

Shared Ownership Agreement

—

Kāinga Ora-Homes and Communities (Kāinga Ora)

—

EXAMPLE

Table of contents

Shared Ownership Agreement	3
Structure of Agreement	3
Signing	4
Schedule 1 – Key details for this Agreement	6
Schedule 2 – Terms of this Agreement	8
1. A glossary of the terms we use, and how to interpret this Agreement	8
2. What we agree to do, and what you agree to do in return	11
3. Your pathway to full home ownership	12
4. Relationship as co-owners	12
5. Ownership Share Register	13
6. Record of title	13
7. Your responsibilities – using and occupying the Property	13
8. Your responsibilities – costs of home ownership	14
9. Your responsibilities – maintenance and repair	14
10. Your responsibilities – improvements to the Property	14
11. Your responsibilities – Home Loan and Mortgage Arrangement	15
12. Your responsibilities – insurance	17
13. Your responsibilities – Unit Titles	17
14. Share Purchase Requests	18
15. Selling the Property	19
16. Selling your Share	21
17. Concerns, complaints and disputes	22
18. What happens if you do not comply with this Agreement	23
19. You appoint us as your attorney	25
20. Our right to transfer our Share	25
21. Personal Information	25
22. End of this Agreement	27
23. The Mortgagee’s role under this Agreement	27
24. General matters applying to this Agreement	27
Schedule 3 – Valuations and responsibility for costs	29

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. The purpose of our shared ownership scheme is to increase opportunities for people to access home ownership who would not have otherwise been able to. We do this by:
 - (a) buying part of a property with an eligible home buyer; and
 - (b) providing a pathway for the home buyer to later buy our share in the property from us so that the home buyer can move into full home ownership.
3. You want to purchase the Property with us under our shared ownership scheme.
4. This Agreement will apply for as long as we jointly own the Property.
5. This Agreement is signed and delivered as a deed.

Structure of Agreement

This Agreement is structured to support our shared ownership of the Property as tenants in common. It sets out the Goals, terms and conditions for our co-ownership of the Property. 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 Property details and the Ownership Share Register (this is the record of each of your and our Share in the Property).

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 as a tenant in common with us (including to maintain the condition of the Property);
- (d) our rights and responsibilities as a tenant in common with you (including to maintain the condition of the Property);
- (e) how you can sell the Property or your Share;
- (f) what happens if you or we do not comply with this Agreement and how you and we will resolve any concerns or disputes; 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 for:

- (a) the sale of a Share;
- (b) the purchase of a Share; and
- (c) clause 17(a) of Schedule 2.

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

Signature of witness

Name

Name of witness

Occupation of witness

City/town of residence

Signed by you:

Signature

Signature of witness

Name

Name of witness

Occupation of witness

City/town of residence

Signed for and on behalf of us by our attorney:

Signature of attorney

Signature of witness

Name of attorney

Name of witness

Occupation of witness

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.

EXAMPLE

Schedule 1– Key details for this Agreement

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

Parties

Provider	Kāinga Ora–Homes and Communities
Short form name	we or us or the Provider
Provider email	firsthomepartner.applications@kaingaora.govt.nz
Provider website	www.kaingaora.govt.nz
Provider address	Auckland South Regional Office, Private Bag 76913, Manukau, Auckland 2241

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

Property

Address	
Legal description	
Valuation reference	
Our reference	

Ownership Share Register

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

Purchasing our Share

Minimum Purchase Amount	The Minimum Purchase Amount is the lesser of: <ul style="list-style-type: none"> • \$1,000; or • 1% of the Market Value of the Property; or • 5% of the Market Value of our Share; or • any amount that allows for 100% ownership of the Property by you.
15 th Anniversary Date	The 15 th anniversary of the date of settlement of the sale and purchase of the Property pursuant to the Purchase Agreement.

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: <ul style="list-style-type: none"> • Principal and interest • Interest only, in each case, 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 Loans Limit	Your initial Other Loans Limit is \$.

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 date recorded in Schedule 1, which is the date that you agree to do your best to buy our full Share (if you have not already done so before this date).
- (b) **Agreement** means this shared ownership agreement.
- (c) **Building Work** is a term defined in section 7 of the *Building Act 2004* and generally means any work to the Property that requires a building consent in accordance with that Act.
- (d) **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.
- (e) **Goals** means the parties' shared goals under this Agreement:
 - (i) for you to continue to occupy the Property as a co-owner;
 - (ii) for you to purchase our full Share (including to do your best to buy our full Share by the 15th Anniversary Date); and
 - (iii) for you to maintain the Property in a similar condition to when you and we bought the Property (excluding fair wear and tear).
- (f) **GST** means goods and services tax under the *Goods and Services Tax Act 1985*.
- (g) **Home Loan** means any loan agreement between you and the Mortgagee to purchase your share of the Property.
- (h) **Home Loan Limit** means the maximum principal amount you can borrow under your Home Loan to purchase your original Share of the Property, as initially recorded in Schedule 1.
- (i) **Home Loan Payment Terms** means the type(s) of repayment terms that you can agree to under your Home Loan.
- (j) **Homeowner** means the person(s) named as the Homeowner in Schedule 1.
- (k) **Law** means the laws of New Zealand.
- (l) **Market Value** means:
 - (i) in relation to the Property, the current market value of the Property as recorded in a Valuation; and
 - (ii) in relation to a Share of the Property, the percentage of the current market value of the Property as recorded in a Valuation that is equal to the percentage of that Share of the Property.
- (m) **Minimum Purchase Amount** means the minimum amount that you agree to pay us if you want to buy some or all of our Share, as recorded in Schedule 1.
- (n) **Mortgage Arrangement** means any mortgage over the Property.
- (o) **Mortgagee** is your lender under your Home Loan which has its mortgage registered against the record of title to the Property.
- (p) **Option Notice** means a written notice that we can choose to give you under clause 18, which will give you the option to either:
 - (i) choose to sell the Property in accordance with clause 15; or

- (ii) choose to sell your Share (which may include a sale to any other person(s) named as the Homeowner in Schedule 1) in accordance with clause 16; or
- (iii) ask us to purchase your Share.
- (q) **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.
- (r) **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.
- (s) **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.
- (t) **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.
- (u) **Personal Information** means information about you or another identifiable individual (for example, any other member of your household).
- (v) **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.
- (w) **Property** means the property described in Schedule 1 and includes (where relevant):
 - (i) rights or interests in the property;
 - (ii) the interior and exterior of structures on the property, such as a house; and
 - (iii) anything attached to the property, or those structures, that the Law treats as part of the property.
- (x) **Property Expenses** means money (including interest), outgoings, charges, taxes penalties and fees (professional and otherwise) payable in respect of the Property and includes:
 - (i) general, special and water rates;
 - (ii) electricity, telephone, gas and other utility connection costs and charges;
 - (iii) body corporate and residents' society levies;
 - (iv) payments arising under a Home Loan and/or a Mortgage Arrangement;
 - (v) insurance premiums and excesses; and
 - (vi) costs of selling the Property, including advertising costs, listing fees, legal fees, and Real Estate Agent commission.
- (y) **Property Sale Request** means a written request that you can give to us to ask that you can market the Property for sale in accordance with clause 15.
- (z) **Provider** means the party named as the Provider in Schedule 1.
- (aa) **Purchase Agreement** means the contract between the Vendor, us and you for the sale and purchase of the Property.
- (bb) **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.
- (cc) **Service Fee** means an annual fee equal to \$2,250 (plus GST), or such other amount notified to you in accordance with clause 18(c)(i).
- (dd) **Share** means a legal and beneficial ownership share, as tenant in common, in:
 - (i) the Property; or
 - (ii) (where relevant) the proceeds from the sale of the Property.

- (ee) **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.
- (ff) **Share Purchase Request** means a written offer (from you to us) to buy some or all of our Share.
- (gg) **Share Sale Request** means a written request that you can give to us to ask us to agree to you selling your Share in accordance with clause 16.
- (hh) **Tenants in common** is an approach to property co-ownership where each party owns a separate share in a property.
- (ii) **Unit Title** means an estate in a unit under the *Unit Titles Act 2010*, also known as a stratum estate.
- (jj) **Vendor** means the person (or persons) that:
 - (i) sells your Share to you; and
 - (ii) sells our Share to us,
 under the Purchase Agreement.
- (kk) **Valuation** means either:
 - (i) a **Detailed Valuation**: a detailed report by a Valuer who has inspected the Property, describing the Valuer's opinion of the Market Value of the Property. The Detailed Valuation must be addressed to both you and us as co-owners of the Property. The Detailed Valuation will be ordered by either the Provider or the Mortgagee through an approved valuation ordering service provider; or
 - (ii) a **Short Form Valuation**: a current automated valuation model report supplied by a valuation ordering service provider approved by the Provider or the Mortgagee.
- (ll) **Valuer** means a valuer registered under the *Valuers Act 1948* approved by the Provider or the Mortgagee.
- (mm) **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.
- (nn) **Working Day** means any day of the week except:
 - (i) Saturday, Sunday, Good Friday, Easter Monday, ANZAC Day, any day observed as Easter Monday or ANZAC Day, the Sovereign's Birthday, Labour Day, Waitangi Day and the anniversary day for the province the Property is located in; and
 - (ii) any day in the period commencing on 24 December in any year and ending on 5 January in the following year, both days inclusive.
- (oo) **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.
- (pp) References to **us** include each of our respective executors, administrators, estate representatives, successors and permitted assigns.
- (qq) References to **you** include each of your respective executors, administrators, estate representatives, successors and permitted assigns.
- (rr) 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).

- (ss) The singular includes the plural and *vice versa*.
- (tt) Examples and use of the word **including** and similar expressions do not limit what else may be included.
- (uu) Any obligation not to do anything includes an obligation not to allow or cause that thing to be done (by conduct, omission or otherwise).
- (vv) Headings have been inserted for convenience only and will not affect the construction of this Agreement.
- (ww) Reference to a Law includes all statutes amending, consolidating or replacing the statute referred to and any regulations made pursuant to those statutes.
- (xx) References to clauses and schedules will be construed as references to clauses of, and schedules to, this Agreement.
- (yy) 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.
- (zz) 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) purchase our Share in the Property from the Vendor on the day set out in the Purchase Agreement, provided that you have complied with other prior agreements, such as the Purchase Agreement;
 - (ii) own the Property as a tenant in common with you;
 - (iii) not use or occupy the Property during the term of this Agreement;
 - (iv) you occupying our Share of the Property 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 18(c) below);
 - (v) sell our Share (in full or in part) to you on the terms of this Agreement; and
 - (vi) comply with this Agreement and any other agreements with you relating to the Property.
- (b) In return, you agree to:
 - (i) purchase your Share in the Property from the Vendor on the day set out in the Purchase Agreement;
 - (ii) own the Property as a tenant in common with us;
 - (iii) occupy the Property as a co-owner of the Property, and not as a tenant or holder of any other interest;
 - (iv) occupy the Property as your principal place of residence for the first 3 years after you and we both purchase the Property under the Purchase Agreement and continue to occupy the Property during the term of this Agreement unless we have agreed in writing (having regard to extraordinary circumstances that are affecting you or the Property);
 - (v) purchase our Share (in full or in part) on the terms of this Agreement; and
 - (vi) comply with this Agreement and any other agreements with us relating to the Property.

3. Your pathway to full home ownership

- (a) You agree to do your best to buy our full Share by the 15th Anniversary Date.
- (b) If you do not buy our Share by the 15th Anniversary Date:
 - (i) then you agree to buy our full Share as soon as possible after the 15th Anniversary Date, but in any event, no later than on or before the 25th Anniversary of the date of settlement of the sale and purchase of the Property pursuant to the Purchase Agreement, which is the date that you agree to buy our full Share (if you have not already done so before this date) (the **25th Anniversary Date**); and
 - (ii) we may act in accordance with our rights under clause 18.
- (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 14 (*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 Property 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 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 (generally not more than once per year, but depending on the circumstances we may require you to meet with us more frequently (for example, if you have not purchased our full Share by the 15th Anniversary Date)). 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 bank account statements showing your income, expenses, savings and Home Loan and Other Loan payments;
 - (ii) your current and predicted housing circumstances, including whether the Property meets your current and/or predicted future housing needs; and
 - (iii) any other matters relating to the Property or this Agreement.

What happens upon the death of a Homeowner

- (d) If your Share is owned by more than one individual as joint tenants, upon the death of a joint tenant, the remaining joint tenant(s) will inherit that joint tenant's part of your Share in accordance with the Law.
- (e) If your Share is owned by only one individual, at the time of your death the personal representative of your estate should contact us to discuss the housing circumstances for your household.

- (f) If your Share is owned by more than one individual as tenants in common, at the time of death of an individual, the personal representative of that individual's estate should contact us to discuss the housing circumstances for that individual's household.
- (h) For the purposes of paragraphs (e) and (f) above, we may:
 - (i) agree to allow another member of the relevant individual's household to acquire the relevant individual's Share; or
 - (ii) require the relevant individual's personal representative to give us a Property Sale Request for that individual's Share.

The principles of our shared ownership scheme, and your household's ability to achieve the Goals, will be relevant to us in considering this position.

5. Ownership Share Register

- (a) You and we agree that:
 - (i) subject to paragraph (ii) below, unless there is a clear and unmistakable 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 Property 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 14(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 Property 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 Property to require each other to comply with the terms of this Agreement.

7. Your responsibilities – using and occupying the Property

- (a) In return for us agreeing not to use or occupy our Share of the Property, you agree that you will:
 - (i) only occupy the Property for your household's residential purposes, which may include some or all of your household working or studying from the Property;
 - (ii) comply with all Laws, body corporate rules and existing registered interests in respect of the Property; and
 - (iii) not use the Property or allow it to be used for any illegal activity or any other activity that is inconsistent with the purpose of our shared ownership scheme.
- (b) You agree that you will not grant any legal or beneficial interest in the Property 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 Property or any part of it.

8. Your responsibilities – costs of home ownership

You agree to:

- (a) pay all Property Expenses when they are due; and
- (b) meet all payment and other obligations you have under a Home Loan when they are due.

9. Your responsibilities – maintenance and repair

(a) You agree to:

- (i) always keep the Property in good condition; and
- (ii) repair or replace any broken or damaged part(s) of the Property as soon as reasonably possible.

(b) We can choose to undertake a condition report when you start occupying the Property and if we inspect the Property in accordance with clause 18(a) to record the condition of the Property at that time.

(c) You agree to tell us immediately if you become aware of any defect in the Property 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; and
- (iii) you have not caused or contributed to the defect,

we 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 – improvements to the Property

(a) You and we agree not to add to, remove from, or alter the Property or otherwise undertake any Building Work and/or work requiring a resource consent unless you and we have agreed in writing.

(b) You and we agree to respond in writing to any request that you or we make under paragraph (a) above within 20 Working Days.

(c) Amongst other things, the following matters will be relevant to us in considering any request under paragraph (a) above:

- (i) your achievement of the Goals;
- (ii) the cost of the works and the expected increase in the Market Value as a result of the works; and
- (iii) that the works will comply with all Laws.

(d) You and we do not need to agree to a request made under paragraph (a) above.

(e) If you or we do agree to any request that you or we make under paragraph (a) above, you or we (as the case may be) can choose to impose conditions on your or our agreement

(as the case may be) that you and we will discuss and later confirm in writing as soon as you and we can.

- (f) You and we agree not do anything to invalidate or otherwise adversely affect any insurance policy for the Property.

11. Your responsibilities – Home Loan and Mortgage Arrangement

- (a) Unless we have agreed in writing, you agree that you:
- (i) will not borrow more than the Home Loan Limit and/or any Other Loans Limit at any time (subject to you complying with the requirements in clause 14 in relation to a Share Purchase Request, we would generally expect to consent to you borrowing more money under your Home Loan in excess of your initial Home Loan Limit for the purpose of buying some or all of our Share);
 - (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 (to which we are a party);
 - (iv) will not do anything that causes us to breach the Mortgage Arrangement (to which we are a party);
 - (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 we will not knowingly do anything that directly causes you to breach your Home Loan or the Mortgage Arrangement.
- (c) We agree that you will not be in breach of this clause 11 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 issues a Default Notice

- (d) If the Mortgagee issues a Default Notice to either you and/or us, you and we agree:
- (i) to meet in accordance with clause 18(b)(iii), within 5 Working Days of us being notified of the Default Notice; and/or
 - (ii) if the Mortgagee agrees, to meet with the Mortgagee (including by audio or audio-visual means) as soon as practicable (but no later than 10 Working Days of us being notified of the Default Notice).
- (e) If, after our meeting with you and/or the Mortgagee under paragraph (d) above, we form the view (acting reasonably and in consultation with you and the Mortgagee) that there is a realistic risk that you may be unable to resolve the problem with the Mortgagee within the remedy period specified in the Default Notice and an alternative arrangement cannot be agreed with the Mortgagee, we can:
- (i) obtain a Valuation; and
 - (ii) decide to buy your Share before the expiry of the remedy period specified in the Default Notice (this is usually 20 Working Days from the date the Default Notice is served, but can be longer).
- (f) If we decide to buy your Share:

- (i) we will give you notice in writing before the expiry of the remedy period specified in the Default Notice (and no later than 2 Working Days of us making the decision to buy your Share);
 - (ii) the purchase price for your Share will be the Market Value;
 - (iii) unless you have resolved the problem with the Mortgagee, we will buy your Share within 20 Working Days after giving you notice that we have decided to buy your Share;
 - (iv) 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 a requirement for you to discharge the Mortgage Arrangements). You agree to sign the agreement when we give it to you; and
 - (v) you will need to engage a solicitor to assist you in registering the Share transfer on the record of title to the Property.
- (g) Any costs that we incur under paragraphs (e) and (f) will be payable by us. However, if at any time before settlement of the sale of your Share to us the Mortgagee informs us that the default described in the Default Notice has been resolved and the Mortgagee is no longer pursuing enforcement action under that Default Notice:
- (i) the sale of your Share to us will not proceed; and
 - (ii) you agree to pay any costs (including our legal fees) that we incur as a result of the Mortgagee issuing the Default Notice.

What happens if the Mortgagee sells the Property

- (h) If a Mortgagee sells the Property, 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 Property 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 will be divided between you and us so that:
 - (A) we receive all money up to the amount equal to our Share of the total sale proceeds; and
 - (B) you receive any leftover sale proceeds. (You might be required by the Mortgagee to pay those leftover sale proceeds towards repayment of any Other Loan you have with the Mortgagee.)

See our website for some examples of how this clause could apply. 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 Property, apply those proceeds in accordance with this paragraph (h) and the Ownership Share Register from time to time (regardless of any provision of a Mortgage Arrangement or Law to the contrary).

12. Your responsibilities – insurance

- (a) You agree to:
 - (i) keep the Property insured for its full replacement value. You may only cancel or change the insurance if we have agreed to this in writing;
 - (ii) if the Property is a Unit Title, make sure the body corporate insures the Property for its full replacement value;
 - (iii) unless we have agreed in writing, make sure that the insurance covers losses and damage caused by fire, flooding, earthquake, and any other risks covered by standard comprehensive property insurance policies; and
 - (iv) unless we have agreed in writing, not agree to any non-standard restrictions or exclusions being included in the insurance policy. We can ask you to get 'top up' insurance from another insurer if the insurance has restrictions or exclusions we do not agree to.
- (b) You agree to make sure that we are recorded on the insurance policy as a co-owner of the Property.
- (c) You can choose who will insure the Property, as long as the insurer meets our criteria. We will provide you with our criteria or publish the criteria on our website. If the criteria changes in a way that means your current insurer and/or insurance policy no longer meets that new criteria, then you agree to make sure that your insurance policy meets the new criteria when it comes up for its next annual renewal.
- (d) Regardless of paragraphs (a) to (c) above, if you are unable to obtain insurance for reasons beyond your control, we agree that your compliance with the Mortgagee's insurance requirements in those circumstances will also satisfy our insurance requirements under this Agreement.
- (e) You agree to give us information about the insurer and the insurance over the Property when we ask you for it.
- (f) You agree to tell us immediately if you become aware of any loss or damage to the Property that you think is or might be material that could result in an insurance claim. We may require you to:
 - (i) repair the loss or damage; and/or
 - (ii) put in a claim with the insurer, or any other party, like the Earthquake Commission, and keep us updated on the progress of the claim. You may only accept an offer from the insurer or other 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).
- (i) If:
 - (i) we have required you to put in a claim with the insurer in respect of any loss or damage;
 - (ii) the claim is unsuccessful; and
 - (iii) you have not caused or contributed to the loss or damage,we agree to pay for some of the costs that you incur under this clause, being an amount that is proportionate to our Share.

13. Your responsibilities – Unit Titles

- (a) If the Property is a Unit Title:
 - (i) and the body corporate intends to vote on a matter under the *Unit Titles Act 2010* that you think is or might be material to our rights or obligations as a co-owner of the Property, we encourage you to cast your vote in the way that you think best

protects both of our shared interests in the Property and supports the achievement of the Goals; and

- (ii) we might otherwise authorise you to exercise our voting rights. If we authorise you to exercise our voting rights, you agree to act as our proxy when we ask you to.
- (b) You can appoint a proxy to vote on your behalf, but you agree to ensure your proxy is bound by the same responsibilities you have under this Agreement.

14. 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 do your best to purchase our full Share on or before the 15th Anniversary Date;
 - (ii) if you have not purchased our full Share by the 15th Anniversary Date, clause 18(c) will apply and you agree to purchase our full Share on or before the 25th Anniversary Date, unless we have agreed in writing; and
 - (iii) can give us a Share Purchase Request at any other time during this Agreement if you want to buy some or all of our Share.
- (c) We will provide you with the Share Purchase Request form if you ask us for it and/or publish it on our website.
- (d) Your Share Purchase Request needs to:
 - (i) identify the price you are wanting to pay for our Share or a part of our Share, which must be a price that is:
 - (A) equal to or higher than, the Minimum Purchase Amount; and
 - (B) equal to the 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, identify how much money you intend to borrow for this purpose (please ensure you have first obtained the Mortgagee's pre-approval subject to receiving our consent under this Agreement);
 - (iii) attach a Valuation that is no older than three months from the date of the Share Purchase Request; and
 - (iv) 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 Property.

- (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 Property, 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.

15. Selling the Property

What to do if you want to sell the Property

- (a) If you want to sell the Property before buying our full Share, you agree to give us a Property Sale Request.
- (b) We will provide you with the Property Sale Request form if you ask us for it and/or publish it on our website.
- (c) Your Property Sale Request needs to:
 - (i) attach a Valuation that is no older than three months from the date of the Property Sale Request; and
 - (ii) include all the information required by the Property Sale Request form.

What happens when we receive your Property Sale Request

- (d) Within 5 Working Days of receiving your Property Sale Request, we will tell you whether:
 - (i) we have decided to buy your Share; or
 - (ii) we have approved your Property Sale Request. We can choose to require reasonable conditions with our approval.
- (e) We may not approve your Property Sale Request if you have occupied the Property for less than 3 years. In this situation, we will have regard to any exceptional circumstances that are affecting you or the Property before deciding whether to approve a Property Sale Request.

What happens if we choose to buy your Share

- (f) We can choose to buy your Share instead of you selling the Property on the open market.
- (g) If we decide to buy your Share:
 - (i) the purchase price for your Share will be your share of the Market Value of the Property; and
 - (ii) we will give you your approved Property Sale Request signed by us. You will need to engage a solicitor to assist you in registering the Share transfer on the record of title to the Property.

What happens if the Property goes to sale on the open market

- (h) If we decide not to buy your Share and we approve your Property Sale Request, within 5 Working Days of our approval, we will:
 - (i) give you your approved Property Sale Request signed by us;
 - (ii) provide you with guidance on the marketing and sale process which may include guidance on working with the Real Estate Agent; and

- (iii) give you detailed instructions on the sale process that you agree to follow, which will include (where relevant):
 - (A) any terms we need to be included in the Real Estate Agent's listing contract;
 - (B) the form of contract that you agree to use to sell the Property; and
 - (C) requirements that you:
 - (I) give us a copy of the offer you want to accept and a summary (which includes the proposed purchase price, conditions and any other material and/or non-standard terms) of the other offers you have received to purchase the Property before you accept or reject any offer;
 - (II) if we require you to, give us an updated Valuation if the Property has not sold within a reasonable time after it is first advertised for sale; and
 - (III) allow us a reasonable period of time to make decisions about the sale of the Property.
- (i) You agree to not advertise the Property for sale until we have approved your Property Sale Request.
- (j) We will agree to any offer that is equal to or greater than Market Value, but we have the right to decide whether to accept or reject any offer to purchase the Property, or to request changes to the purchaser's offer before it is accepted where:
 - (i) the summary provided to us under paragraph (h)(iii)(C)(I) shows that a higher offer has been received on the open market (in which case, if we reject the offer you want to accept, we will accept this higher offer instead. We will have regard to any conditions, any other material and/or non-standard terms and your reasons for not accepting the higher offer before making a decision); and/or
 - (ii) subject to paragraph (l) below, the offer is for an amount that is less than Market Value; and/or
 - (iii) the transaction does not comply with our instructions issued to you under paragraph (h)(iii).
- (k) You must not agree to make any changes to the contract to sell the Property unless we have agreed in writing (we will provide our response within 5 Working Days after receiving all relevant information).

What happens if you want to sell the Property under Market Value

- (l) If you want to accept an offer to purchase the Property, received on the open market (in accordance with the process agreed under paragraph (h) above), for a price that is less than the Market Value, we can decide to buy your Share. If we decide to buy your Share:
 - (i) we must give you notice in writing within 10 Working Days of receiving a copy of the offer;
 - (ii) the purchase price for your Share will be your Share of the purchase price of the Property under that offer;
 - (iii) we will buy your Share within 20 Working Days of our notice to you;
 - (iv) 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. You agree to sign the agreement when we give it to you; and
 - (v) you will need to engage a solicitor to assist you in registering the Share transfer on the record of title to the Property,

but if we decide not to buy your Share and notify you of this in writing, you will be free to accept the highest offer that was received on the open market (but no other offer).

What happens to the sale proceeds

- (m) If you sell the Property:
 - (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 the 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 will be divided between you and us so that:
 - (A) we receive all money up to our Share of the sale proceeds; and
 - (B) you receive any leftover sale proceeds. (You might be required by the Mortgagee to pay those leftover sale proceeds towards repayment of any Other Loan you have with the Mortgagee.)

See our website for some examples of how this clause could apply.

16. Selling your Share

What to do if you want to sell your Share only

- (a) We will consider a request from you to sell your Share to a third party (or any person(s) named as the Homeowner in Schedule 1 (if any)), only in exceptional circumstances. You may not sell your Share on the open market. To avoid doubt, nothing in this clause prevents you from giving us a Property Sale Request in accordance with clause 15.
- (b) If you want to sell your Share to a third party (or any person(s) named as the Homeowner in Schedule 1 (if any)), you agree to give us a Share Sale Request.
- (c) We will provide you with the Share Sale Request form if you ask us for it and/or publish it on our website.
- (d) Your Share Sale Request needs to:
 - (i) identify the proposed purchaser;
 - (ii) specify your reasons (being the exceptional circumstance affecting you) for selling your Share;
 - (iii) attach a Valuation that is no older than three months from the date of the Share Sale Request; and
 - (iv) include all the information required by the Share Sale Request form.

What happens when we receive your Share Sale Request

- (e) Within 5 Working Days of receiving your Share Sale Request, we will tell you whether:
 - (i) we have approved your Share Sale Request. We can choose to require reasonable conditions with our approval, which will include:
 - (A) that the proposed purchaser must meet our criteria as an eligible home buyer, which we will assess. We will do our best to complete our assessment within 15 Working Days of you or the proposed purchaser providing us with the information we need;
 - (B) evidence from the proposed purchaser of its ability to purchase your Share, including details of any bank finance and new mortgage arrangement;
 - (C) evidence of consent by the Mortgagee to the sale of your Share; and

- (D) the execution of any documents by you, the proposed purchaser, the Mortgagee and/or the proposed purchaser's mortgagee, that is required to enable the transfer of your Share (including an agreement to assign and novate this Agreement to the proposed purchaser and entry into any bank relationship agreement by us and the proposed purchaser's mortgagee); or
- (ii) we have not approved your Share Sale Request.
- (f) If we do not approve your Share Sale Request, within 5 Working Days, we will contact you to discuss our reasons.

What happens if we approve your Share Sale Request

- (g) If we approve your Share Sale Request, within 5 Working Days of our approval:
 - (i) the purchase price for your Share will be the Market Value of your Share;
 - (ii) we will give you your approved Share Sale Request signed by us; and
 - (iii) we will give you detailed instructions on the sale process that you agree to follow, which will include (where relevant):
 - (A) the form of contract that you agree to use to sell your Share; and
 - (B) if we require you to, give us an updated Valuation if your Share has not sold within a reasonable time after we approved your Share sale Request.

You will need to engage a solicitor to assist in, amongst other things, discharging the Mortgage, repaying the amounts you owe under your Home Loan, and registering the Share transfer on the record of title to the Property. The proposed purchaser will also need to engage a solicitor to assist in, amongst other things, registering a new mortgage and the Share transfer on the record of title to the Property.

What happens to the sale proceeds

- (h) If you sell your Share, any money payable to the Mortgagee will be paid out of your Share.

17. Concerns, complaints and disputes

- (a) If you and/or we have a concern, complaint or dispute about a Valuation, including if you or we reasonably believe a Valuation obtained by the other party is not an accurate reflection of the Market Value of the Property, you or we can ask the Property Institute to appoint an independent valuer registered under the *Valuers Act 1948* to resolve the concern, complaint or dispute. The independent valuer will resolve the concern, complaint or dispute as an expert, and his or her decision will be binding on both you and us.
- (b) In all other cases, if either you and/or we have any concerns or complaints about each other's compliance (or non-compliance) with this Agreement, or wants to raise a dispute, you and we agree to first meet each other to discuss the concern, complaint or dispute. Unless this Agreement says otherwise, the meeting must occur within 20 Working Days after either you or we give notice of the concern, complaint or dispute to the other.
- (c) If you and we do not resolve the concern, complaint or dispute at the meeting contemplated by paragraph (b) above or within any further timeframe that you and we both agree to in writing, unless the concern, complaint or dispute relates to a Default Notice (in which case clause 11(e) will apply) either you or we can request that the other attend a mediation meeting.
- (d) A mediation meeting needs to be managed by an independent mediator. You and we will both decide who this person should be within 10 Working Days after a request to attend a mediation meeting. If you and we cannot both agree on a person, the Chair of the Resolution Institute will decide on a person.
- (e) At the mediation meeting the rules of the Resolution Institute standard Mediation Agreement (New Zealand version) will apply.

- (f) You and we both agree that the processes under this clause do not stop either you and/or we from taking any other action you and/or we are entitled to take under this Agreement or at Law.

18. 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 we have reasonable concern that you may not be complying with all of your obligations under clause 9 of this Agreement (*Your responsibilities – maintenance and repair*) we can enter and inspect the Property for the purpose of any property maintenance and repairs that are necessary to protect our Share of the Property. Before we do this we will give you at least 5 Working Days' notice in writing, unless you agree otherwise.
- (b) 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:
- (iii) require you to meet with us to discuss the matter, with a view to understanding the situation and reaching a mutually acceptable solution, including by way of the processes set out in clause 17; and/or
 - (iv) 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

- (c) 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:
- (i) 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. We will give you 6 months' notice before we update the Service Fee; and
 - (ii) you and we each commit to working collaboratively to explore and implement all reasonably practicable alternative options available so that you and your household can continue to achieve the Goals. If you and we have not agreed an appropriate alternative option within 40 Working Days of us notifying you in writing of the application of this paragraph (c), paragraph (d)(i) below will apply.

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

- (d) If:
- (i) you and we have not agreed an appropriate alternative option under paragraph (c)(ii) above; and/or
 - (ii) you continually 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 continually:
 - (A) failed to engage with us in a way that prevents us from assessing your achievement of the Goals; and/or
 - (B) failed to act like a reasonable and prudent co-owner of the Property (including, for example, by continually not carrying out material repairs); and/or

- (iii) you do not comply with a material responsibility under this Agreement, for example including because:
 - (A) you have not purchased our full Share on or before the 25th Anniversary Date; or
 - (B) you are not occupying the Property as your principal place of residence during the first 3 years after you and we both purchase the Property under the Purchase Agreement,

and we are unable to reach a mutually acceptable solution, including by way of the processes set out in clause 17 (if it applies), we can choose to give you an Option Notice at any time after that until this Agreement ends in accordance with clause 22.

- (e) If we give you an Option Notice, you must give us your Option Notice Response within 40 Working Days after receiving the Option Notice.
- (f) 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 Property and/or your Share.
- (g) If we give you an Option Notice and you have chosen in your Option Notice Response to:
 - (i) sell the Property, you will give us a Property Sale Request with your Option Notice Response and the process under clause 15 will apply; or
 - (ii) sell your Share to a third party, you will give us a Share Sale Request with your Option Notice Response and the process under clause 16 will apply. To avoid doubt, we will only approve a Share Sale Request in exceptional circumstances as set out in clause 16. If we do not approve your Share Sale Request, we will ask you to choose one of the other options in the Option Notice and provide us with a new Option Notice Response.
- (h) If your Option Notice Response asks us to purchase your Share:
 - (i) it must attach a Valuation that is no older than three months from the date of our Option Notice; and
 - (ii) we will notify you within 5 Working Days whether we agree to buy your Share.
- (i) If we agree to buy your Share under paragraph (h)(ii) above:
 - (i) the purchase price for your Share will be the Market Value of your Share; and
 - (ii) 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. You will need to engage a solicitor to assist you in registering the Share transfer on the record of title to the Property.
- (j) If we do not agree to buy your Share under paragraph (h)(ii) above, we will ask you to choose one of the other options in the Option Notice and provide us with a new Option Notice Response.

General matters if you do not comply with this Agreement

- (k) You indemnify us (and keep us indemnified) for any loss, cost or liabilities that we suffer, incur or sustain as a direct result of your breach of this Agreement. This clause does not apply if:
 - (i) we have breached this Agreement; and
 - (ii) our breach of this Agreement causes you to breach this Agreement.
- (l) 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.

19. 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 Property.
- (c) We do not have to act as your attorney, even though you have appointed us as your attorney. We will notify you before we act 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.

20. Our right to transfer our Share

We can transfer all or some of our Share to a third party if:

- (a) the third party:
 - (i) operates, or intends to operate, a shared ownership scheme and we are satisfied that the shared ownership scheme operates or will operate in a way that provides substantially the same level of support to homeowners that we provide under this Agreement; and
 - (ii) is a New Zealand government department, agency or entity including:
 - (A) Departments of the Public Service (as set out in Schedule 1 of the *Public Service Act 2020*);
 - (B) all non-public service Departments;
 - (C) the entities listed in Schedule 4 of the *Public Finance Act 1989*; and
 - (D) the entities listed in Schedule 1 and Schedule 2 of the *Crown Entities Act 2004*, together with their subsidiaries under section 8(2) of the *Crown Entities Act 2004*; and
- (b) the third party agrees to become a party to this Agreement.

21. 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 Property;
 - (iii) your personal, family, and financial circumstances (as contemplated by clause 4);

- (iv) information about your Home Loan and/or the Mortgage Arrangement (as contemplated by clause 11); and
- (v) other relevant information relating to you, your Share, the Property 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 Property, or an agency that we have an approved information sharing agreement with. You also agree that the Mortgagee can share your Personal Information with us in connection with the arrangements contemplated by this Agreement.
- (f) 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.
- (g) We may be empowered by legislation (for example, the *Kāinga Ora–Homes and Communities Act 2019*) 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

- (h) 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. That may include the Ministry of Housing and Urban Development / Te Tūāpapa Kura Kāinga, a Mortgagee and any insurer of the Property.
- (i) 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.
- (j) 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

- (k) 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.
- (l) 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.
- (m) 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

- (n) 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.

22. End of this Agreement

- (a) Subject to paragraph (b) below, this Agreement will end with immediate effect when:
 - (i) you buy our full Share; or
 - (ii) you and we both sell our respective Shares on the open market together; 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 17, 18, 21, 22, and 24.

23. The Mortgagee's role under this Agreement

You and we acknowledge that:

- (a) 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 Property or to consent to any sale of the Property; and
- (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*).

24. 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 Property. 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 Agreement and any other agreement for sale and purchase in respect of the Property or a Share or any Mortgage Arrangement.
- (b) You confirm that:
 - (i) you have received independent legal advice in relation to:
 - (A) this Agreement; and
 - (B) the record of title to the Property, including all existing instruments and memorials noted on the record of title; 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 Property under this Agreement is the lowest price that you and we each would have agreed to pay for that Share of the Property 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 under clause 17.
 - (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 Property and when purchasing or selling either your or our Share. A number of clauses in this Agreement require either you or us to obtain a Valuation. The table below sets out how the cost of obtaining a Valuation will be paid as between both you and us.

When a Valuation may be required	What kind of Valuation will be required (see definition of Valuation in clause 1(kk) of Schedule 2)	Who pays the Valuer's invoice for the Valuation
If the Mortgagee issues a Default Notice under the Mortgage Arrangement, and we are considering purchasing your Share (see clauses 11(d) to 11(g) of Schedule 2).	Detailed Valuation	You
When you want to purchase some or all of our Share (see clause 14(d) of Schedule 2).	Short Form Valuation	Us
	You may request for a Detailed Valuation to be used instead of a Short Form Valuation.	You (if a Detailed Valuation is used)
When you want to sell the Property (see clauses 15(c)(i) and 15(h)(iii)(C)(II) of Schedule 2).	Short Form Valuation	Us
	You may request for a Detailed Valuation to be used instead of a Short Form Valuation.	You (if a Detailed Valuation is used)
When you want to sell your Share to a third party (see clauses 16(d)(iii) and 16(g)(iii)(B) of Schedule 2).	Short Form Valuation	Us
	You may request for a Detailed Valuation to be used instead of a Short Form Valuation.	You (if a Detailed Valuation is used)
If you or we can ask the Property Institute to appoint an independent valuer to resolve a concern, complaint or dispute about a Valuation and that independent valuer makes a binding decision (see clause 17(a) of Schedule 2).	Detailed Valuation by the independent valuer.	The party bringing the concern, complaint or dispute.
If you have not complied with this Agreement and you want us to consider purchasing your Share (see clause 18(h)(i) of Schedule 2).	Short Form Valuation	Us
	You may request for a Detailed Valuation to be used instead of a Short Form Valuation.	You (if a Detailed Valuation is used)