

DEED OF PRIORITY (LAND) - SCHEDULE - Three Mortgagees

EXTENT OF PRIORITY BETWEEN MORTGAGEES

1. The First Mortgage, and all moneys secured from time to time under it, will have first priority over the Second Mortgage and the Third Mortgage for an amount not exceeding the First Mortgagee Priority Amount.
2. The Second Mortgage, and all moneys secured from time to time under it, will have second priority over the Third Mortgage for an amount not exceeding the Second Mortgagee Priority Amount.
3. The Third Mortgage, and all moneys secured from time to time under it, will have third priority for an amount not exceeding the Third Mortgagee Priority Amount.
4. Subject to clauses 1, 2 and 3:
 - (a) the First Mortgage will have fourth priority over the Second Mortgage and the Third Mortgage for the balance (if any) secured by, and outstanding under, the First Mortgage; and
 - (b) the Second Mortgage will have fifth priority over the Third Mortgage for the balance (if any) secured by, and outstanding under, the Second Mortgage.

PRIORITY INSTRUMENT

5. If required by the First Mortgagee or the Second Mortgagee, each Mortgagee will immediately sign, and will consent to the registration in the relevant land register of, a priority instrument under which:
 - (a) the First Mortgage is granted priority over the Second Mortgage and the Third Mortgage; and
 - (b) the Second Mortgage is granted priority over the Third Mortgage.

PARAMOUNTCY

6. These priority arrangements will have effect despite anything (including any application of the rule in *Clayton's Case* (1816) 1 Mer. 529 or the rule in *Hopkinson v Rolt* (1861) 9 H.L. Cas. 514) which, but for this provision, might alter or affect the priorities provided by these arrangements.
7. Any provision in any Mortgage, or any other agreement or arrangement entered into before the date of the Document, which is inconsistent with these priority arrangements, will (as between the First Mortgage, the Second Mortgage and the Third Mortgage) be superseded or varied to the extent necessary to give full effect to these arrangements.

DISCHARGE OF PRIOR MORTGAGE(S)

8. If, at any time, the Second Mortgagee disposes of the Land under the power of sale contained in the Second Mortgage or by law, the First Mortgagee will provide the Second Mortgagee with a registrable discharge of the First Mortgage in respect of the Land upon payment by the Second Mortgagee of the lesser of:
 - (a) the amount outstanding under the First Mortgage at the date on which that payment is to be made; and
 - (b) the First Mortgagee Priority Amount.
9. If, at any time, the Third Mortgagee disposes of the Land under the power of sale contained in the Third Mortgage or by law:
 - (a) the First Mortgagee will provide the Third Mortgagee with a registrable discharge of the First Mortgage in respect of the Land upon payment by the Third Mortgagee of the lesser of:
 - (i) the amount outstanding under the First Mortgage at the date on which that payment is to be made; and
 - (ii) the First Mortgagee Priority Amount; and
 - (b) the Second Mortgagee will provide the Third Mortgagee with a registrable discharge of the Second Mortgage upon payment by the Third Mortgagee of the lesser of:
 - (i) the amount outstanding under the Second Mortgage at the date on which that payment is to be made; and
 - (ii) the Second Mortgagee Priority Amount.

DIRECTION TO PAY

10. Each Mortgagee irrevocably and unconditionally authorises and directs a liquidator, official assignee, administrator, receiver, or similar person appointed or acting in respect of the Mortgagor to pay, as between the Mortgagees, the proceeds of the realisation of any Land in accordance with the provisions of the Document.

TRANSFER OR ASSIGNMENT

11. No Mortgagee will transfer or assign any interest or right in or to its Mortgage to any person unless that person has agreed to be bound by the Document.

GOVERNING LAW AND JURISDICTION

12. New Zealand law governs the Document, and the Mortgagees submit to the non-exclusive jurisdiction of the courts of New Zealand.

INTERPRETATION

13. In addition to the definitions set out in the document ("**Document**") which incorporates this schedule of terms:

Enforcement Date	The earlier to occur of: (a) the expiry date of a notice issued in respect of a Mortgage under section 118 or 119 of the Property Law Act 2007, pursuant to which a Mortgagee enters into possession, or exercises that Mortgagee's power of sale, of any Land; and (b) the date on which a Mortgagee appoints a receiver of income in respect of any Land.
First Mortgagee Priority Amount	The aggregate of: (a) the First Mortgagee Amount; (b) interest, for the Interest Period commencing on the Enforcement Date, calculated on a daily basis at the highest rate payable by the Mortgagor to the First Mortgagee immediately before the Enforcement Date, on the lesser from time to time of: (i) the First Mortgagee Amount; and (ii) the balance secured by, and outstanding under, the First Mortgage; (c) the amount of all fees, bank charges, taxes and reasonable expenses (including legal expenses, and goods and services and similar taxes on that amount) incurred by the First Mortgagee in protecting the security under the First Mortgage or exercising any powers or rights under the First Mortgage, but in each case only to the extent that they relate to Land; and (d) interest calculated on a daily basis at the greater of a rate equivalent to the cost of funds of the First Mortgagee and the highest rate payable by the Mortgagor to the First Mortgagee, on the amounts in (c) above from the date of payment of the relevant amounts until the date of reimbursement of those amounts to the First Mortgagee.
Mortgagees	The First Mortgagee, the Second Mortgagee and the Third Mortgagee, and " Mortgagee " means any of them.
Mortgages	The First Mortgage, the Second Mortgage and the Third Mortgage, and " Mortgage " means any of them.

<p>Second Mortgagee Priority Amount</p>	<p>The aggregate of:</p> <ul style="list-style-type: none"> (a) the Second Mortgagee Amount; (b) interest, for the Interest Period commencing on the Enforcement Date, calculated on a daily basis at the highest rate payable by the Mortgagor to the Second Mortgagee immediately before the Enforcement Date, on the lesser from time to time of: <ul style="list-style-type: none"> (i) the Second Mortgagee Amount; and (ii) the balance secured by, and outstanding under, the Second Mortgage; (c) the amount of all fees, bank charges, taxes and reasonable expenses (including legal expenses, and goods and services and similar taxes on that amount) incurred by the Second Mortgagee in protecting the security under the Second Mortgage or exercising any powers or rights under the Second Mortgage, but in each case only to the extent that they relate to Land; and (d) interest calculated on a daily basis at the greater of a rate equivalent to the cost of funds of the Second Mortgagee and the highest rate payable by the Mortgagor to the Second Mortgagee, on the amounts in (c) above from the date of payment of the relevant amounts until the date of reimbursement of those amounts to the Second Mortgagee.
<p>Third Mortgagee Priority Amount</p>	<p>The aggregate of:</p> <ul style="list-style-type: none"> (a) the Third Mortgagee Amount; (b) interest, for the Interest Period commencing on the Enforcement Date, calculated on a daily basis at the highest rate payable by the Mortgagor to the Third Mortgagee immediately before the Enforcement Date, on the lesser from time to time of: <ul style="list-style-type: none"> (i) the Third Mortgagee Amount; and (ii) the balance secured by, and outstanding under, the Third Mortgage; (c) the amount of all fees, bank charges, taxes and reasonable expenses (including legal expenses, and goods and services and similar taxes on that amount) incurred by the Third Mortgagee in protecting the security under the Third Mortgage or exercising any powers or rights under the Third Mortgage, but in each case only to the extent that they relate to Land; and (d) interest calculated on a daily basis at the greater of a rate equivalent to the cost of funds of the Third Mortgagee and the highest rate payable by the Mortgagor to the Third Mortgagee, on the amounts in (c) above from the date of payment of the relevant amounts until the date of reimbursement of those amounts to the Third Mortgagee.
<p>person</p>	<p>Includes that person's successors, permitted assigns, executors and administrators (as applicable).</p>