



**LETTER OF HYPOTHECATION OF GOODS**

Place \_\_\_\_\_

Date \_\_\_\_\_

To, \_\_\_\_\_  
**The Wall Street Banking Corporation Ltd,**  
Cook Islands (New Zealand)

In consideration of The Wall Street Banking Corporation Ltd Cook Islands (New Zealand) (hereinafter called the "Bank" which expression shall include its Successors and Assigns) granting/agreeing to grant/continue granting loans/advances/credit banking facilities (hereinafter called the "Facilities") amounting to USD \_\_\_\_\_ to me/ us to such extent and for so long as the Bank may think fit, I/We the undersigned

\_\_\_\_\_ P.O.BoxNo \_\_\_\_\_

(hereinafter called the "Borrower" which expression shall include me/us and my/our legal heirs, Successors and Assigns ) hereby hypothecate, in favour of the Bank by way of first charge , as security, for full repayment of the facilities to the Bank together with all charges, all chattels or things and stocks as described in general terms in the schedule hereto, (hereinafter called the "Goods"), which expression shall include all products and stocks and moveable property, of any kind and whether raw or in process of manufacture and all things or articles manufactured there from which now or thereafter from time to time during the process shall be brought into store(s) or be in or about the Borrower's godown(s) or premises at different places including in course of transit or delivery .

The Borrower hereby undertakes and covenants the following with the Bank:

1. a The Borrower shall not at any time so long as there shall be any amount due by the Borrower to the Bank remove or cause or permit to be removed from the premises and /or godowns where the goods are stored nor divert or otherwise dispose of or encumber, charge or pledge or mortgage the Goods or any part thereof to any other party nor do any act whereby the Bank's security shall in any way be prejudiced or affected.
- b. The Borrower shall deposit with the Bank all sale proceeds of the Goods and insurance proceeds and recoveries thereof, which shall always constitute an integral part of the security.
- c. In the event of committing any default of any of the provisions of this Hypothecation Deed, the Borrower shall pledge the Goods to the Bank by way of a floating charge and all goods and moveable property of any kind and nature belonging to the Borrower which now or thereafter or from time to time during the continuance of this security be brought in, stored in the premises or godowns as mentioned in the schedule hereto and/or elsewhere on in the course of transit as a security for the Borrower's indebtedness to the Bank.
2. The expression Borrower's "Indebtedness" to the Bank shall include the principal amounts from time to time due on Borrower's facilities together with all interest and all other charges which the Bank may pay or incur in connection with the Goods, or the sale or disposal thereof and all other moneys whether hereof or by law payable by the Borrower to the Bank in connection with or relation to the Goods.
3. The Borrower shall make and provide to the Bank statement periodical reports and returns in respect of the cost and market value of the goods and a detailed description thereof and produce such evidence in support thereof as the Bank may from time to time require. That the amount of

Borrower's total indebtedness to the Bank for the time being together with interest and other charges shall all time during the period of this hypothecation have a margin not less than \_\_\_\_\_ % of the market value of the hypothecated goods. Such market value shall be decided from time to time by the bank which decision shall be final and binding on the Borrower. The difference between the Borrower's indebtedness to the Bank and the market value of the goods shall be maintained either by providing further security as may be approved by the Bank or by cash payment. The Bank at its sole discretion may employ the services of any independent Survey the value of hypothecated goods and the cost of such evaluation shall be borne by the Borrower.

4. The Borrower shall insure and keep insured the hypothecated goods for their full market value against fire, pilferage, theft, damage, loss and all other risks with an Insurance Company approved by the Bank with the Banks as First Beneficiary, in the name and the sole benefit of the Bank, and the Borrower will assign and deliver to the Bank, all the insurance policies and deliver the premium receipts paid for such insurance. The Bank may at any time at its sole discretion, effect such insurance at the sole expense of the Borrower, if the Borrower fails to insure the Goods as aforementioned within 12 (twelve) hours after notice of demand served on the Borrower. All sums received under insurance (s) as aforesaid, shall be applied towards the liquidation of the Borrower's indebtedness to the Bank.
5. The goods hypothecated to the Bank shall be kept at the sole risk and responsibility of the Borrower wherever and in whatever godowns, premises, sheds or places they maybe stored. The Borrower shall pay all rents, rates, taxes and other outgoings, of the godowns and premises wherein the goods are stored and shall keep the goods and marketable condition.
6. The Bank or their representatives or nominees shall be entitled at any time without notice to enter any place where the goods are located or stored for inspection and examination.
7. **Event of Default**

Without prejudice to the generality of the foregoing, the Bank shall have the absolute right at anytime without notice to take charge and possession of the Goods upon occurrence of any of the following events: -

  - a if the borrower fails to maintain the margin (s) as aforementioned.
  - b if the borrower fails to pay the balance (s) due to the Bank on demand.
  - c if the borrower commits breach of any of the terms and conditions herein contained.
  - d if the borrower suffers distress or execution to be levied or enforced upon or against all or any of the Borrower's property.
  - e if the borrower fails to effect any payment of the indebtedness on its/their due dates.
8. The Bank upon taking charge and possession of the goods in terms of clause 7 shall have exclusive right and discretion to sell the goods and to appropriate the sale proceeds towards satisfaction of the Borrower's indebtedness to the Bank. The Bank shall have the right to claim from the Borrower any shortfall if the sale proceeds do not fully satisfy the Borrower's indebtedness to the Bank.
9. The Bank records and statements made by the Bank showing the indebtedness of the Borrower shall be and continue to be final and conclusive evidence as to the correctness of such indebtedness.
10. The Borrower hereby declares that all the goods are free from any prior lien, charge or encumbrance, whether legal or equitable and that the Borrower holds lawful authority to hypothecate the Goods.

11. The Borrower agrees and undertakes to repay to the Bank the entire indebtedness on receipt of first demand shall be a conclusive and final evidence that the repayment of the indebtedness of the Borrower to the bank is due.
12. The Borrower hereby agrees and undertakes to carry out and his/their obligations hereof. This hypothecation shall operate as a continuing security for all the indebtedness or liabilities owing by the Borrower to the Bank notwithstanding any partial or intermediate repayment(s) or adjustment(s) made at any time, without prejudice to the other rights and remedies open to the Bank under the Law. Any violation of the terms and conditions hereof shall render the credit facilities liable to be cancelled.
13. Every demand or notice served or communicated by the Bank to the Borrower shall be considered to have been duly served and communicated to the Borrowers if sent to the recorded address of the Borrower either by hand delivery, ordinary or registered mail, telex and/or any other usual and practised means of transmission / delivery. Every demand or notice sent in this manner by the Bank to the Borrower or any of the persons constituting the Borrower shall be deemed to have been sent to each and all of such persons.
14. Should this Deed be signed by more than one person, all signatories hereto shall be jointly and severally liable to Bank for all the liabilities herewith.
15. Should the Borrower be a company or a firm, the liability of such company or firm towards the Bank shall remain effective despite any change in the constitution, memorandum and/or articles of association of the said company or firm.
16. Without prejudice to the Bank's absolute right to submit to any other law or jurisdiction, this document shall be governed construed and interpreted in accordance with the commercial law/practice prevailing in Cook Islands (New Zealand) and the civil courts in Cook Islands (New Zealand) shall have full jurisdiction over any difference or dispute arising or which may arise out of the contents of this document or any part thereof.

**SCHEDULE OF GOODS AND GODOWNS**

<b><u>Godowns (Address)</u></b>	<b><u>Description of Goods</u></b>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Signature(s) \_\_\_\_\_

Name(s) \_\_\_\_\_

For and on behalf of \_\_\_\_\_