

Shared Ownership Agreement

NGĀTI WHĀTUA ŌRĀKEI HOUSING TRUST NO. 2 (Whai Rawa)

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Shared Ownership Agreement

Date

Agreement

1. This Agreement is between us as the Provider and you as the Homeowner.
2. We operate a shared ownership scheme.
3. This Agreement will apply for as long as we jointly lease the Premises.
4. This Agreement is signed and delivered as a deed.
5. Any offer of shared ownership is entirely at the discretion of Whai Rawa and subject to the Eligibility Criteria.

Structure of Agreement

This Agreement is structured to support our shared ownership of the Premises as tenants in common. It sets out the Goals, terms and conditions for our co-ownership of the Premises. The Agreement includes the following schedules:

Schedule 1 – Key details for this Agreement

Schedule 1 sets out the key details of this Agreement, including the parties' contact details, the Premises details and the Ownership Share Register (this is the record of each of your and our Share in the Premises).

Schedule 2 – Terms of this Agreement

Schedule 2 sets out the terms of this Agreement, including:

- (a) how you can buy our full Share either in one lump-sum or progressively;
- (b) how we can update the Ownership Share Register;
- (c) your rights and responsibilities in the Premises as a tenant in common with us;
- (d) our rights and responsibilities in the Premises as a tenant in common with you;
- (e) how you can sell the Lease;
- (f) what happens if you do not comply with this Agreement; and
- (g) when this Agreement will terminate.

Schedule 3 - Valuations and responsibility for costs

Schedule 3 sets out how the cost of obtaining a Valuation under this Agreement will be paid as between both you and us.

The Mortgagee will also have its own valuation requirements for the purposes of assessing your initial Home Loan application and any further borrowing you may require. The Mortgagee will likely advise you of its valuation requirements and any associated costs.

Signing

SIGNED and **DELIVERED** as a deed

Signed by you:

Signature

Name

Signature of witness

Name of witness

Occupation

City/town of residence

Signed by you:

Signature

Name

Signature of witness

Name of witness

Occupation

City/town of residence

Signed for and on behalf of us by our attorney:

Signature of attorney

Name of attorney

Signature of witness

Name of witness

Occupation

City/town of residence

This Agreement is not binding until it is signed by you and signed by us and we each deliver a signed copy to the other.

SCHEDULE 1

Key details for this Agreement

This Schedule sets out the key details of this Agreement, including each party's contact details, the Premises details and the Ownership Share Register (this is the record of your and our respective Shares in the Premises).

Parties

Provider	Ngāti Whātua Ōrākei Housing Trust No. 2
Short form name	we or us or the Provider
Provider email	[•]
Provider website	www.ngatiwhatuaorakeiwhairawa.com
Provider address	Level 1 AECOM Building 8 Mahuhu Crescent Auckland Central Auckland 1010

Homeowner(s)	
Short form name	you or the Homeowner
Homeowner email(s)	
Homeowner address	

Premises

Address	
Legal description	[Sub Lease of a Leasehold Unit Title comprising the property identified as PU [insert] and AU [insert] as outlined on the Subdivision Plan (subject to final measure).]
Our reference	

Ownership Share Register

Date	Our Share (%)	Your Share (%)	Signed by us	Comment
	%	%		

Purchasing our Share

Minimum Purchase Amount	The Minimum Purchase Amount shall be set out in the letter referred to in clause 4(c) of Schedule 2 or otherwise determined by us from time to time as notified to you.
Best Endeavours Period	The 30 th Anniversary Date or the Initial Mortgage Term, whichever is shorter.

Initial Home Loan Limit and Other Loans Limit

Home Loan Limit	Your initial Home Loan Limit is \$.
Home Loan Payment Terms	As at the date of this Agreement, principal and interest, subject to any amendment to, waiver of, or concession in relation to the Home Loan Payment Terms agreed between you and the Mortgagee including in accordance with the <i>Credit Contracts and Consumer Finance Act 2003</i> and the <i>Responsible Lending Code</i> issued under that Act.
Other Loan Limit	Your initial Other Loans Limit is \$10,000.

SCHEDULE 2

Terms of this Agreement

This Schedule sets out the terms of this Agreement.

1. A glossary of the terms we use, and how to interpret this Agreement

- (a) **15th Anniversary Date** is the 15th anniversary of the Completion Date (as defined in the Agreement to Lease) or the date of settlement in respect of any subsequent transfer of the Lease (as applicable).
- (b) **30th Anniversary Date** is the 30th anniversary of the Completion Date (as defined in the Agreement to Lease) or the date of settlement in respect of any subsequent transfer of the Lease (as applicable).
- (c) **Agreement** means this shared ownership agreement.
- (d) **Agreement to Build** means the agreement to build between Whai Rawa Kainga Development Limited as builder and you and us as lessees.
- (e) **Agreement to Lease** means the agreement to lease between Ngāti Whātua Ōrākei Housing Trustee Limited (as trustee of the Ngāti Whātua Ōrākei Housing Trust) as lessor and you and us as lessees.
- (f) **Best Endeavours Period** is the 30th Anniversary Date or the expiry of the Initial Mortgage Term, whichever is shorter.
- (g) **Contract Price** shall mean:
 - (i) (for the initial settlement) the meaning given to that term in the Agreement to Build; and
 - (ii) (for any subsequent transfer of the Lease) the purchase price payable in the sale and purchase agreement for such transfer.
- (h) **Default Notice** means an enforcement notice issued by the Mortgagee under section 119 of the *Property Law Act 2007*. The Mortgagee can choose to issue a Default Notice if you fail to meet any payment and/or other obligations you have under your Home Loan and/or the Mortgage Arrangement when they are due.
- (i) **Deposit** shall have the meaning given to that term in the Agreement to Build.
- (j) **Eligibility Criteria** include the following:
 - (i) you must:
 - (aa) meet the lending requirements of a participating bank to receive a Home Loan; and
 - (bb) meet the requirements of the scheme by being able to contribute a minimum of 5% of all amounts payable under the Purchase Agreements in relation to the Premises;

- (ii) your minimum contribution can include money: (i) saved in the bank, (ii) from Kiwisaver first-home withdrawal, (iii) from a first home grant approval (eg. Kāinga Ora – if eligible), or (iv) gifted by a family member;
 - (iii) you must meet the means testing requirements of Whai Rawa to ensure that as a general rule you should make use of your own resources in buying a Premises before shared ownership with Whai Rawa;
 - (iv) you must be able to demonstrate to Whai Rawa that you could not proceed with the transactions contemplated by the Purchase Agreements without shared ownership;
 - (v) the maximum contribution that Whai Rawa may make towards a home purchase is 25% of the amount payable any Purchase Agreement in relation to the Premises. Whai Rawa may, from time to time, increase its maximum contribution in its sole discretion; and
 - (vi) you must meet all requirements of a lessee under the Lease; and
 - (vii) any other criteria that Whai Rawa may determine from time to time in its sole discretion.
- (k) **Goals** means the parties' shared goals under this Agreement:
- (i) for you to continue to occupy the Premises as a co-owner;
 - (ii) for you to purchase our full Share (including to use your best endeavours to buy our full Share prior to the expiry of the Best Endeavours Period); and
 - (iii) for you to maintain the Premises as required under the Lease.
- (l) **GST** means goods and services tax under the *Goods and Services Tax Act 1985*.
- (m) **Home Loan** means any loan agreement between you and the Mortgagee to purchase your share of the Premises.
- (n) **Home Loan Limit** means the maximum principal amount you can borrow under your Home Loan to purchase your original Share of the Premises, as initially recorded in Schedule 1 and which shall reduce over time in accordance with the original principal and interest payment schedule of such Home Loan and not taking into account any amendments unless expressly agreed to in writing by us.
- (o) **Home Loan Payment Terms** means the type(s) of repayment terms that you can agree to under your Home Loan.
- (p) **Homeowner** means the person(s) named as the Homeowner in Schedule 1.
- (q) **Improvements Market Value** shall have the meaning set out in the Lease and in respect of a Share shall mean the percentage of the Improvements Valuation equal to the percentage of that Share of the Premises.
- (r) **Improvements Valuation** shall have the meaning set out in the Lease.

- (s) **Initial Mortgage Term** means the scheduled final repayment date in relation to any Mortgage Arrangement as originally put in place to fund the initial settlement as at the Completion Date (as defined in the Agreement to Lease) or the date of settlement in respect of any subsequent transfer of the Lease (as applicable).
- (t) **Law** means the laws of New Zealand.
- (u) **Lease** shall have the meaning given to that term in the Agreement to Lease.
- (v) **Lease Sale Request** means a written request that you can give to us to ask that you can market the Lease for sale in accordance with clause 12.
- (w) **Leasehold Unit Title** shall have the meaning given to that term in the Agreement to Lease.
- (x) **Lessee** means you and us as tenants in common in our capacity as lessee under the Lease.
- (y) **Minimum Purchase Amount** means the minimum amount that you agree to pay us if you want to buy some or all of our Share which shall be set out in the letter referred to in clause 4(c) of Schedule 2 or otherwise determined by us and notified to you from time to time.
- (z) **Mortgage Arrangement** means any mortgage over the Lease.
- (aa) **Mortgagee** is your lender under your Home Loan which has its mortgage registered against the record of title to the Premises.
- (bb) **Option Notice** means a written notice that we can choose to give you under clause 13, which will give you the option to either:
- (i) choose to sell the Lease in accordance with clause 12; or
 - (ii) ask us to purchase your Share (which we may choose to accept or reject in our sole discretion).
- (cc) **Option Notice Response** means a signed copy of the Option Notice that you give to us, which shows which option in the Option Notice you have chosen.
- (dd) **Other Loan** means any money you borrow from the Mortgagee, or any other lender or creditor, excluding the money you borrow under your Home Loan. This may include credit card debt, an overdraft facility, and/or revolving credit facilities.
- (ee) **Other Loans Limit** means the maximum total principal amount you can borrow at any time under any Other Loans, as initially recorded in Schedule 1.
- (ff) **Ownership Share Register** means the ownership share register included in Schedule 1 which we will update and make available to you in accordance with this Agreement.
- (gg) **Personal Information** means information about you or another identifiable individual (for example, any other member of your household).

- (hh) **Privacy Act** means the *Privacy Act 2020* and all laws implementing, replacing, amending or supplementing that Act, and any other applicable New Zealand data protection or privacy laws.
- (ii) **Premises** shall have the meaning given to that term in the Agreement to Lease.
- (jj) **Premises Expenses** means money (including interest), outgoings, charges, taxes, penalties and fees (professional and otherwise) payable in respect of the Premises and includes:
- (i) all amounts which are payable by the Lessee under the terms of the Lease (including, but not limited to, under clause 4 (*Lessee's Outgoings*) of the Lease Instrument);
 - (ii) payments arising under a Home Loan and/or a Mortgage Arrangement; and
 - (iii) costs of selling the Premises, including advertising costs, listing fees, legal fees, and Real Estate Agent commission.
- (kk) **Property** shall have the meaning given to that term in the Agreement to Lease.
- (ll) **Provider** means the party named as the Provider in Schedule 1.
- (mm) **Purchase Agreements** means:
- (i) the Agreement to Lease;
 - (ii) the Agreement to Build; and
 - (iii) the sale and purchase agreement for any subsequent transfer of the Lease to which you and we are party.
- (nn) **Real Estate Agent** means an agent for the purposes of the *Real Estate Agents Act 2008* who meets our criteria. We will provide you with our criteria or publish the criteria on our website.
- (oo) **Service Fee** means an annual fee equal to \$2500 (plus GST), or such other amount notified to you in accordance with clause 13(b)(i) of Schedule 2.
- (pp) **Share** means a legal and beneficial ownership share, as tenant in common, in:
- (i) the Lease; or
 - (ii) (where relevant) the proceeds from the sale of the Lease.
- (qq) **Share Change Notice** means a written notice that we will give to you that tells you we have made a change to the Ownership Share Register.
- (rr) **Share Purchase Request** means a written and unconditional offer (from you to us) to buy some or all of our Share.
- (ss) **Subdivision Plan** shall have the meaning given to that term in the Agreement to Lease.

- (tt) **Tenants in common** is an approach to property co-ownership where each party owns a separate share in a property.
- (uu) **Valuer** means a valuer registered under the *Valuers Act 1948* approved by the Provider.
- (vv) **We, us** and **our** means, unless the context provides otherwise, the person or people named as the Provider in this Agreement, and any person we appoint to manage matters arising under this Agreement on our behalf.
- (ww) **Working Day** shall have the meaning given to that term in the Property Law Act 2007.
- (xx) **You** and **your** means the person or people named as the Homeowner in this Agreement. When more than one person is the Homeowner:
- (i) “you” means each person individually, and any two or more of those people; and
 - (ii) each person agrees to comply with this Agreement.
- (yy) References to **us** include each of our respective executors, administrators, estate representatives, successors and permitted assigns.
- (zz) References to **you** include each of your respective executors, administrators, estate representatives, successors and permitted assigns.
- (aaa) References to a person include individuals, partnerships, firms, associations, corporations and unincorporated bodies of persons, government or semi-government or local body or municipal bodies, and agencies or political subdivisions of them (in each case whether or not having separate legal personality).
- (bbb) The singular includes the plural and vice versa.
- (ccc) Examples and use of the word including and similar expressions do not limit what else may be included.
- (ddd) Any obligation not to do anything includes an obligation not to allow or cause that thing to be done (by conduct, omission or otherwise).
- (eee) Headings have been inserted for convenience only and will not affect the construction of this Agreement.
- (fff) Reference to a Law includes all statutes amending, consolidating or replacing the statute referred to and any regulations made pursuant to those statutes.
- (ggg) References to clauses and schedules will be construed as references to clauses of, and schedules to, this Agreement.
- (hhh) Any example used in this Agreement is intended for clarification only. An example does not limit the wording of a clause and if an example is inconsistent with the clause wording, the clause wording prevails.

(iii) References to currency are to New Zealand dollars exclusive of GST (if any).

2. **What we agree to do, and what you agree to do in return**

(a) We agree to:

- (i) pay our Share of the Contract Price set out in the Agreement to Build or any sale and purchase agreement for any subsequent transfer of the Lease to which you and we are party, in each case, in accordance with the proportions set out in the Ownership Share Register, provided that you have complied with all your obligations in the Purchase Agreements and Lease;
- (ii) lease the Premises as a tenant in common with you;
- (iii) not do anything which would comprise a breach of the Lessee's obligations in the Lease;
- (iv) not use or occupy the Premises during the term of this Agreement;
- (v) you occupying our Share of the Premises on the terms of this Agreement. We will not charge you any occupancy fees under this Agreement (but we may charge you a Service Fee to cover our reasonable costs if you have not purchased our full Share by the 15th Anniversary Date. See clause 13(b) below);
- (vi) sell our Share (in full or in part) to you on the terms of this Agreement; and
- (vii) comply with this Agreement and any other agreements with you relating to the Premises.

(b) In return, you agree to:

- (i) pay your Share of the Contract Price as set out in the Agreement to Build or any sale and purchase agreement for any subsequent transfer of the Lease to which you and we are party, in each case, in accordance with the proportions set out in the Ownership Share Register (such amount shall take into account that the Deposit paid under the Agreement to Build has been 100% funded by you);
- (ii) lease the Premises as a tenant in common with us;
- (iii) comply with all of the obligations of the Lessee under the Lease including payment of all Premises Expenses;
- (iv) purchase our Share (in full or in part) on the terms of this Agreement; and
- (v) comply with this Agreement and any other agreements with us relating to the Premises (including the terms of the Lease); and
- (vi) ensure that at all times you will meet the Eligibility Criteria.

3. **Your pathway to becoming the sole owner of all the Shares**

- (a) You agree to use your best endeavours to buy our full Share prior to the expiry of the Best Endeavours Period.
- (b) If you do not buy our Share prior to the expiry of the Best Endeavours Period, you shall be deemed to have failed to comply with your obligations under this Agreement and we may act in accordance with our rights under clause 13.
- (c) You can choose to buy:
 - (i) our full Share in one lump-sum payment; or
 - (ii) any part of our Share from time to time in smaller payments that each meet the Minimum Purchase Amount.
- (d) If you want to buy all or some of our Share, you agree to first give us a Share Purchase Request – see clause 11 (*Share Purchase Requests*).

4. Relationship as co-owners

How we will work together to achieve the Goals

- (a) You and we both agree to work collaboratively with each other under this Agreement as co-owners of the Premises to achieve the Goals.
- (b) We understand that your personal family, financial and other circumstances may change during our relationship. So that you and we can both work together to achieve the Goals, you agree to tell us as soon as possible about any change in your personal circumstances (including a change in employment) that affects:
 - (i) your ability to comply with this Agreement, your Home Loan, and/or the Mortgage Arrangement; or
 - (ii) your ability to achieve the Goals.
- (c) So that you and we can both work together to achieve the Goals, we may need to keep up to date with your personal circumstances. To keep up to date with your personal circumstances we may require you to meet with us on an annual basis (or more frequently, if required by us) to discuss progress to purchasing our full Share. To assist us with that, we may also contact you and require you to provide information about the following matters to us:
 - (i) your current and predicted financial circumstances, including details of employment, bank account statements showing your household income, regular household expenses (such as insurance and credit card bills), savings and Home Loan and Other Loan payments;
 - (ii) any known or upcoming changes that could affect future household income (such as a change in employment);
 - (iii) your current and predicted housing circumstances, including whether the Premises meets your current and/or predicted future housing needs; and
 - (iv) any other matters relating to the Premises or this Agreement.

- (d) On 31 March of each year, we will write to you to remind you of your obligation to use your best endeavours to buy our full Share prior to the expiry of the Best Endeavours Period.

What happens upon the death of a Homeowner

- (e) The provisions in the Lease in relation to such circumstances shall apply.

5. Ownership Share Register

- (a) You and we agree that:
 - (i) subject to paragraph (ii) below, unless there is a clear and unmistakeable error in the information recorded, the Ownership Share Register is the current and accurate record of the Shares, even though the record of title for the Premises may not match the Ownership Share Register; and
 - (ii) any change to the Ownership Share Register will only be effective when we give you a Share Change Notice under this Agreement notifying you that a change has been made.
- (b) We will issue a Share Change Notice when you buy some or all of our Share in accordance with this Agreement, as set out in clause 11(g). We will update the Ownership Share Register to reflect the current Shares.
- (c) We will give you a Share Change Notice when we need to correct an obvious error in the Ownership Share Register. We will give you the Share Change Notice within 5 Working Days of us becoming aware of the error.

6. Record of title

- (a) You and we may jointly agree to update the record of title to the Lease to reflect the current Shares. Both you and we recognise that there are costs associated with updating the record of title, and agree to defer an update to the record of title if the costs of the update outweigh the benefit of completing the update. Even if you and we agree to defer an update to the record of title, you and we agree that the Ownership Share Register is the current and accurate record of the Shares.
- (b) You and/or we can register a land covenant on any record of title to the Lease to require each other to comply with the terms of this Agreement.

7. Your responsibilities – using and occupying the Premises

- (a) In return for us agreeing not to use or occupy our Share of the Premises, you agree that you will:
 - (i) comply with the terms of the Lease; and
 - (ii) comply with all Laws, the Community Rules and Body Corporate Rules (each as defined in the Lease) and existing registered interests in respect of the Lease.

- (b) In addition to any requirements in the Lease, you further agree that you will not grant any legal or beneficial interest in the Premises to a third party unless we have agreed in writing. For example, you will not:
 - (i) sell, transfer or otherwise dispose of your Share; or
 - (ii) grant a lease or tenancy of, or a licence to occupy, the Premises or any part of it.

8. Your responsibilities – costs of shared ownership

In addition to any requirements in the Lease, you agree to:

- (a) pay all Premises Expenses when they are due as if you were the sole Lessee (and owner of all the Shares); and
- (b) meet all payment and other obligations you have under a Home Loan when they are due.

9. Your responsibilities – maintenance and repair

In addition to any requirements in the Lease:

- (a) you agree to:
 - (i) always keep the Premises in good condition; and
 - (ii) repair or replace any broken or damaged part(s) of the Premises as soon as reasonably possible.
- (b) we can choose to undertake a condition report at any time upon making a reasonable request.
- (c) you agree to tell us immediately if you become aware of any defect in the Premises that you think is or might be material. We may require you to:
 - (i) repair the defect; and/or
 - (ii) put in a claim with a third party in respect of the defect, and keep us updated on the progress of the claim. You may only accept an offer from a third party to settle the claim if we have agreed to this in writing (we will do our best to provide our response within 10 Working Days of your request).
- (d) if:
 - (i) we have required you to put in a claim with a third party in respect of a defect;
 - (ii) the claim is unsuccessful; andyou have not caused or contributed to the defect,

we may (in our sole discretion) agree to pay for some of the costs that you incur under this clause, being an amount that is proportionate to our Share.

10. **Your responsibilities – Home Loan and Mortgage Arrangement**

- (a) Unless we have agreed in writing, you agree that you:
- (i) will not borrow more than and/or apply to borrow more than the Home Loan Limit and/or any Other Loans Limit at any time and will not borrow any top-up in loans or incur any other financial indebtedness which benefits from security over the Premises over and above the original principal and interest payment schedule which was agreed to in writing by us;
 - (ii) will only agree to repay the money on the Home Loan Payment Terms, subject to any amendment to, waiver of, or concession in relation to the Home Loan Payment Terms agreed between you and the Mortgagee including in accordance with the *Credit Contracts and Consumer Finance Act 2003* and the *Responsible Lending Code issued under that Act*;
 - (iii) will comply with all of the terms of the Mortgage Arrangement;
 - (iv) will not do anything that causes us to breach the Mortgage Arrangement;
 - (v) will give us information about the Home Loan and/or the Mortgage Arrangement when we ask you for it; and
 - (vi) have no recourse to us under any Mortgage Arrangement you enter into.
- (b) We agree that you will not be in breach of this clause 10 if the Mortgagee amends the terms of your Home Loan and/or the Mortgage Arrangement as a result of you having sought changes on grounds of unforeseen hardship under the *Credit Contracts and Consumer Finance Act 2003* (including, for example, by postponing payments due under your Home Loan).

What happens if the Mortgagee sells the Lease

- (c) If a Mortgagee sells the Lease, the Mortgagee will be entitled to be repaid money that you owe to the Mortgagee under your Home Loan. The Mortgagee will be entitled to take that money from the net sale proceeds. We agree that any leftover sale proceeds following payment of money that you owe to the Mortgagee will be divided between you and us on the basis that:
- (i) your and our rights to the sale proceeds will be calculated by dividing the total sale proceeds (before payment of any money to or by the Mortgagee) in accordance with your and our respective Shares;
 - (ii) any money payable to or by the Mortgagee under, or in connection with, your Home Loan and the sale of the Lease will be treated as having been paid out of your Share;
 - (iii) if your Share was insufficient to pay all money owing under paragraph (ii) above, the remaining amounts owing to the Mortgagee will be treated as

having been paid out of our Share (we will not be liable for any amounts owing to or by the Mortgagee after this); and

- (iv) any leftover sale proceeds (if any) will be divided between you and us so that:
 - (aa) we receive all money up to the amount equal to our Share of the total sale proceeds; and
 - (bb) you receive any leftover sale proceeds net of any other amounts owing to us, including any unpaid Service Fee, together with the costs of obtaining the Improvements Valuation (if applicable) and any Premises Expenses. (You might be required by the Mortgagee to pay those leftover sale proceeds towards repayment of any Other Loan you have with the Mortgagee.)

In addition, although the Mortgagee is not bound by this Agreement (including this clause), you and we agree that the Mortgagee (and any receiver appointed by it) may, when distributing any proceeds from a sale of the Lease, apply those proceeds in accordance with this paragraph (c) and the Ownership Share Register from time to time (regardless of any provision of a Mortgage Arrangement or Law to the contrary).

11. Share Purchase Requests

What to do if you want to buy some or all of our Share

- (a) This clause sets out the process that you agree to follow to buy some or all of our Share.
- (b) You:
 - (i) agree to use your best endeavours to purchase our full Share on or before the expiry of the Best Endeavours Period; and
 - (ii) if you have not purchased our full Share by the expiry of the Best Endeavours Period, clause 13(b) will apply and you agree to that we have the right to cause the Lease to be sold at any time from the one year anniversary of the expiry of the Best Endeavours Period.
- (c) On or around 31 March of each year, we will write to you to remind you of your obligation to use your best endeavours to buy our full Share prior to the expiry of the Best Endeavours Period and to give you an opportunity to acquire some or all of our Share in a settlement window between 1 July and 30 September. This correspondence will set out the Minimum Purchase Amount. If you confirm in writing to us by 1 June that you wish to purchase a Share by completing a Share Purchase Request, we will undertake an Improvements Valuation as at 30 June at our cost (unless such Share Purchase does not settle in which case, we may require that such Improvements Valuation shall be at your cost) and share this with you once available.
- (d) Your Share Purchase Request needs to:

- (i) identify the dollar amount you are wanting to pay for our Share or a part of our Share, which must be a price that is:
 - (aa) equal to or higher than, the Minimum Purchase Amount; and
 - (bb) equal to the Improvements Market Value of the part of our Share that you are wanting to buy;
- (ii) If you wish to borrow money under your Home Loan in excess of your Home Loan Limit to fund all or any part of the intended purchase, our prior written approval will need to be obtained which we may give or withhold in our sole discretion; and
- (iii) include all of the other information required by the Share Purchase Request form.

What happens when we receive your Share Purchase Request

- (e) We will review your Share Purchase Request within 20 Working Days of receiving it and if your Share Purchase Request includes all of the information required by the Share Purchase Request form, we will approve your Share Purchase Request within that 20 Working Days period.
- (f) If we approve your Share Purchase Request, as soon as we can, we will:
 - (i) give you your approved Share Purchase Request signed by us; and
 - (ii) give you detailed instructions for you to pay for the relevant part of our Share that you are buying. If you are acquiring all of our Share, our detailed instructions will direct you to engage a solicitor to assist you in registering the Share transfer on the record of title to the Premises.
- (g) You agree to pay us for the Share within 20 Working Days of receiving our instructions issued to you under paragraph (f)(ii) unless we agree to another date in writing. When we receive your payment in accordance with the instructions, as soon as we can, we will:
 - (i) give you a Share Change Notice, where you are buying some of our Share; and
 - (ii) instruct our solicitor to register the Share transfer on the record of title to the Premises, where you are buying all of our Share.

If you do not pay us within 20 Working Days (or by another date that we have agreed to in writing) we can cancel our approval of your Share Purchase Request.
- (h) We will notify you if your Share Purchase Request does not include all of the information required by the Share Purchase Request form, and we will contact you within 5 Working Days of that notice to discuss the reason.
- (i) You may only buy some or all of our Share in accordance with this clause 11 including by providing written confirmation in accordance with clause 11(c).

12. Selling the Lease

What to do if you want to sell the Lease

- (a) If you want to sell the Lease before buying our full Share, you agree to give us a Lease Sale Request.
- (b) We will provide you with the Lease Sale Request form if you ask us for it.
- (c) Any sale must comply with clause 10 (*Assignment*) of the Lease.
- (d) You may not sell your Share independently of our Share.
- (e) We will obtain, at your cost, an Improvements Valuation if no current Improvements Valuation is available.
- (f) We agree to provide all necessary consents and take all such steps as to give effect to a sale of the Lease in circumstances where the lessor under the Lease has provided its consent to such sale.

What happens to the sale proceeds

- (g) If you sell the Lease:
 - (i) your and our rights to the sale proceeds will be calculated by dividing the total sale proceeds (before payment of any money to the Mortgagee) in accordance with your and our respective Shares;
 - (ii) any money payable to the Mortgagee to repay your Home Loan will be paid out of your Share;
 - (iii) if your Share is insufficient to repay all of your Home Loan owing to the Mortgagee, the remaining amounts of your Home Loan owing to the Mortgagee will be paid out of our Share (we will not be liable for any amounts owing to the Mortgagee after this); and
 - (iv) any leftover sale proceeds (if any) will be divided between you and us so that:
 - (aa) we receive all money up to the amount equal to our Share of the total sale proceeds; and
 - (bb) you receive any leftover sale proceeds net of any other amounts owing to us, including any unpaid Service Fee, together with the costs of obtaining the Improvements Valuation (if applicable) and any Premises Expenses. (You might be required by the Mortgagee to pay those leftover sale proceeds towards repayment of any Other Loan you have with the Mortgagee.)

13. What happens if you do not comply with this Agreement

Initial steps we can take if you do not comply with this Agreement

- (a) If:

- (i) you do not comply with any of your obligations under this Agreement; or
- (ii) the Mortgagee issues a Default Notice to either you and/or us, we can:
 - (aa) require you to meet with us to discuss the matter, with a view to understanding the situation and reaching a mutually acceptable solution; and/or
 - (bb) choose to comply with that obligation for you (where it is within our control to do so). If we comply with an obligation for you, we will give you notice in writing setting out the costs that we have incurred and you agree to pay us for the costs that we incurred. Payment will be due upon receipt of our notice. We will let you know whether we will issue a notice 10 Working Days before we do so.

Initial steps we will take if you do not buy our full Share by the 15th Anniversary Date and Best Endeavours Date (as applicable)

- (b)
 - (i) Where you have not purchased our full Share by the 15th Anniversary Date or it is reasonably foreseeable to us that you will not be in a position to purchase our full Share by the 15th Anniversary Date you agree to pay us the Service Fee from the 15th Anniversary Date until you buy our full Share. You agree to pay the Service Fee on an annual basis (being each anniversary of the 15th Anniversary Date). We can update the Service Fee (but not more than once per year) if we consider it is necessary to cover our reasonable costs; and
 - (ii) Where you have not purchased our full Share by the Best Endeavours Date or it is reasonably foreseeable to us that you will not be in a position to purchase our full Share by the Best Endeavours Date you commit to working collaboratively with us to explore and implement all reasonably practicable alternative options available so that you and your household can continue to achieve the Goals, including but not limited to, you using your equity in the Premises to fund the purchase of our full Share (through refinancing with the Mortgagee or another lender). If you and we have not agreed an appropriate alternative option within 30 Working Days of us notifying you in writing of the application of this paragraph (b)(ii), paragraph (c)(i) below will apply.

Other steps we can take if you do not comply with this Agreement

- (c) If:
 - (i) you and we have not agreed an appropriate alternative option under paragraph (b)(ii) above; and/or
 - (ii) you do not comply with this Agreement in a way that materially affects your and our ability to continue a relationship as co-owners under this Agreement, for example because you have:

- (aa) failed to engage with us in a way that prevents us from assessing your achievement of the Goals; and/or
- (bb) failed to act like a reasonable and prudent co-owner of the Premises (including, for example, by not carrying out material repairs); and/or
- (iii) you do not comply with a material responsibility under this Agreement, for example including because:
 - (aa) you have not purchased our full Share on or before the Best Endeavours Date; or
 - (bb) you are not complying with a material obligation of the Lessee in the Lease,

and we are unable to reach a solution acceptable to us, we can choose to give you an Option Notice at any time after that until this Agreement ends in accordance with clause 17, provided that an Option Notice delivered as a result of the circumstances set out in paragraphs (b)(ii) or (c)(iii)(aa) above may only be delivered at any time from the one year anniversary of the expiry of the Best Endeavours Period.

- (d) If we give you an Option Notice, you must give us your Option Notice Response within 40 Working Days after receiving the Option Notice.
- (e) If we give you an Option Notice and we do not receive your Option Notice Response within 40 Working Days, we may choose to act as your attorney to sell the Lease and/or your Share.
- (f) If we give you an Option Notice and you have chosen in your Option Notice Response to sell the Lease, you will give us a Lease Sale Request with your Option Notice Response and the process under clause 12 will apply.
- (g) If we give you an Option Notice and your Option Notice Response asks us to purchase your Share, we will notify you within 15 Working Days whether we agree to buy your Share. We may choose to accept or reject this request in our sole discretion.
- (h) If we agree to buy your Share under paragraph (g) above:
 - (i) the purchase price for your Share will be the Improvements Markets Value of your Share. We will obtain, at your cost, an Improvements Valuation if no current Improvements Valuation is available;
 - (ii) any amounts owing to us including any unpaid Service Fee, together with the costs of obtaining the Improvements Valuation (if applicable) and any Premises Expenses will be for deducted;
 - (iii) any money payable to the Mortgagee to repay your Home Loan will be paid out of your Share will be deducted and a full discharge by the Mortgagee shall be a condition of settlement; and

- (iv) within 5 Working Days of notifying you of our decision to buy your Share, we will give you a form of agreement for sale and purchase which will be based on then-current market terms and set out any other terms of sale (including the purchase price, settlement date and any conditions). You agree to sign the agreement when we give it to you with settlement to take place as soon as possible. You will need to engage a solicitor to assist you in registering the Share transfer on the record of title to the Lease and you irrevocably authorise the deduction of amounts referred to in sub-paragraph (h)(ii) and (iii) above.
- (i) If we do not agree to buy your Share under paragraph (g) above, you shall be deemed to have given us a Lease Sale Request and the process set out in paragraph (f) above will apply.

General matters if you do not comply with this Agreement

- (j) You indemnify us (and keep us indemnified) for any loss, cost or liabilities that we suffer, incur or sustain as a direct or indirect result of your breach of this Agreement. This clause does not apply if our breach of this Agreement causes you to breach this Agreement.
- (k) We can delay acting or enforcing our rights under this Agreement. If we delay acting or enforcing, we can enforce our rights later, or take action for breaches in future.

14. You appoint us as your attorney

- (a) In return for us agreeing to enter into this Agreement, you appoint us to be your attorney in relation to all matters concerning your Share and this Agreement. You cannot revoke this appointment.
- (b) We will not act as your attorney unless you fail to comply with a responsibility under this document that we think is or might be material. Any assessment we make on materiality in this regard will be made on reasonable grounds having regard to the Goals and the value of our Share of the Premises.
- (c) We do not have to act as your attorney, even though you have appointed us as your attorney.
- (d) Unless we have acted negligently or in bad faith, we are not responsible for damage or loss that you or other people suffer because of our actions as your attorney, or if we do not act.

15. Our right to transfer our Share

We can transfer all or some of our Share if:

- (a) the transferee is a related entity of us; and
- (b) the transferee agrees to become a party to this Agreement.

16. Personal Information

- (a) This clause describes the Personal Information we collect about you, how we collect it, why we collect it, who we can share it with, and other important information about your privacy. Any Personal Information we collect and share about you will be in accordance with the Privacy Act (the Privacy Act sets out various information privacy principles to protect your privacy rights).

Why we may collect your Personal Information

- (b) We collect, use and disclose your Personal Information to administer the shared ownership scheme and this Agreement. We may also collect, use and disclose your Personal Information for research and statistical purposes, and for other purposes permitted or required by Law (including the Privacy Act).

What Personal Information we may collect

- (c) The Personal Information we collect may include (if reasonably required):
- (i) your name and date of birth;
 - (ii) the address of the Premises;
 - (iii) your personal, family, and financial circumstances (as contemplated by clause 4);
 - (iv) information about your Home Loan and/or the Mortgage Arrangement (including, but not limited to, as contemplated by clause 10); and
 - (v) other relevant information relating to you, your Share, the Premises and this Agreement.

How we may collect your Personal Information

- (d) We may collect Personal Information directly from you for example in person, over the phone or by email.
- (e) We may also collect Personal Information from third parties, such as your employer, the Mortgagee, any insurer of the Premises, or an agency that we have an approved information sharing agreement with.
- (f) You agree that the Mortgagee can share your Personal Information with us in connection with the arrangements contemplated by this Agreement, including not limited to, as contemplated by clause 10).
- (g) If you provide us with someone else's Personal Information, you confirm that you have that person's consent to provide us with their Personal Information.
- (h) We may be empowered by legislation to request, and in some cases require, the provision of information, which may include Personal Information. If we exercise a statutory right to request or require you to provide us with Personal Information, we will take reasonable steps to tell you that we are acting under this statutory power at the time we ask for the information.

Who can receive and hold your Personal Information

- (i) You agree that we can share your Personal Information with any person who we consider has an interest in receiving, using and/or disclosing your Personal Information for the purposes of this Agreement. Premises
- (j) We may also share your Personal Information with other persons if permitted or required by Law. For example, we may share your Personal Information under an approved information sharing agreement, or if required for court proceedings.
- (k) Your Personal Information will be held by us, and by other persons we disclose it to. Our address is recorded in Schedule 1 of this Agreement.

What may happen if you do not give us your Personal Information

- (l) If we have a right in this Agreement to require you to provide Personal Information, or a right to collect Personal Information from a third party, and you do not provide us with, or allow us to access, that Personal Information, you may be in breach of this Agreement.
- (m) If we have a statutory right to require you to provide us with Personal Information, and you do not provide it, you may be in breach of the Law.
- (n) In other circumstances where you do not provide us with Personal Information:
 - (i) we may not be able to provide you with certain assistance or services;
 - (ii) depending on the circumstances, we may assess your eligibility for the shared ownership scheme on the basis of our understanding of circumstances and/or may treat you as no longer being eligible for the shared ownership scheme; and
 - (iii) there may be an impact on our ability to perform our obligations under this Agreement.

Your rights under the Privacy Act

- (o) Under the Privacy Act you have the right to:
 - (i) find out from us whether we hold Personal Information about you;
 - (ii) access your Personal Information and, if applicable, request correction of that information; and
 - (iii) request that a statement is attached to your Personal Information explaining that a correction was sought, if we do not correct your Personal Information.

17. End of this Agreement

- (a) Subject to paragraph (b) below, this Agreement will end with immediate effect when:
 - (i) you buy our full Share;

- (ii) you and we sell the Lease; or
 - (iii) we buy your full Share.
- (b) Regardless of paragraph (a) above, the end of this Agreement will not affect:
 - (i) any rights and remedies available to you and/or us which have accrued up to (and including) the end date; and
 - (ii) the clauses of this Agreement which expressly or by their nature survive the end of this Agreement including clauses 13, 16, 17, and 19.

18. The Mortgagee's role under this Agreement

- (a) You and we acknowledge that the Mortgagee is not a party to nor bound by this Agreement and has no liability under this Agreement to either of us.
- (b) Nothing in this Agreement causes or is intended to cause the Mortgagee to be bound to release any mortgage it may have over the Lease or to consent to any sale of the Lease.
- (c) This Agreement is for the benefit of, and able to be relied on by, the Mortgagee and any receiver appointed by it (including for the purposes of Part 2, Subpart 1, of the Contract and Commercial Law Act 2017).

19. General matters applying to this Agreement

- (a) This Agreement contains all of the contractual rights and obligations between you and us as co-owners of the Premises. It overrides and cancels any contracts, arrangements, agreements, statements, representations and understandings that may have been in place between you and us relating to the specific subject matter of this Agreement before you and we each entered into this Agreement. This clause does not apply to the Purchase Agreements and the Lease.
- (b) You confirm that:
 - (i) you have received independent legal advice in relation to:
 - (aa) this Agreement and the Purchase Agreements; and
 - (bb) the record of title to the Lease, including all instruments and memorials noted on the record of title or which may be noted in accordance with the Agreement to Lease; and
 - (ii) your decision to buy your Share, and some or all of our Share (where relevant), is made by relying on your own investigations and judgement, and you have not relied on any representation or warranty made by us or our agent(s).
- (c) Although you and we each agree to work collaboratively together to achieve the Goals, you and we both acknowledge that our relationship is one of co-owners, and is not a legal partnership. You and we are not each other's agent, and neither you nor we have the authority to act or to assume any obligation or liability on behalf of the other person, except as provided in this Agreement.

- (d) If any part of this Agreement is deemed not to be valid or enforceable then:
- (i) only the valid or enforceable aspects of that part will apply; or
 - (ii) if none of the part is valid or enforceable, then it will be deleted from this Agreement but all other valid and enforceable parts will continue to apply,
- provided that nothing in this clause can materially affect the purpose of, or frustrate, this Agreement.
- (e) Where relevant, any part of this Agreement can continue to apply after this Agreement ends.
- (f) You and we each agree to do anything that is reasonably necessary for each other to carry out our rights and obligations under this Agreement.
- (g) This Agreement is governed by New Zealand Law and the courts of New Zealand have non-exclusive jurisdiction in any court proceedings relating to this Agreement.
- (h) This Agreement and the Ownership Share Register may be signed in counterparts, which means you and we can sign separate copies of the same original document.
- (i) You and we each agree that the price paid for any Share of the Premises under this Agreement is the lowest price that you and we each would have agreed to pay for that Share at that time.
- (j) Any amendments to this Agreement must be in writing and signed by you and us in order to be enforceable. For so long as the Home Loan remains outstanding, we will not agree to any amendment to this Agreement without the Mortgagee's prior written consent to the proposed amendment.
- (k) Where this Agreement requires either you or us to give notice to the other, the notice must be:
- (i) in writing; and
 - (ii) delivered by personal delivery, posted or emailed to the address set out in this Agreement. If either you or we change address, you or we must give notice to the other.
- A notice delivered in person or by email is deemed to be served immediately. A notice delivered by post is deemed to be served 5 Working Days after it was sent.
- (l) Unless this Agreement states otherwise, we will pay our own costs, and you will pay your own costs, in relation to the negotiation, preparation and execution of this Agreement, and any costs incurred to address a concern, complaint or dispute.
- (m) For the purposes of section 9 of the Property Law Act 2007 this document will be delivered by each of you and us (each a Delivering Party) immediately on the earlier of:
- (i) physical delivery of an original of this document, executed by the relevant Delivering Party, to us; or

- (ii) electronic delivery by the relevant Delivering Party of a photocopied or scanned copy of an original of this document, executed by the relevant Delivering Party, to us.

This clause does not limit other methods of delivery.

SCHEDULE 3

Valuations and responsibility for costs

Valuations provide important information when selling the Lease and when purchasing or selling either your or our Share. A number of clauses in this Agreement require either you or us to obtain an Improvements Valuation. The table below sets out how the cost of obtaining an Improvements Valuation will be paid as between both you and us.

When a Valuation may be required	Who pays the Valuer's invoice for the Valuation
When you want to purchase some or all of our Share (see clause 11(c) of Schedule 2).	Us, provided however, that if an Improvements Valuation is undertaken and the Share Purchase does not settle, we may require that such Improvements Valuation shall be at your cost.
When you want to sell the Premises (see clause 12 of Schedule 2).	You
If you have not complied with this Agreement and you want us to consider purchasing your Share (see clause 13 of Schedule 2).	You