

Southern Cross Partners Limited Borrower Agreement

This Borrower Agreement, together with the General Terms and Conditions, your Loan Documents and your Security Documents, govern your participation as a Borrower (also **you** or **your**) in peer-to-peer Loans on the Platform operated by Southern Cross Partners.

By accepting the terms of this agreement, this agreement binds you, us and the Trustee for so long as you remain a Borrower on the Platform or until all Loans in which you have an interest have been terminated or expired in accordance with their terms.

Capitalised words and phrases are defined in the Glossary which is part of our [General Terms and Conditions](#).

Applying for a Loan

1. To apply for a Loan you must provide us with:
 - a fully completed Borrower Application Form. This must provide full details of the proposed Borrower, and if the Borrower is not a natural person, then full details of the natural people behind that entity;
 - a synopsis of your Proposal including a brief background about your situation, Loan amount requested, and details of how the Loan is to be repaid and of the security being offered;
 - servicing information i.e. where does the income come from and how much is it;
 - a fully completed statement of financial position, including assets and liabilities;
 - a fully completed monthly budget;
 - details of any property being offered for security;
 - signed authority for us to undertake appropriate enquires and credit checks; and
 - any other information we request in relation to you or your Proposal; and
 - if you are proposing any Guarantors, then the above information must be provided for each proposed Guarantor.

This information will allow us to make an initial assessment of the Proposal, and we will respond by requesting further information or by providing a Letter of Offer.

2. If the Loan you have applied for will be a Regulated Loan, we will refer you to a Financial Adviser to assess your needs before reviewing your Loan application.
3. You, and any Guarantor in relation to a Loan, must appoint an independent solicitor who will verify and provide us with certified copies of your and the Guarantor's identify, information. The solicitor will also independently advise you and any Guarantor on the Loan, assist with completion of the Loan Documents, assist with registration of any security and facilitate settlement of the Loan.
4. If you want there to be more than one Borrower for a Loan, each Borrower must be approved by us.
5. If there is more than one Borrower:

- (a) each Borrower is jointly and severally liable for all obligations under the Loan Documents; and
 - (b) we can rely on instructions or directions relating to the Loan from any one Borrower as being provided on behalf of all of the Borrowers.
- 6. You can withdraw a Loan application at any time before entering into the Loan Documents.
- 7. You agree and acknowledge that an aggregate limit of NZ\$2 million will apply in relation to Loans entered into by you through our Platform in any 12 month period when added together with any other amounts raised by you from any other peer-to-peer lending or equity crowd-funding platform, or under the “small offers” exemption, under the FMCA. You must not apply for or enter into Loans in excess of this aggregate amount. This limit applies to each Borrower.
- 8. When you accept the Offer of a Loan, and immediately following provision of the Borrower Disclosure to you (if the Loan is a Regulated Loan) and any required disclosure to the Guarantor, you will, if you still wish to do so, enter into the Loan Documents with the Trustee (on behalf of each participating Investor).
- 9. You agree and acknowledge that the Trustee is entering into the Loan Documents as bare trustee on behalf of the Investors participating in your Loan and you will not have any direct relationship with the Investors in relation to the Loan.
- 10. We may appoint a replacement trustee or trustees from time to time on notification to you. The appointment of a replacement trustee will not affect your rights and obligations under this agreement.

Security and guarantees

- 11. We will generally require Loans to be secured over real or other property. If we require your Loan to be secured, you will be required to enter into Security Documents that we will provide to you.
- 12. The security you provide in relation to a Loan will be held by the Trustee.
- 13. If we require you to provide a guarantee, you must ensure that each Guarantor signs the Loan Documents, and provides us with all information we require in relation to the Loan, the Guarantors and the guarantee.

Settlement of the Loan

- 14. Your Loan will be settled in accordance with the terms set out in the Loan Documents.
- 15. As part of settlement of your Loan, you authorise us, acting on behalf of the Trustee, to deduct the following fees:
 - (a) Loan application fee determined at the time of the application;
 - (b) solicitor’s fees;
 - (c) broker fees;
 - (d) site visit fees (if applicable); and
 - (e) any other applicable fees or costs,

from the value of the Loan advanced by the Trustee under the Loan Documents and to transfer it to our account. The balance of the Loan will be transferred to your Nominated Account.

Loan repayments

16. You must repay the Loan, including interest and all other amounts payable by you from time to time in relation to the Loan, in accordance with the terms of the Loan Documents.

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17. The Investors and the Trustee have appointed us to act as agent for the Trustee in relation to:
 - (a) entering into this agreement and other Borrower Agreements on the Trustee's behalf in relation to the use of the Platform by Borrowers;
 - (b) entering into Investor Agreements on the Trustee's behalf in relation to the use of the Platform by Investors;
 - (c) entering into Loan Documents with Borrowers and any Guarantors on the Trustee's behalf;
 - (d) transferring funds and otherwise settling all Loans in accordance with the Loan Documents;
 - (e) entering into the Priority Arrangements with the Investors on the Trustee's behalf;
 - (f) administering (including by collection and enforcement) Loans and any security or guarantee, and providing the Borrower Disclosure (in relation to Regulated Loans) and any required disclosure to Guarantors for the purposes of the CCCFA;
 - (g) opening and administering the Clearing Account;
 - (h) performing all or any of the other functions or obligations of the Trustee under this agreement or any other agreement relating to the Loans; and
 - (i) performing all or any other functions including entering into any other agreement or documentation which are reasonably incidental to any of the functions or duties set out in this paragraph.
18. You agree to our appointment as the Trustee's agent on the basis set out above.
19. You agree that we may process direct debit payments in relation to any of the fees set out in this agreement that may become due and payable by you from time to time.
20. To the extent permitted by law, we may delegate any of our rights, functions or duties set out in this agreement to any member of our corporate group. Any delegation will not relieve us of any liability under this agreement.

Fees

21. We are entitled to the fees published on the Platform or otherwise disclosed to you.

Tax

22. We will deduct RWT on your behalf and pay it to IRD and you acknowledge that you will not deduct or withhold any amount of RWT from any payment by you to the Trustee under a Loan.

Liability

23. To the extent permitted by law, neither we nor the Trustee will be liable to you:
 - (a) for any failure by us or the Trustee to comply with the terms of this agreement if the failure is caused by reasons beyond our or their reasonable control; or
 - (b) for not accepting any Loan application.
24. We do not guarantee that the Platform will be available at all times and we will not be liable to you if the Platform is not available for you to access from time to time.
25. Nothing within this agreement excludes or restricts any rights you may have under the Consumer Guarantees Act 1993.
26. You agree and acknowledge that neither we nor the Trustee provide any advice regarding the suitability or appropriateness of the Platform for you to source funding in relation to a Loan.

Dated as at 1st December 2016