

Term Loan Facility Agreement

between

650 Great South Road Limited

Property Improvements Limited

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Deed dated

2024

Parties

- 1 **650 Great South Road Limited** (company number 5952867) ('**Borrower**')
- 2 **Property Improvements Limited** (company number 9268924) ('**Lender**')

Facility Terms

The Lender has agreed to provide the Facility to the Borrower. The terms which apply to the Facility are set out in:

- 1 these Facility Terms; and
- 2 the section of this Agreement titled *General Terms* and forming part of this Agreement (the '**General Terms**').

A reference to this '**Agreement**' means the contract made up of these Facility Terms and the General Terms.

In these Facility Terms, unless the context otherwise requires, capitalised terms have the meanings given to them in the table below or in clause 1.1 of the General Terms.

Part A: Terms

Facility	
Facility:	A term loan facility under which the Borrower may request Loans of up to the Facility Limit, to be made available on the terms of this Agreement.
Facility Limit:	\$1,200,000 (as reduced from time to time in accordance with this Agreement).
Purpose:	As described in the PDS (including, without limitation, with respect to payment of the Offer Costs).
Availability Period:	The period starting on the Commencement Date and ending on the Termination Date.
Interest Rate:	9% per annum.
Termination Date:	31 March 2028.
Interest and Fees	
Interest Payment Date:	Interest is payable quarterly in arrears on the last working day of each Quarter and, to the extent a Loan remains outstanding on the Termination Date, the Termination Date (provided that if any such date is not a working day the Interest Payment Date shall be the immediately following working day). ' Quarter ' means (a) in respect of the first Quarter, the period from the Commencement Date to 31 March 2025 and (b) thereafter, each quarter ending 30 June, 30 September, 31 December, and 31 March.

Interest (clause 7 of the General Terms):	<p>The Borrower will pay interest on each Loan in arrears on each Interest Payment Date at the Interest Rate. Interest will accrue on a daily basis.</p> <p>Interest will be transferred by the Borrower to the Lender's nominated account on the relevant Interest Payment Date.</p>
Property	
Property:	<p>The property at 650 Great South Road, Ellerslie, Auckland 1051 as described and comprised in record(s) of title NA108C/559 (North Auckland Registry) and all buildings and improvements on that property (and includes any property which:</p> <ul style="list-style-type: none"> a is comprised in a record or records of title which is or are issued as a result of the subdivision or consolidation of any part of the property described above (or any collapse, consolidation or cancellation of the record(s) of title relating thereto); b becomes subject to the Security Documents as a result of the operation of section 242 of the Resource Management Act 1991; or c becomes subject to the Security Documents for any other reason whatever).
Other	
Events of Review:	As set out in the Senior Loan Agreement.

Part B: Conditions Precedent

- 1 A certificate from a director of the Borrower in the form required by the Lender, attaching the documents referred to in that certificate.
- 2 The Relevant Documents, duly executed (and, with respect to the Security Documents, registered with the priority required by the Lender or evidence that such registration will be effected within any applicable time limit).
- 3 Evidence that all fees, costs and expenses (including legal costs) have been paid by the Borrower.
- 4 All information, documentation and other evidence which the Lender may require in order to carry out 'know your customer' or similar checks under applicable laws and regulations relating to anti-money laundering, terrorism financing and sanctions in connection with the transactions contemplated by the Relevant Documents.
- 5 Evidence of compliance by the Borrower with the Lender's insurance requirements as set out in the General Terms.
- 6 Confirmation that no Event of Default or Material Adverse Change or (if applicable) Event of Review has occurred.
- 7 Evidence that there are no arrears of local body or water rates with respect to the Property.
- 8 The Senior Financier, and the documentation relating to the Senior Facility, being satisfactory to the Lender in all respects.
- 9 The Lender being satisfied with all aspects of the transactions contemplated by the Relevant Documents.
- 10 Any other document or evidence that the Lender may reasonably require and as requested prior to the date of this Agreement.

Each document, evidence and certification shall be in a form and substance satisfactory to the Lender.

Part C: Security Documents

- 1 General security agreement dated on or about the date of this Agreement entered into by the Borrower in favour of the Lender ('**General Security Deed**').
- 2 Registered second ranking mortgage dated on or about the date of this Agreement granted by the Borrower in favour of the Lender over the Property (with a section 92 Property Law Act 2007 priority amount of \$2,500,000 plus interest), subject only to mortgage 10460357.3 in favour of the Senior Financier.
- 3 Deed of Priority and Subordination.

General Terms

1 Interpretation

1.1 Definitions

In this Agreement, unless the context otherwise requires, terms defined in the Facility Terms and used in this Agreement have the same meanings and, in addition:

'Administration Deed' means the administration deed dated 28 November 2024 between the Borrower, the Lender and Maat Consulting Limited (company number 2396577).

'Amount Outstanding' means, at any time, the aggregate principal amount of each Loan outstanding at that time, together with any accrued and unpaid interest, fees and all costs and other amounts then due and payable by the Borrower to the Lender.

'Authorisation' means:

- a any consent, authorisation, registration, filing, lodgement, agreement, notarisation certificate, permission, licence, approval, authority or exemption from, by or with a Governmental Agency; or
- b in relation to anything which will be fully or partly prohibited or restricted by law if a Governmental Agency intervenes or acts in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.

'Available Facility' means the Facility Limit less:

- a the amount of the Facility that has been cancelled; and
- b the aggregate amount of all Loans that are outstanding at that time.

'Commencement Date' means the date the Lender has received and found satisfactory to it in its sole discretion the documents and evidence specified in Part B (Conditions Precedent) of the Facility Terms.

'Consented Variation' means an amendment or variation of, or refinancing of, the Senior Facility (including, without limitation, a waiver of the terms of the Senior Facility) consented to in writing by the Lender.

'Deed of Priority and Subordination' means the deed of priority and subordination dated on or about the date of this Agreement between the Borrower, the Senior Financier as first securityholder and Lender as second securityholder.

'Dollars' and the symbol **'NZ\$'** and **'\$'** means the lawful currency for the time being of New Zealand.

'Drawing Date' means, in relation to a Loan, the date on which it is (or is to be) advanced, which must be a working day during the Availability Period.

'Drawing Notice' means a drawing notice substantially in the form set out in Schedule 1.

'Environmental Law' means any law relating to the environment, land or water use, noise, smell, pollution or contamination, toxic or hazardous substances, waste disposal or conservation (including the Resource Management Act 1991) and any Authorisation, consent or notice under any such law.

'Event of Default' has the meaning given to that term in the Senior Facility Agreement, applied to this Agreement with all necessary modifications as if the relevant provisions were set out in this Agreement in full (including, without limitation, with references to "Bank" construed as references to the Lender for the purposes of this Agreement), provided that such term also includes any other event agreed from time to time by the Lender and the Borrower to constitute an Event of Default.

'Event of Review' means any event specified in the Facility Terms as constituting an Event of Review and any other event agreed from time to time by the Lender and the Borrower to constitute an Event of Review.

'Facility Terms' means the facility terms and conditions set out above and forming part of this Agreement.

'Governmental Agency' means any government or governmental, semi-governmental or judicial entity or authority including any local council or regional authority, any self-regulatory body or organisation established under statute, any stock exchange and any other regulatory, monetary or accountancy body.

'GST' means goods and services tax charged under the GST Act.

'GST Act' means the Goods and Services Tax Act 1985.

'Lease' means any agreement to lease, deed of lease, lease, sublease, sub-licence, licence to occupy, tenancy, licence and other agreement of any kind, present and future, in which the Borrower has any interest and which relates to the use or occupation of any part of the Property, and each guarantee or security for the performance of any such lease, licence or other agreement.

'Loan' means each principal amount advanced (or to be advanced) to the Borrower under the Facility in accordance with the terms of this Agreement.

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

- a the business, operation, property, prospect or condition (financial or otherwise) of a Relevant Party;
- b the ability of a Relevant Party to perform or comply with its obligations under any Relevant Document to which it is a party;
- c the validity, legality or enforceability of the whole or any part of any Relevant Document or any rights or remedies of the Lender under any Relevant Document; or
- d the priority and ranking of any security expressed to be created pursuant to any Security Document,

and **'Material Adverse Change'** shall be construed accordingly.

'NZ GAAP' means generally accepted accounting practice, as defined in section 8 of the Financial Reporting Act 2013.

'Offer' means the regulated offer (as defined in the Financial Markets Conduct Act 2013) of B Shares in the Lender.

'Offer Costs' means the costs incurred by the Lender with respect to the Offer, as set out in section 3 of the PDS under "Offer costs", subject to any variations agreed between the Borrower and the Lender.

'PDS' means the product disclosure statement dated 28 November 2024 in relation to the Offer (and any supplementary document that supplements that product disclosure statement in accordance with the Financial Markets Conduct Act 2013).

'Permitted Security Interest' means a security interest:

- a created under a Security Document;
- b in respect of which the Lender has given its prior written consent;
- c created in favour of the Senior Financier and which is listed in the Deed of Priority and Subordination as a Senior Security Document (as defined in that deed); or
- d in relation to personal property that is created or provided for by:
 - i a transfer of an account receivable or chattel paper;
 - ii a lease for a term of more than one year; or
 - iii a commercial consignment,
 that does not secure payment or performance of an obligation.

'PPSA' means the Personal Property Securities Act 1999.

'Relevant Documents' means:

- a this Agreement;
- b the Security Documents; and
- c the Deed of Priority and Subordination,

and each other agreement (present or future), required or contemplated by, or relating to, any of the above documents.

'Relevant Party' means the Borrower and any other person agreed in writing between the Borrower and the Lender to be a "Relevant Party" for the purposes of, and as defined in, this Agreement.

'Security Documents' means each of the agreements set out in Part C (Security Documents) of the Facility Terms and each other security agreement, guarantee or other agreement (present or future) expressed or intended to guarantee or secure the Borrower's obligations under the Relevant Documents.

'Senior Facility' means the property finance committed cash advances facility with a facility limit of \$14,445,000 (plus accrued interest and fees) evidenced by the Senior Facility Agreement.

'Senior Facility Agreement' means the facility agreement dated 13 June 2016 between (among others) the Borrower and the Senior Financier (as amended prior to the date of this Agreement and as further amended by any Consented Variations).

'Senior Financier' means ASB Bank Limited.

'Transaction Documents' means the Relevant Documents, the Administration Deed, each Lease and each other Contract as defined in the General Security Deed.

1.2 Construction

In this Agreement, unless the context otherwise requires:

an **'agreement'** includes a contract, deed, licence, undertaking and other document or legally enforceable arrangement (in each case, whether or not in writing, present and future), and includes that document as amended, assigned, novated or substituted from time to time;

a **'consent'** includes an approval, authorisation, exemption, filing, licence, order, permit, recording or registration;

one person being **controlled** by another means that the other person (whether directly or indirectly and whether by the ownership of share capital, the possession of voting power, contract or otherwise):

- a has the power to appoint and/or remove the majority of the members of the governing body of that person;
- b otherwise controls or has the power to control the affairs and policies of that person; or
- c is in a position to derive the whole or a substantial part of the benefit of that person;

'costs' incurred by a person include all commissions, charges, losses, expenses (including legal fees on a solicitor and own client basis) and taxes incurred by that person;

a **'directive'** includes a present and future directive, regulation and requirement (in each case, whether or not having the force of law but, if not having the force of law, the compliance with which is in accordance with the general practice of persons to whom the directive is addressed);

'financial statements' has the meaning specified in section 6 of the Financial Reporting Act 2013;

a **'guarantee'** includes an indemnity, letter of credit, letter of comfort, suretyship and other agreement, the economic effect of which is to provide security, or otherwise assume responsibility, for the indebtedness or obligations of another person;

'indebtedness' includes any obligation relating to the payment of money:

- a whether present or future, actual or contingent, secured or unsecured;

- b whether incurred alone, jointly, severally, or jointly and severally and as principal, surety or otherwise;
- c whether due to the lender alone, or with another person, and whether the lender is entitled for its own account or for the account of another person;
- d whether arising from a banker and customer relationship or another relationship;
- e whether originally contemplated by the debtor or the lender or not;
- f whether the lender is the original person the amount was owed to, or an assignee and, if the lender is an assignee:
 - i whether or not the debtor consented to, or was aware of the assignment;
 - ii regardless of when the assignment occurred; and
 - iii whether or not the entitlements of that original person were assigned with the security interests granted in the Security Documents; and
- g if determined pursuant to any award, order, judgment or decree against the debtor, whether or not the debtor was party to the court proceedings, arbitration or other dispute resolution process in which that award, order, judgment or decree was made,

and including any such obligation arising under derivative or similar products;

'loss' includes loss of profit and loss of margin;

a **'person'** includes an individual, a body corporate, an association of persons (whether corporate or not), a trust, a state, an agency of a state and any other entity (in each case, whether or not having separate legal personality);

'property' includes the whole and any part of the relevant person's business, assets (including leased assets), undertaking, revenues and rights (in each case, present and future), and reference to any property includes any legal or equitable interest in it;

'rights' includes authorities, consents, discretions, remedies, powers and causes of action;

a **'security interest'** includes:

- a a mortgage, pledge, charge, lien, hypothecation, encumbrance, deferred purchase, title retention, finance lease, contractual right of set-off, flawed asset arrangement, sale-and-repurchase and sale-and-leaseback arrangement, order and other arrangement of any kind, the economic effect of which is to secure a creditor, and
- b a 'security interest' as defined in section 17(1)(a) of the PPSA in respect of which the relevant person is the debtor,

but does not include:

- c a lien or other security interest arising solely by operation of law; or
- d a security interest taken in collateral by a seller to the extent that it secures the obligation to pay all or part of the purchase price of that collateral, where that collateral is

purchased in the ordinary course of business of the buyer and the purchase price is paid within 60 days of supply; or

- e a netting or set-off arrangement entered into in the ordinary course of a person's banking arrangements for the purpose of netting debit and credit balances;

'tax(es)' includes any tax, levy, impost, stamp or other duty and any other charge, deduction or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay, or any delay in paying, any of the same);

a **'working day'** means a working day as defined in the Companies Act 1993;

'writing' includes a facsimile transmission, an email communication and any means of reproducing words in a tangible and permanently visible form;

a reference to a **party, clause, schedule or annexure** is a reference to a party to, clause of, schedule to or annexure to, this Agreement;

the word **including**, when introducing an example, does not limit the meaning of the words to which the example relates;

an Event of Default or (if applicable) Event of Review is **continuing** until it has been waived in writing by, or remedied to the satisfaction of, the Lender;

an agreement, representation or undertaking given by a Relevant Party in favour of two or more persons is for the benefit of them jointly and each of them severally;

the singular includes the plural and vice versa;

where a word or phrase is defined, its other grammatical forms have a corresponding meaning;

any legislation includes a modification and re-enactment of, legislation enacted in substitution for, and a regulation, order-in-council and other instrument from time to time issued or made under, that legislation;

a party to this Agreement or another agreement includes its successors and its permitted assignees and transferees;

references in this Agreement to certain numbered provision(s) of the Senior Facility Agreement shall, if the Senior Facility Agreement is amended pursuant to a Consented Variation so as to change the numbering of such provision(s), be deemed to refer to any equivalent or substantially similar numbered provision(s); and

headings and the table of contents are to be ignored in construing this Agreement.

1.3 **PPSA**

The terms 'collateral' and 'debtor' in the definition of 'security interest' in clause 1.2 (Construction) have the meanings given to them in the PPSA.

2 **Facility**

2.1 **Facility**

a Availability

The Lender agrees to make the Facility available to the Borrower on the terms of this Agreement. The Facility will be made available by a Loan in one amount.

b Purpose

The Borrower will use the net proceeds of the Loan under the Facility for the purpose specified in the Facility Terms.

c Drawdown

The Lender will advance the Loan to the Borrower on any working day nominated by the Borrower during the applicable Availability Period if:

i Drawing Notice

the Lender has received from the Borrower a Drawing Notice not later than 12:00pm on the proposed Drawing Date, which notice will be irrevocable and must specify:

- A the proposed Drawing Date;
- B the amount of the Loan, which may not be greater than the Facility Limit; and
- C the bank and account to which the Borrower wishes the Loan to be disbursed;

ii Available Facility

the Loan would not cause the Available Facility to be exceeded on the Drawing Date;

iii Conditions precedent

with respect to the first Loan, the Commencement Date has occurred, not later than when the Drawing Notice under paragraph (i) is received;

iv No Event of Default

no Event of Default or (if applicable) Event of Review has occurred, or will occur, as a result of the Loan;

v Representations

the representations made in, or in connection with, the Relevant Documents are true, accurate and complied with in all material respects on the Drawing Date as if repeated on that date by reference to the facts and circumstances then existing;

vi Unusual circumstances

none of the events contemplated by clause 11 (Increased costs) subsist, or are reasonably likely to subsist, on the Drawing Date;

vii Additional condition(s) precedent

the Borrower has satisfied all other condition(s) (if any) specified by the Lender in the Facility Terms (satisfactory to the Lender in its sole discretion); and

ix **Equity/Senior funding**

the Lender has received evidence satisfactory to it in all respects that the Borrower's equity and the Senior Facility has been fully utilised by the Borrower,

failing which, the Lender may:

- i discontinue the requested drawdown of the Loan; or
- ii make the requested Loan and waive any of these conditions for any period and on any terms specified by the Lender to the Borrower (non-compliance with which will constitute an Event of Default).

3 Repayment

The Borrower will repay all outstanding Loans, together with all other Amount Outstanding, on the Termination Date.

4 Illegality and Market Change

If, by reason of:

- a the introduction of, or any change in, any law, or any change in the interpretation or application thereof by any government or Governmental Agency; or
- b compliance by the Lender with any directive,

it becomes impossible or illegal for the Lender to make available or maintain or fund any part of the Facility, or otherwise to give effect to this Agreement or any other Relevant Document then:

- c the Lender may, by notice to the Borrower, cancel the affected part of the Facility; and
- d the Borrower shall prepay the Amount Outstanding immediately (or within any period specified by the Lender).

5 Prepayment

5.1 Voluntary prepayment

The Borrower may prepay a Loan in full (or any part of it being not less than \$50,000 and that is a whole multiple of \$10,000) provided that the Borrower:

- a gives the Lender not less than 20 working days' notice of its intention to do so (that notice will be irrevocable and will bind the Borrower to make the prepayment specified in it); and
- b indemnifies the Lender against any loss or expense which the Lender may sustain or incur as a consequence of that prepayment in accordance with clause 12 (Indemnities).

5.2 Effect of prepayment

Amounts prepaid by the Borrower under this clause 5 (Prepayment) will not be available for re-borrowing.

6 Cancellation

6.1 Available Facility

The Borrower may cancel, in whole or in part, the Available Facility at any time without penalty, on the Borrower giving the Lender not less than three working days' notice of its intention to do so. That notice will be irrevocable and will bind the Borrower to the cancellation specified in it.

6.2 Amount

The amount of the Facility cancelled may not exceed the Available Facility on the cancellation date.

6.3 Availability

Any part of the Facility cancelled will no longer be available to the Borrower.

6.4 Final cancellation

On the last day of the Availability Period, the Available Facility will be cancelled automatically.

7 Interest

The Borrower will pay interest on each Loan in the manner described in the Facility Terms.

8 Default interest

If the Borrower does not pay, when due, an amount payable by it under a Relevant Document, then, without prejudice to its other obligations, the Borrower will pay interest on that overdue amount (including interest payable under this clause) calculated from its due date to the date of its receipt by the Lender (after as well as before judgment), compounded and payable at intervals selected by the Lender at its discretion. This obligation to pay default interest arises without the need for a notice or demand. The rate of default interest will be the applicable Interest Rate plus 4.00% per annum.

9 Fees

9.1 Other fees

The Borrower acknowledges that the Lender may, at the cost of the Borrower, employ consultants and investigative accountants (including, without limitation, quantity surveyors or project managers) from time to time. The reasonable costs of any such consultant shall be payable by the Borrower to the Lender promptly following demand.

9.2 No refund

No fee payable by the Borrower is refundable in any circumstances, even when payable in advance.

10 Taxes

10.1 Gross up

- a If a Relevant Party or a person on its behalf is required by law to make a deduction or withholding from any amount paid or payable by it under a Relevant Document; or
- b the Lender or a person on its behalf is required by law to make any payment for or on account of tax (other than tax on overall net income of the Lender) or otherwise on or in relation to any amount received or receivable by it under a Relevant Document,

then the Relevant Party will:

- c ensure that any such deduction or withholding does not exceed the legal minimum and shall pay the amount required to be deducted, withheld or paid to the relevant authority before the date any penalty begins to accrue; and
- d increase the actual amount paid to the Lender to the extent necessary to ensure that after any deduction, withholding or payment is made, the Lender actually receives and retains on the due date (free from any liability in respect of any such deduction, withholding or payment, and ignoring any amount that the Lender is deemed to have received by reasons of any legislation) a net amount equal to the amount that it would have received and so retained had no such deduction, withholding or payment been required to be made.

10.2 GST

If any supply by the Lender to the Borrower in relation to any Relevant Document will, at the time of supply, be subject to goods and services tax under the GST Act, the Borrower will pay to the Lender an amount equal to the applicable goods and services tax in addition to the consideration for that supply.

10.3 Notice of legal requirements

If a party is required to make a deduction, withholding or payment for or on account of tax or on another account, it shall promptly notify each other party immediately.

10.4 Timely payment to tax authority

If a Relevant Party is required to make a deduction withholding or payment for or on account of tax or on another account, it will account to the appropriate tax or other authority for the relevant amount within the time allowed, without incurring a penalty for late payment.

10.5 Tax receipts

Promptly after the making by a Relevant Party of a deduction, withholding or payment, the Relevant Party will deliver to the Lender a receipt or other documentation satisfactory to the Lender evidencing the deduction, withholding or payment.

11 Increased costs

11.1 Increased costs

If, by reason of the introduction of, or any change in, any law, or any change in the interpretation or application thereof by any government or Governmental Agency, after the date of this Agreement, or by reason of compliance by the Lender with any directive (other than a directive that is applicable to the Lender at the date of this Agreement) or by reason of any other circumstances affecting the New Zealand domestic funding market or the general availability of finance in New Zealand:

- a the cost to the Lender of making available, maintaining or funding any part of the Facility or a Loan, or of otherwise giving effect to this Agreement, is increased; or
- b any amount received or receivable by the Lender, or the effective return to the Lender, under or in connection with any Relevant Document is reduced; or
- c the Lender makes any payment or foregoes any interest, fees or other return on or calculated by reference to any sum received or receivable by it under or in connection with any Relevant Document; or
- d the Lender is unable to obtain the rate of return on capital in respect of this Agreement that might reasonably have been expected as at the date of this Agreement but for its entering into and/or performing its obligations under this Agreement,

then and in any such case:

- e the Lender shall promptly notify the Borrower of the occurrence of the relevant event;
- f the Borrower shall from time to time pay to the Lender on demand the amount that the Lender specifies to be necessary to compensate it for that increased cost, reduction payment, forgone interest, fees or other return or reduced rate of return on capital; and
- g the Borrower shall be entitled at any time after the receipt of any such demand, so long as the circumstances giving rise to that increased cost, reduction, payment, foregone interest, fees or other return or reduced rate of return on capital continue, on giving no less than 15 working days' notice to the Lender (which notice shall be irrevocable), to elect that the Facility be cancelled, whereupon the amount of the Facility shall be reduced to zero and the Borrower shall prepay the Amount Outstanding immediately (or within any period specified by the Lender).

11.2 Increase in funding costs

If:

- a the Lender or any person on its behalf is required by law to make a deduction or withholding for or on account of tax or on another account from any amount paid or payable to a person from whom it has borrowed money or entered into any other arrangement (including an interest or currency swap or foreign exchange or hedging transaction) to enable it to fund or maintain or sub-participate the funding or credit risk in respect of all or any part of the Facility, or a Loan or another payment by it under a Relevant Document; or
- b a provision relating to increased costs, change of circumstances, yield protection or otherwise in an agreement between such a person and the Lender becomes operative; or

- c such a person incurs a cost or liability as a result of any of the matters referred to in clause 4 (Illegality and Market Change),

and, as a result, the Lender increases a payment to or indemnifies that person (whether or not it is under a legal obligation to do so) or becomes liable to do so, the Borrower will indemnify and hold the Lender harmless against that increased payment, indemnity or liability and will, on demand, pay to the Lender the amount certified by the Lender to be required so that, after receiving that amount and making that increased payment or indemnity payment, the Lender will be in the same position it would have been in if no increased payment or indemnity was required to have been made. Where any such liability of the Lender is made conditional or contingent on receipt by the Lender of the amount from the Borrower, or is limited to the amount received, the Lender will be deemed to be liable without any such condition, contingency or limitation and the Borrower will be obliged to make payment to the Lender accordingly.

11.3 **Minimisation**

An amount certified under clause 11.1 (Increased Costs) and clause 11.2 (Increase in Funding Costs) above will be payable regardless of whether an increased cost, reduction, payment or forgone interest or other return referred to in that clause could have been avoided.

11.4 **Survival of obligations**

The obligations of the Borrower under clause 11.1 (Increased Costs) and clause 11.2 (Increase in Funding Costs) above are to survive termination of the Facility and payment of all other indebtedness due under any Relevant Document.

12 **Indemnities**

12.1 **General indemnity**

Subject to any mandatory law, each Relevant Party will indemnify the Lender against each cost incurred by it as a result of:

- a the occurrence or continuance of an Event of Default or (if applicable) Event of Review;
- b an amount payable by a Relevant Party under a Relevant Document not being paid when due, whether by prepayment, acceleration or otherwise (but, so far as appropriate, credit is to be given for amounts, if any, of default interest paid under the Relevant Document);
- c a prepayment of a Loan being made or becoming due, or another amount being paid or becoming due, otherwise than on its due date under this Agreement (whether or not that payment is permitted or required under this Agreement);
- d the Lender being required for any reason to refund all or part of any amount received or recovered by the Lender in respect of any payment made by a Relevant Party and avoided by law (and in any event shall pay to the Lender the amount so refunded by the Lender);
- e a Loan not being advanced on the requested Drawing Date (other than due to the Lender's default); or

- f non-compliance or alleged non-compliance with any Environmental Law by the Borrower, any obligation under any Environmental Law being imposed on the Lender as a result of or arising from the Lender entering into the Relevant Documents and/or the Lender doing (or instructing any person to do) any act to ensure compliance with any Environmental Law or to avoid, mitigate or remedy any actual or likely adverse effect on the environment caused by or on behalf of the Borrower,

by payment on demand to the Lender, of the amount that the Lender certifies is required to compensate the Lender for that cost, including each cost incurred in liquidating or re-employing:

- g deposits or other funds acquired or arranged to fund or maintain a Loan or any part of it; and
- h any transaction entered into in anticipation of drawdown and/or disbursement of a Loan.

12.2 Indemnities irrevocable

The above indemnities are unconditional and irrevocable, and will survive both termination of this Agreement and payment of all other indebtedness due under the Relevant Documents.

13 Costs

13.1 Offer Costs

The Borrower will pay all Offer Costs incurred by the Lender out of the proceeds of the Loan.

13.2 Other costs

The Borrower will pay each:

- a amount payable by the Borrower pursuant to the Administration Deed in accordance with the Administration Deed;
- b cost reasonably incurred by the Lender in connection with:
 - i the preparation, negotiation, entry into and release of each Relevant Document; and
 - ii the administration of the Facilities and the Relevant Documents by the Lender; and
- c cost incurred by the Lender in connection with:
 - i each amendment to, waiver in respect of, or discharge of, a Relevant Document; and
 - ii the exercise, protection, investigation or enforcement of the Lender's rights under a Relevant Document,

in each case, on demand and on a full indemnity basis.

14 Representations

14.1 Representations of Borrower

The Borrower represents that:

a Existence, power and authority

it is duly incorporated, is validly existing under the laws of New Zealand, has full power and authority to own its own assets and carry on its business as it is being conducted, has full power and authority to enter into and comply with its obligations under the Transaction Documents and the transactions contemplated by them and has taken all corporate and other action and obtained all consents and Authorisations needed to enable it to do so;

b Obligations enforceable

- i its obligations under the Transaction Documents are legal, valid, binding and enforceable in accordance with their respective terms, subject to equitable principles and insolvency laws of general application; and
- ii each Security Document is (and will be on each Drawing Date) effective security, with the priority contemplated by such Security Document for the satisfaction of the indebtedness of the Borrower under the Relevant Documents, and it is not aware of any act, matter, thing or circumstance by reason of which any party to a Security Document may not be able to comply with its obligations under that Security Document;

c No default

it is not in, nor has it indicated an intention to be in, default under:

- i any agreement relating to indebtedness; or
- ii any guarantee; or
- iii any other agreement to an extent or in a manner that has, or might have, a Material Adverse Effect;

d Compliance with laws

its entry into the Transaction Documents and the exercise of its rights and obligations under and in connection with the Transaction Documents does not, to the extent applicable:

- i contravene any law to which it is subject;
- ii conflict with or result in a breach of, any agreement to which it is a party;
- iii conflict with or result in a breach of any of the documents constituting it; or
- iv limit any of its powers or any right or ability of its directors to exercise its powers;

e Solvency

it is solvent and able to pay its indebtedness as it falls due;

f Ownership

except as otherwise notified to, and accepted in writing by, the Lender on or before the date of this Agreement, it is, and will at all times be, the sole legal and beneficial owner

of all its assets that are subject to the Security Documents, and no person has any caveatable interest in its assets that are subject to the Security Documents;

g No security interest

no security interest exists over or affects, nor is there any agreement to give or permit to exist, any security interest over or affecting, any of its property other than a Permitted Security Interest;

h Financial statements

its latest financial statements as delivered to the Lender:

- i include those most recently prepared for the last period and as at the last date for which financial statements have been prepared, and include copies of all documents required by law to accompany them;
- ii were prepared in accordance with NZ GAAP;
- iii give a true and fair view of its financial position as at the date and for the period to which they relate;
- iv disclose or reserve against all liabilities (contingent or otherwise) as at that date and all unrealised or anticipated costs from any commitment entered into by the relevant person(s) and that existed on that date;
- v include a true and complete copy of any auditor's report; and
- vi are signed by two directors (or one, if there is only one director);

i No Material Adverse Change

there has been no Material Adverse Change in respect of it since the last date as at which any of the financial statements referred to in the preceding clause were made up;

j Litigation

no legal proceedings, litigation, arbitration or administrative proceeding is current or pending or, to its knowledge, threatened that has, or could have, a Material Adverse Effect;

k Information

- i all information provided by it or any other person on its behalf to the Lender in connection with the Transaction Documents was true in all material respects as at the date that information was provided, and remains so;
- ii there are no facts or circumstances that have not been disclosed to the Lender that would make that information untrue or misleading in any material respect; and
- iii it has disclosed to the Lender all information that would be material to the assessment by the Lender of the risks to be assumed by the Lender under the Facilities;

l No Event of Default etc.

no Event of Default or (if applicable) Event of Review has occurred and is continuing;

m Laws (including Environmental Laws)

to the best of its knowledge and belief, having made due enquiry:

- i it is not in breach of any law binding upon it, and it is in compliance in all material respects with all applicable consents and Authorisations and other requirements (including any certificates of compliance, resource and buildings consents and orders) under all Environmental Laws and directives in relation to the Property; and
- ii there are no circumstances which have given rise, or may give rise, to a material claim against it, a requirement for material expenditure or a requirement to cease or vary any material activity under or as a result of any Environmental Law or any Authorisation required under such law;

n Pollutants

to the best of its knowledge and belief, having made due enquiry:

- i no part of the Property has been used in connection with the creation, treatment, storage and handling of a pollutant;
- ii no part of the Property, nor any land adjacent to the Property, has been polluted or contaminated by a pollutant in any way which has given rise or may give rise to a material claim against the Borrower; and
- iii no part of the Property has been subject to a notice, direction, order or condition requiring a pollutant to be cleaned up, contained or dealt with in any way and the Borrower is not aware that a notice, direction, order or condition of that kind is pending,

and:

- iv no activity currently or previously conducted on any part of the Property breaches any Environmental Law or any order or direction made under such law, results in environmental liability or otherwise constitutes an environmental hazard; and
- v no fact or circumstance exists in relation to any part of the Property which may result in any occupier or controller of any part of the Property being served with orders, notices or directions or being subject to a penalty or fine under any Environmental Law or liable for the cost of clean-up or other treatment of any contaminant on any part of the Property;

o Transaction Documents

each representation made by it in the Transaction Documents to which it is a party is true in all material respects;

p Ranking of obligations

its liabilities under each Relevant Document to which it is a party will at all times rank ahead or will by virtue of the Security Documents rank ahead of all its other present and future indebtedness (actual or contingent), except where such claims are preferred solely by operation of law or are secured pursuant to a Permitted Security Interest;

q Not trustee

it is not a trustee of any trust;

r Taxes

- i it has paid all taxes due and payable by it except those taxes which it is contesting in good faith and in respect of which it has made adequate reserves;
- ii it has complied with all tax law in all jurisdictions in which it is subject to taxation;
- iii it is resident for tax purposes only in the jurisdiction of its incorporation; and
- iv no claims or investigations are being, or are reasonably likely to be, made or conducted against it with respect to taxes; and

s Full disclosure

it is not aware of any facts relating to it, or the Relevant Documents, and all things in connection with them, which would, or would be reasonably likely to, adversely materially affect the decision of a reasonable and prudent financial institution in entering into the Relevant Documents, that have not been disclosed in writing to the Lender.

14.2 Representations continuing

Each of the representations in this clause will be deemed to be repeated continuously so long as this Agreement remains in effect by reference to the facts and circumstances then existing, except that each reference to financial statements will be construed as a reference to the latest available financial statements of the relevant person.

14.3 Reliance on representations

Each Relevant Party acknowledges that the Lender has been induced to enter into this Agreement and will be induced to make the Facilities available in reliance on the representations in this clause.

14.4 No representations to Relevant Parties

Each Relevant Party acknowledges and accepts that it has not relied and will not rely on any statement made by or on behalf of the Lender in deciding to enter into any Relevant Document or to exercise any right or perform any obligation under any Relevant Document.

15 Undertakings

15.1 Reporting undertakings

The Borrower undertakes that it will comply with all of the reporting undertakings set out in the Senior Facility Agreement, which shall be deemed to be incorporated into this Agreement as if

set out in full, with all necessary modifications (including, without limitation, with references to “Bank” construed as references to the Lender for the purposes of this Agreement).

15.2 Financial undertakings

The Borrower undertakes that it will comply with the financial undertakings set out in clause 9 of the Senior Facility Agreement, which shall be deemed to be incorporated into this Agreement as if set out in full, with all necessary modifications (including, without limitation, with references to “Bank” construed as references to the Lender, and references to “Facilities” including the Facility and the Senior Facility, for the purposes of this Agreement).

15.3 Negative undertakings

The Borrower undertakes that it will:

a Senior Facility undertakings

comply with the negative undertakings set out in the Senior Facility Agreement, which shall be deemed to be incorporated into this Agreement as if set out in full, with all necessary modifications (including, without limitation, with references to “Bank” construed as references to the Lender for the purposes of this Agreement); and

b Variations to Senior Facility

will not agree to any proposed amendments or variations of, or refinancing of, the Senior Facility (including, without limitation, any proposed waivers of the terms of the Senior Facility) without the prior written consent of the Lender (which must not be unreasonably withheld).

15.4 General undertakings

The Borrower undertakes that it will:

a Senior Facility covenants

comply with all of the other undertakings set out in the Senior Facility Agreement, which shall be deemed to be incorporated into this Agreement as if set out in full, with all necessary modifications (including, without limitation, with references to “Bank” construed as references to the Lender for the purposes of this Agreement); and

b Developments with respect to Senior Facility

with respect to the Senior Facility:

- i consult with the Lender, and keep the Lender updated, with respect to any proposed amendments or other variations of, refinancing of, or other material developments relating to the Senior Facility (including, without limitation, any proposed amendments to, waivers of, or other variations of the terms of the Senior Facility); and
- ii without limiting i above, provide the Lender with as much advance notice as is reasonably practicable of any proposed amendments to the Senior Facility and/or the Senior Facility Agreement.

15.5 Authority to auditors

Each Relevant Party authorises the Lender to discuss its financial statements and financial affairs at any time with the Relevant Party's auditors and financial advisers, and irrevocably authorises and requests its auditors and financial advisers to participate in those discussions and to provide any information the Lender requests.

15.6 Appointment of investigative accountants and auditors

- a If the Lender reasonably believes that a breach of a Relevant Document has occurred or may be likely to occur, the Borrower authorises the Lender, at its discretion to appoint:
 - i an investigative accountant (who may not be a receiver); and/or
 - ii an auditor,in each case including before and after an Event of Default has occurred, to make whatever investigations into the Borrower's financial condition and otherwise that it deems are necessary to determine whether or not a breach has in fact occurred or is likely to occur, provided that:
 - iii the Lender may only make such an appointment or appointments no more than twice in any year; and
 - iv the costs of such investigation shall be borne by the Borrower.
- b The Lender may fix the remuneration of an investigative accountant or auditor (an '**Investigator**') at an amount or on a basis agreed with the Investigator or, failing agreement, as determined by the Lender. All remuneration payable to an Investigator will be payable by the Borrower on demand, and shall form part of the indebtedness secured by the Security Documents.
- c An Investigator is the agent of the Borrower. The Lender is not responsible for an Investigator's actions, including the misconduct, negligence or default of an Investigator.
- d An Investigator has a right to investigate the affairs of the Borrower in such manner as the Investigator thinks fit, including the right to:
 - i enter, without notice, any real property of the Borrower ;
 - ii make enquiries of any person (including any director, officer, employee, professional advisor or business associate of the Borrower) regarding the financial condition, business, operations or other affairs of the Borrower; and
 - iii inspect and take copies of, or extracts from, any records or agreements relating to the financial condition, business, operations or other affairs of the Borrower , whether those documents are held by the Borrower, a professional advisor or another person.
- e The Borrower will do everything reasonably requested by the Investigator to enable the Investigator to properly exercise its rights.

16 Land

To the extent that the Security Documents include an interest in real property, the Borrower irrevocably agrees:

- a as security for its obligations to the Lender under this Agreement, to grant a mortgage over that real property; and
- b to execute and deliver a memorandum of mortgage over that real property promptly on demand in writing from the Lender at any time during the term of this Agreement.

17 Events of Default and Events of Review

17.1 Consequences of Event of Default

At the time of or at any time after the occurrence of an Event of Default, the Lender may take any of the actions set out in the Senior Facility Agreement (including, without limitation, those set out in clause 5.2 of the Terms (as defined in the Senior Facility Agreement)), which shall be deemed to be incorporated into this Agreement as if set out in full, with all necessary modifications (including, without limitation, with references to “Bank” construed as references to the Lender for the purposes of this Agreement).

17.2 Consequences of Event of Review

Clause 6 of the Terms (as defined in the Senior Facility Agreement) shall apply in respect of any Event of Review, and shall be deemed to be incorporated into this Agreement as if set out in full, with all necessary modifications (including, without limitation, with references to “Bank” construed as references to the Lender for the purposes of this Agreement).

18 Changes to the Lender

18.1 Assignment by Lender

The Lender may assign, transfer and novate any of its rights and obligations under the Relevant Documents to another lender without the consent of any Relevant Party.

18.2 Disclosure of Information

The Lender may disclose, on a confidential basis, to a potential assignee, transferee or other person with whom contractual relations in connection with this Agreement are contemplated, any information about any Relevant Party, whether or not that information was obtained in confidence and whether or not that information is publicly available.

19 Changes to the Relevant Parties

No Relevant Party may assign, transfer or novate any of its rights or obligations under a Relevant Document without the prior written consent of the Lender.

20 Payment mechanics

20.1 Working days

Where a payment under this Agreement is due on a day that is not a working day, the due date will be the next working day.

20.2 Mode

- a Each payment to the Lender under a Relevant Document is to be made on the due date by 2.00 pm in immediately available freely transferrable funds in the manner and to the account at the bank that the Lender, by notice to the Borrower, specifies from time to time. If a payment is made on the due date but after the specified time, the Borrower will pay to the Lender, on request, interest on the amount paid until the next working day (as if the payment were made on the later day).
- b Each payment due by a Relevant Party under this Agreement or any other Relevant Document is to be made to the Lender.

20.3 Payments to be free and clear

Each payment by a Relevant Party to the Lender under a Relevant Document will be made:

- a free of any restriction or condition; and
- b free and clear of and (except to the extent required by law) without any deduction or withholding for or on account of tax or on any other account, whether by way of set off, counterclaim or otherwise.

20.4 Reinstatement

If a payment made by a Relevant Party pursuant to a Relevant Document is avoided by law:

- a that payment will be deemed not to have discharged or affected the relevant obligation of the Relevant Party; and
- b the Lender and the Relevant Parties will be deemed to be restored to the position in which each would have been if that payment had not been made.

21 Calculations and evidence

21.1 Basis of calculation

All interest will accrue from day to day and will be calculated on the basis of the number of days elapsed and a 365 day year.

21.2 Accounts

The entries made in the accounts maintained by the Lender are conclusive evidence of the existence and amounts of the obligations of each Relevant Party recorded in them.

21.3 Certificates conclusive

A certificate by the Lender of an interest rate, exchange rate or amount payable under this Agreement is conclusive evidence for all purposes, including for any proceedings.

22 Remedies and waivers

22.1 Exercise of rights and waivers

Time is of the essence in respect of all dates and times for compliance by the Relevant Parties with their obligations under each Relevant Document. However, no failure to exercise, and no delay in exercising, a right of the Lender under a Relevant Document will operate as a waiver of that right, nor will a single or partial exercise of a right preclude another or further exercise of that right or the exercise of another right. No waiver by the Lender of its rights under a Relevant Document is effective unless it is in writing signed by the Lender.

22.2 Remedies cumulative

The rights of the Lender under the Relevant Documents are cumulative and not exclusive of any rights provided by law.

23 Notices

23.1 Addresses

Each notice or other communication under the Relevant Documents will be made in writing and sent by email, facsimile, personal delivery or by post to the addressee at the facsimile number or address, and marked for the attention of the person or office holder (if any), from time to time designated for the purpose by the addressee to the other party. The initial facsimile number, address and relevant person or office holder of each party is set out under its name at the end of this Agreement.

23.2 Delivery

No communication will be effective until received. A communication to a Relevant Party is however, deemed to be received:

- a in the case of a letter, on the third working day after posting;
- b in the case of a facsimile, on the working day on which it is despatched or, if despatched after 5.00 pm (in the place of receipt) on a working day or on a non-working day, on the next working day after the date of despatch; and
- c in the case of an email, when received in legible form by the recipient.

A communication is deemed to be received by a Relevant Party when it is deemed to be received by the Borrower in accordance with this clause. Subject to clause 1.1, the Lender shall be entitled to rely on any communication under or in connection with this Agreement which purports to have been given by any other person pursuant to this Agreement (without the need to carry out any investigation or make further enquiry) and shall not be liable to that other person in any way should any such communication subsequently be proven not to have been authorised by that other person or to have been made, given or signed by someone other than that other person or an authorised officer of that other person.

24 Miscellaneous

24.1 Impossibility

The Lender will not be liable for any failure to perform or comply with its obligations under this Agreement resulting directly or indirectly from the action or inaction of a Governmental Agency, strike, labour disturbance (whether of its employees, officers or otherwise) or any other cause that is beyond its control.

24.2 Anti-money laundering

Each Relevant Party agrees that the Lender may delay, block or refuse to process any transaction without incurring any liability if the Lender suspects that the transaction may breach any laws or regulations in New Zealand or any other country or the transaction may directly or indirectly involve the proceeds of, or be applied for the purposes of, conduct which is unlawful in New Zealand or any other country.

24.3 Disclosure of information

No Relevant Party may disclose any information contained in the Relevant Documents except as agreed to by the Lender.

24.4 Benefit and burden of this Agreement

This Agreement is binding on and enures for the benefit of the parties and their respective successors and their permitted assignees and transferees.

24.5 Partial invalidity

The illegality, invalidity or unenforceability of a provision of this Agreement under any law will not affect the legality, validity or enforceability of that provision under another law or the legality, validity or enforceability of another provision.

24.6 Counterparts

This Agreement may be signed in any number of counterparts all of which, when taken together, will constitute one and the same instrument. A party may enter into this Agreement by executing any counterpart.

24.7 Inconsistency

In the event of any inconsistency between the provisions of this Agreement and the provisions of the Deed of Priority and Subordination, the provisions of the Deed of Priority and Subordination will prevail. In the event of any inconsistency between the provisions of this Agreement and the provisions of any other Relevant Document, the provisions of this Agreement will prevail.

24.8 Entire agreement

This Agreement, together with each other agreement made in writing signed by all the parties, constitutes the entire agreement between the parties.

24.9 Effective date

The parties agree that the effective date of this Agreement shall be the date the last of the Relevant Parties signs, notwithstanding the other parties may sign the Agreement at a later date.

25 Governing law

This Agreement is governed by, and is to be construed in accordance with, New Zealand law.

Schedule 1 Form of Drawing Notice

Drawing Notice

To: Property Improvements Limited
 c/- Maat Consulting Limited
 181 No 3 Line, Whanganui East
 Whanganui 4500, New Zealand

Email info@maat.co.nz

We refer to the Facility Agreement (the '**Agreement**') dated [•] 2024 between 650 Great South Road Limited as borrower and Property Improvements Limited as lender.

We wish to make a drawdown under the Facility on [•].

The amount of the Loan is to be \$[•].

Please pay the proceeds of the Loan to the following account

[account details]

We confirm that no Material Adverse Change, Event of Default, or Event of Review has occurred and that the representations and warranties made in the Agreement remain true and accurate as if made on and as of today's date.

Words defined in the Agreement have the same meaning where used in this Drawing Notice.

Signed for 650 Great South Road Limited by:

Director

Print Name

Date: [•]

Execution

Borrower

Signed by **650 Great South Road Limited** by:

Director

Director

Print Name

Print Name

Address for notices to the Borrower

Address: c/- Maat Consulting Limited, 181 No 3 Line, Whanganui East, Whanganui 4500, New Zealand

Email: info@maat.co.nz

Attention: Neil Tuffin

Lender

Signed by Property Improvements Limited by:

Director

Director

Print Name

Print Name

Address for notices to the Lender

Address: c/- Maat Consulting Limited, 181 No 3 Line, Whanganui East, Whanganui 4500, New Zealand

Email: info@maat.co.nz

Attention: Neil Tuffin