any doubt about the Bank's expectations of how a document is to be completed/executed, please get in touch with the Bank's Settlement Team at securities@rabobank.com.

12. Specific instructions for subordination arrangements

Where the Bank requires a Deed of Subordination in respect of indebtedness of the Borrower to a third party (the "**Subordinated Lender**"):

- a) the Bank acknowledges that the Subordinated Lender may be a Guarantor of the Borrower (but need not be);
- b) subject to paragraph 1 of these instructions, the Bank consents to you acting for the Subordinated Lender; and
- c) where you do act for the Subordinated Lender and witness its execution of the Deed of Subordination, this must be reflected in your Solicitor's Certificate. Where you do not act for the Subordinated Lender, you must request that the Deed of Subordination is returned along with a certification from the solicitor for the Subordinated Lender as to the matters contained in paragraph 4 of the Solicitor's Certificate, and that certification must be attached to your Solicitor's Certificate.