

Southland Building Society
51 Don Street
Invercargill

SBS ADVANCE LOAN AGREEMENT

(and including key information that is required to be set out in an Initial Disclosure document under Section 17 of the Credit Contracts and Consumer Finance Act 2003)

To:
BORROWER (full name):
Address for Borrower:
("the Borrower")

The above addresses are the addresses to which Notices, Letters of Advice and disclosure documents will be sent.

NOMINATED RESIDENTS: []

SOUTHLAND BUILDING SOCIETY ("SBS") OFFERS the Borrower a Loan ("the Loan") which the Borrower accepts on the terms and conditions set out below, in the Schedule, in the Disclosure Statement, in the Security documents, in the Fees Schedule and in any Letter of Advice (together, the "Agreement"). In the event of any conflict between the terms of this Agreement including the Schedule and a Letter of Advice the relevant part of the Letter of Advice takes precedence over the relevant parts of this Agreement including the Schedule.

1. **LOAN: \$[]**

2. **LOAN ACCOUNT NO:** [] [] [] [] [] [] [] [] [] []

3. **INTEREST:**

Ordinary Interest Rate: []% per annum.

Default Interest Rate: 8.00% per annum above the then applicable Ordinary Interest Rate

The above interest rates are the applicable interest rates for the Loan as at the date of preparation by SBS of this Agreement. If the Ordinary Interest Rate for the Loan changes before the Date of Advance then SBS will give Notice of such change and the change rate so advised will be the applicable Ordinary Interest Rate from the Date of Advance (subject to any right of variation contained in this Agreement).

Fixed Rate Period: The Ordinary Interest Rate for the Loan for [] months from the Date of Advance (the "Initial Fixed Rate Period") is the fixed interest rate applicable to the Borrower (as determined by SBS) at the Date of Advance (at the date of preparation of this Agreement the fixed interest rate for the Initial Fixed Interest Period is []% per annum).

The Borrower may, from time to time, request that, after any Initial Fixed Rate Period, interest for any fixed rate period offered by SBS for SBS Advance loans be at a fixed rate, with no right of SBS to review the rate of interest during that period unless there is default in payment by the Borrower. If SBS agrees to that request the Borrower may be liable to pay a fee in the sum advised to the Borrower by SBS. The interest rate applicable to each such Fixed Rate Period shall be SBS's prevailing fixed interest rate for the relevant Fixed Rate Period on the date that relevant Fixed Rate Period starts with each Fixed Rate Period to commence on the commencement of an Interest Rate Period. The Ordinary Interest Rate after the expiry of any Fixed Rate Period shall be SBS's floating interest rate applicable to the Borrower (as determined by SBS).

Variation of Interest Rate: Except during a Fixed Rate Period, and in any case if there is default in payment by the Borrower, SBS has the right to vary the Ordinary Interest Rate or Default Interest Rate. Details of reviewed rates shall be given to the Borrower by Notice and shall take effect from the date specified in a Notice and if no date is fixed then on the commencement date of the next Interest Rate Period after the date of the Notice.

Calculation of Interest: Interest will accrue daily (on the basis of a 365 day year) on the balance of the Loan outstanding at the then applicable Ordinary Interest Rate, and will be charged to the Loan Account on each monthly anniversary of the Date of Advance.

4. **PAYMENT REQUIRED:**

The Borrower shall repay the Loan (which includes all interest and charges and costs accrued from the Date of Advance) or, if the Loan Repayment Guarantee applies, from the Net Proceeds of Sale, immediately upon the completion of the sale of the Secured Property or the earlier date being either:

- (a) 12 months after the death of the last Nominated Resident; or
- (b) 6 months after the day the last Nominated Resident Ceases to Reside in the Secured Property.

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5. **EARLY REPAYMENT**

The Borrower may at any time repay the Loan in whole or part. SBS may, in addition to other Charges payable by the Borrower, charge the Borrower an Early Repayment Charge if such payment is made during a Fixed Rate Period.

6. **SECURITY**

The security for all monies payable by the borrower to SBS, including the monies payable in terms of this Agreement, and the performance of all obligations under this Agreement (the "Security"), shall be:

- A registered mortgage in favour of SBS over the following property of the Borrower: [].
- All existing securities and guarantees already given by a Borrower to SBS.

7. **SUBSTITUTE SECURITY:**

If the Borrower acquires a Substitute Property in which the Nominated Residents reside or will reside in immediately upon completion of the purchase, as their principal residence then if the new Substitute Property:

- (a) Is a residential property; and
- (b) Is freehold (and not by way of an interest in a retirement village), and
- (c) Has a value that is not less than the existing Secured Property,

SBS will approve the transfer of the current Loan balance to the security of a new mortgage over the Substitute Property, and the requirement to repay the Loan in full upon sale of the original Secured Property under paragraph 4, will not apply.

SBS will not discharge the existing mortgage on the existing Secured Property until a new mortgage over the Substitute Property has been provided to SBS, and any conditions imposed by SBS have been satisfied.

If the value of the new Substitute Property is less than the value of the existing Secured Property, SBS may require you to repay some of the Loan.

8. **APPLICATION AND OTHER FEES**

[Any application fee and other fees will be set out in the Loan Agreement, and are also set out in the Fees Schedule]

SBS may charge other Charges for transactions and other services provided by SBS relating to the Loan and any Security held by SBS for the Loan as contained in the Fees Schedule. Such Charges may be debited by SBS to any account of the Borrower with SBS.

9. **LOAN REPAYMENT GUARANTEE**

SBS guarantees that the maximum amount the Borrower will be required to pay is the Net Proceeds of Sale of the Secured Property, even though:

- (a) this may not be sufficient to fully repay the Loan; or
- (b) you may be in default of your obligations to SBS.

10. **DRAWING OF LOAN**

[Details of how the Loan can be drawn down will be set out in the Loan Agreement]

11. **TRUSTEE LIMITATION CLAUSE:**

The liability of [] shall be limited to an amount equal to the value of the assets of the relevant trust available from time to time to meet the relevant trustee's liability as trustee; to which shall be added the sum (if any) by which the value of those assets has been diminished by any breach of trust caused by that trustee's wilful default or dishonesty

12. **CHANGES TO LOAN TERMS**

The terms of the Loan including the Fees Schedule may be changed by agreement between SBS and the Borrower in which case SBS will give Notice to the Borrower of the agreed changes recorded in a Letter of Advice.

SBS may also amend the terms of the Loan without having to obtain the Borrower's agreement by way of exercise of a power (for example to alter the annual interest rate or the method of calculation or the quantum of any fees or charges), in which case SBS will give Notice of such changes.

The terms of the Loan will be altered as from the effective date specified in the Letter of Advice or Notice.

13. **PROTECTED EQUITY AMOUNT \$[]**

Notwithstanding any other provision in this Agreement, if any amount is stated above, the maximum amount the Borrowers will be required to pay is the Net Proceeds of Sale less an amount equal to the Protected Equity Amount,

14. **SPECIAL CONDITIONS**

SAMPLE

ACCEPTANCE OF LOAN OFFER:

I/We hereby **ACCEPT** the loan offer on the above terms and conditions and acknowledge that I/we each have received a copy of this Agreement containing the Schedule, the Disclosure Statement and the Fees Schedule, and that this constitutes the disclosure required by Section 17 of the Credit Contracts and Consumer Finance Act 2003.

DATED the _____ day of _____ 20

SIGNED FOR SOUTHLAND BUILDING SOCIETY

.....

SIGNATURE OF:.....
BORROWER

SIGNATURE OF:.....
BORROWER

SIGNATURE OF:.....
BORROWER

SAMPLE

SCHEDULE - OTHER TERMS AND CONDITIONS

1. Interpretation

- 1.1 In this Agreement (which includes this Schedule, the Fees Schedule and the Disclosure Statement), capitalised terms shall (unless otherwise defined) have the following meaning:

"Borrower" means the Borrower named at the beginning of this Agreement and the expression "Borrower" shall, when not inconsistent with the context, extend to and include the executors, administrators and assigns of such person(s) and the singular shall include the plural; and where there are more persons than one, all covenants herein contained or implied and to be performed by the Borrower shall bind the said persons both jointly and severally; and a reference to a "Borrower" shall mean a reference to each Borrower and to the Borrowers together.

"Business Day" means a week day upon which SBS is open for business.

"CCCFA" means the Credit Contracts and Consumer Finance Act 2003 as amended and re-enacted from time to time.

"Charges" means any fees and charges as set out in a Fees Schedule from time to time.

"Ceases to Reside" means remaining absent from the Secured Property, whether or not with an intention to return, for six months without SBS's prior consent.

"Date of Advance" means the date when the Loan or any portion of it is advanced by SBS to the Borrower or on the Borrower's behalf.

"Disclosure Statement" means the part of this Agreement entitled "Credit Contracts and Consumer Finance Act 2003 – Disclosure Statement".

"Early Repayment Charge" will be the amount of early repayment determined by SBS as advised to you from time to time being:

- (a) the initial costs incurred by SBS arising from the early repayment as determined by SBS; plus
- (b) the value of the amount of the loss suffered by SBS arising from early repayment calculated in accordance with Regulation 11 of the Credit Contracts and Consumer Finance Amendments Regulations 2004 or any amendment thereof.

"Fees Schedule" means the schedule of credit fees and charges attached to this Agreement, as amended from time to time.

"Fixed Rate Period" is any period, or periods, during the term of the Loan for which SBS and the Borrower agree in writing that the Ordinary Interest Rate will be fixed and not able to be reviewed by SBS, including any period identified as such on the front page of this Agreement.

"Floating Rate Period" means any term of the Loan other than any Fixed Rate Period;

"Interest Rate Period" means each calendar month calculated from the Date of Advance.

"Letter of Advice" means a letter from SBS to the Borrower that incorporates the terms of any changes to this Loan Agreement.

"Loan" means on any day, the total principal advanced by SBS to the Borrower, plus all interest charges and costs that have accrued due to SBS under this Agreement, less any amount repaid to SBS.

"Net Proceeds of Sale" means the sale price of the Secured Property after deducting the costs associated with the sale, such as conveyancing costs, advertising costs, marketing costs, auctioneer's fees and real estate agent's commission.

"Nominated Residents" are the people identified as such on the front page of this Agreement, and includes the survivor of them.

"Notice" means notice given by SBS in terms of clause 5 of this Schedule.

"Protected Equity Amount" means the amount specified in clause 1 in the front section of this Agreement.

"Secured Property" means the property mortgaged to SBS and specified in paragraph 6 of the front section of this Agreement, including a Substitute Property

"Substitute Property" means a property lived in or to be lived in by the Nominated Residents, or the survivor of them, and mortgaged to SBS as replacement security for the Secured Property.

"Upon Demand" means upon written demand made by SBS on the Borrower, and signed for SBS by any employee, officer, agent or solicitor of SBS.

- 1.2 Words which refer to the singular include the plural and vice versa.

- 1.3 Where the wording in the front section of this Agreement conflicts or varies with the wording in the Schedule, then the wording in the Schedule shall prevail.

- 1.4 Where a payment falls due on the 29th, 30th or 31st of a month which does not contain such a date then the payment shall fall due on the last day of that month.

2. Default Interest

- 2.1 If the Borrower shall fail to comply with any of the terms of this contract relating to payment of interest and/or principal then interest at the Default Interest Rate will be charged on any amount payable to SBS which is not paid on a due date calculated on a daily basis on the overdue amount calculated from the date that the amount became due until the date it is actually paid. Such amount of default interest is payable on each monthly anniversary of the Date of Advance.

3. Charges and Costs

- 3.1 The Borrower shall pay to SBS upon demand and SBS shall be entitled to debit the account of the Borrower with SBS with all Charges.

- 3.2 The Borrower shall pay to SBS:

- (a) all legal costs, valuation costs and disbursements relating to the preparation, completion and registration of this Agreement or the Security; and
- (b) subsequent withdrawals, releases, variations and consents given or requested in respect of this Agreement or any Security; and
- (c) all costs and expenses incurred by SBS in obtaining payment of monies payable under this Agreement or exercising or attempting to exercise any right, power or remedy conferred on SBS by any security held by SBS for any monies payable by the Borrower to SBS, including monies payable under this Agreement.

4. Security

- 4.1 No advance of any part of the Loan shall be made until its repayment shall have been secured to SBS by the Security(ies) duly executed by the grantor(s) of such security(ies) and delivered to SBS or SBS has received such Solicitor's Certificate as SBS requires.

5. Notices and Statements

- 5.1 Notices under this Agreement and for the purposes of all disclosure required by the CCCFA shall be made in writing addressed to the Borrower, as is required, and signed on behalf of SBS by any employee, officer, agent or solicitor of SBS (and shall be deemed to have been "signed" in the case of electronic communication if the electronic communication identifies the signatory and indicates that signatory's approval of the information to which the "signature" relates) and, subject to any mandatory provisions in any statute, shall be duly served if:
- (a) given to the Borrower personally;
 - (b) left at, or posted to the registered office, address for service or last place of business or residence of the Borrower in New Zealand known to SBS;
 - (c) faxed to the Borrower at the Borrower's place of residence or business;
 - (d) emailed to the Borrower at the Borrower's email address;
 - (e) provided on SBS's website provided firstly that SBS has provided the Borrower with a password to enable access to the password protected area where the demand, statement or notice is provided; and secondly that SBS has advised the Borrower of the availability of the notice or demand or statement by email;
 - (f) provided to the Borrower by any other form of electronic communication when the electronic communication first enters an information system outside the control of SBS; or
 - (g) served in accordance with any other lawful mode of service;
 - (h) published in accordance with the publication requirements set out in the Credit Contracts and Consumer Finance Regulations.

6. Variation of Terms

- 6.1 SBS reserves the right to vary the terms of this Agreement from time to time by giving to the Borrower Notice in writing of any such variations. Any such variation shall be effective from the date advised in the Letter of Advice or Notice.

7. Privacy Act

- 7.1 SBS is authorised by the Borrower to:
- (a) use any information it may hold at any time for the purpose of establishing and maintaining the relationship between the Borrower and SBS;
- 7.2 SBS may make credit reference and other enquiries as part of its normal procedures.
- 7.3 Without limitation SBS is authorised to disclose, and obtain, information about the Borrower and any security:
- (a) to or from any holder of any security given by the Borrower
 - (b) to or from any insurer of the property charged by any such security,
- provided that any such disclosure is confined to that reasonably required by such person.

8. Production of information

- 8.1 The Borrower will, promptly upon request by SBS, produce to SBS (or to any person named for that purpose by SBS) all accounts, financial statements, books of account and any other financial information relating to the affairs of the Borrower.

CREDIT CONTRACTS AND CONSUMER FINANCE ACT 2003 – DISCLOSURE STATEMENT: Statement Date: []

IMPORTANT SBS is required to provide you with this Disclosure Statement under section 17 of the Credit Contracts and Consumer Finance Act 2003. This Disclosure Statement sets out the key information about your Loan. You should read it thoroughly. **If you do not understand anything in this Disclosure Statement, you should seek independent advice.** You should keep this Disclosure Statement and a copy of your Agreement in a safe place.

This Disclosure Statement must be provided to you before the Agreement is entered into. The law gives you a limited right to cancel the Loan. See below for full details of your right to cancel. **Note that strict time limits apply.**

FULL NAME AND ADDRESS OF CREDITOR This is the person providing the Loan.

You may send notices to SBS by:

- writing to SBS at SBS's postal address; or
- sending a fax to the number specified; or
- sending an email to the address specified.

Name

Trading Names:

Physical address

Post address

Fax:

Email

Southland Building Society

SBS Bank

51 Don Street, Invercargill

PO Box 835 Invercargill

0800 727 2265

info@sbs.net.nz

CREDIT DETAILS

Initial unpaid balance

This is the amount of the Loan (including any fees charged by SBS).

\$[]

Total advances

This is the total amount of all advances made or to be made to you.

\$[]

PAYMENTS

The Borrower shall repay the Loan (which includes all interest and charges and costs accrued from the Date of Advance) or, if the Loan Repayment Guarantee applies, from the Net Proceeds of Sale, immediately upon the completion of the sale of the Secured Property or the earlier date being either:

- (a) 12 months after the death of the last Nominated Resident; or
- (b) 6 months after the day the last Nominated Resident Ceases to reside in the Secured Property.

INTEREST

Annual interest rate(s)

[] % per annum

Method of charging interest

Interest will be calculated daily by multiplying the unpaid balance of the Loan at the end of the day by a daily interest rate. The daily interest rate is calculated by dividing the then applicable Ordinary Interest Rate by 365. Interest is charged to your Loan Account on each monthly anniversary of the date on which the Loan or any portion of it is advanced by SBS to the Borrower or on the Borrower's behalf.

CREDIT FEES AND CHARGES

In addition to the following credit fee(s) and charge(s), the fees and charges set out in the accompanying Fees Schedule (which may not be included in the initial unpaid balance) are, or may become, payable under, or in connection with this Agreement.

\$ being the Loan Application Fee which shall be deducted from the first payment of the Loan.

\$ which is the Equity Protection Fee payable by you and which will be deducted from the first payment of the Loan..

\$ which is the SBS Solicitors Fee.

SBS has the right to vary any credit fee(s) and charge(s) from time to time.

CONTINUING DISCLOSURE

SBS may be required to provide you with regular statements. The statements will give you information about your account. Statements will be provided six monthly.

WHAT COULD HAPPEN IF YOU FAIL TO MEET YOUR COMMITMENTS

Security interest

SBS has (or will have) the securities listed below to secure performance of all of your obligations, and the payment of all money owing from time to time, under the Agreement:

- A registered mortgage in favour of SBS over the following property of the Borrower: []
- All existing securities and guarantees already given by a Borrower to SBS

You must not grant a security interest in any property or land listed above to any other person without SBS's prior written consent.

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If you fail to meet your commitments under the Agreement, then to the extent of the security interest under any of the above securities, SBS may be entitled to repossess and sell the property the subject of the relevant security interest. If the Loan Repayment Guarantee applies and there are insufficient sale proceeds to repay all amounts you owe SBS under the Agreement, you will not be liable to SBS for any shortfall.

Default interest charges and default fees

In the event of a default in payment and while the default continues you must pay interest at the Default Interest Rate on the overdue amount. Default interest will be calculated on a daily basis from the date the amount became due until the date it is actually paid, and is payable on each monthly anniversary of the Date of Advance.

In the event of a breach of the contract or on the enforcement of the Agreement, the default fees specified in the Fees Schedule are payable. Your credit contract allows SBS to vary these fees and charges.

FULL OR PARTIAL PREPAYMENT

You may at any time repay the Loan in whole or part and SBS may, in addition to other Charges payable by the Borrower, charge the Borrower an Early Repayment Charge if such payment is made during a Fixed Rate Period.

The Early Repayment Charge will be the amount of early repayment determined by SBS as advised to you from time to time being:

- (a) The initial costs incurred by SBS arising from the early repayment as determined by SBS; plus
- (b) The value of the amount of the loss suffered by SBS arising from early repayment calculated in accordance with Regulation 11 of the Credit Contracts and Consumer Finance Regulations 2004 or any amendment thereof.

RIGHT TO CANCEL

You are entitled to cancel the Loan by giving notice to SBS.

Time limits for cancellation

If this Disclosure Statement is handed to you directly you must give notice that you intend to cancel within 5 working days after you receive the Disclosure Statement.

If this Disclosure Statement is sent to you by electronic means (for example, email) you must give notice that you intend to cancel within 7 working days after the electronic communication is sent.

If this Disclosure Statement is mailed to you, you must give the notice within 9 working days after it was posted.

Saturdays, Sundays and national public holidays are not counted as working days.

How to cancel

To cancel the Loan, you must give SBS written notice that you intend to cancel the Loan by:

- giving notice to SBS or an employee or agent of SBS; or
- posting the notice to SBS; or
- emailing the notice to SBS's email address (specified on the front of this Disclosure Statement); or
- sending the notice to SBS's fax number (specified on the front of this Disclosure Statement)

You must also, within the same time, return to SBS any advance and any other property received by you under the Loan.

What you may have to pay if you cancel

If you cancel the Loan, SBS can charge you the amount of any reasonable expenses SBS had to pay in connection with the Loan and its cancellation (including legal fees and fees for credit reports, etc). If you cancel the Loan, SBS can also charge you interest for the period from the day you received the advance until the day you repay the advance.

WHAT TO DO IF YOU SUFFER UNFORESEEN HARDSHIP

If you are unable reasonably to keep up your payments or other obligations because of illness, injury, loss of employment, the end of a relationship, or other reasonable cause, you may be able to apply to SBS for a hardship variation. To apply for a hardship variation, you need to:

- a) Make an application in writing; and
- b) Explain your reason(s) for the application; and
- c) Request one of the following:
 - an extension of the term of the Agreement (which will reduce the amount of each payment due under the Agreement); or
 - a postponement of the dates on which payments are due under the Agreement (specify the period for which you want this to apply); or
 - both of the above; and
- d) Give the application to SBS.

Do this as soon as possible. If you leave it for too long, SBS may not have to consider your application.

DISPUTE RESOLUTION

SBS is a member of the Banking Ombudsmen dispute resolution scheme.

It is free to make a complaint to this independent dispute resolutions scheme. This scheme can help you to resolve any disagreement you have with SBS.

Contact details of the dispute resolution scheme are:

- Phone: 0800 805 950
- Website: <http://www.bankomb.org.nz>

- Business address: Freepost 218002, PO Box 25327, Featherston Street, Wellington 6146

REGISTRATION ON FINANCIAL SERVICE PROVIDER REGISTER

Registration Name: Southland Building Society

Registration Number: FSP30921

SAMPLE