

# **Auswide Bank**

## **Mortgage Booklet**



Credit Guide

General Terms and Conditions (Version 5.4)

Information Statement (for Regulated Loans)

Freedom Package Terms and Conditions (only applicable to Freedom Package Customers)

Mortgage Common Provisions

Direct Debit Service Agreement

Auswide Bank Ltd ACN 087 652 060  
AFSL and Australian Credit Licence no 239686  
16 – 20 Barolin Street  
PO Box 1063  
Bundaberg QLD 4670 Australia  
Ph: 1300 138 831  
[www.auswidebank.com.au](http://www.auswidebank.com.au)

# About this booklet

Congratulations on selecting Auswide Bank for your loan!

This booklet contains some very important information about your loan. You should retain this booklet so that you can refer to it in the future.

This document contains:

1. Credit Guide
2. General Terms and Conditions (Version 5.4)
3. Information Statement (for Regulated Loans)
4. Freedom Package Terms and Conditions Version 1.2 (only applicable to Freedom Package Customers)
5. Mortgage Common Provisions
6. Direct Debit Service Agreement

The Credit Guide contains some basic information about Auswide Bank, our contact details, and the services we provide.

The General Terms and Conditions, together with your Loan Agreement, form the terms of your loan contract with us.

The Mortgage Common Provisions are the terms on which the mortgage you grant to us will be governed.

The Direct Debit Service Agreement contains information about how Auswide Bank will debit your account to ensure you make your repayments.

If you have any questions about this booklet, please call 1300 138 831 or visit [www.auswidebank.com.au](http://www.auswidebank.com.au).

## Guide to Banking Services

You can also access our Guide to Banking Services which sets out the banking services we offer, including terms and conditions relating to:

- banking services
- deposit accounts
- electronic banking
- phone, internet and mobile banking
- BPAY
- Visa debit card

The Guide to Banking Services will be displayed on our website at <http://www.auswidebank.com.au/info/terms-and-conditions/>

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## Auswide Bank Ltd – Credit Guide

### About our Credit Guide

This Credit Guide issued by Auswide Bank Ltd. Australian Financial Services and Australian Credit Licence No. 239686, ABN 40 087 652 060 (“we, us, our”) is an important document required by the *National Consumer Credit Protection Act 2009* (“NCCP”).

We are required by law to provide you with a Credit Guide as soon as it becomes apparent we are likely to enter into a credit contract with you.

This guide provides you with basic information about:

- Who we are and how to contact us;
- Our obligations to provide you with a credit assessment if you ask us;
- Our obligation to ensure the chosen credit contract meets your requirements and objectives;
- Our obligation to ensure you have the financial capacity to repay the credit contract without undue hardship; and
- How to contact both our internal and external dispute resolution schemes if you have a complaint about us.

### Credit Assessment

If you ask us, we will provide you with a credit assessment. It will provide you with a summary of the information you gave us about your stated requirements and objectives and your financial position. It will also state the basis for our credit decision.

If requested, we will provide you with a written copy of the assessment before entering the contract or increasing the credit limit.

We will also provide you with a written copy of the credit assessment within 7 business days of your request if it is made within 2 years of the contract being formed. We will provide it within 21 business days if your request is received more than 2 years after the contract was formed.

We are not obliged to provide you with a copy of the credit assessment if we do not approve your credit contract application or your request is received more than 7 years from when the contract was formed or the credit limit increased.

You will not be charged for a copy of your assessment.

### Responsible Lending

Under the NCCP we have obligations to ensure the credit contract we offer you meets your requirements and objectives and that you have the financial capacity to repay without substantial hardship.

We must not enter into a contract with you, or increase your credit limit on an existing contract, if the credit contract is unsuitable and/or you are unlikely to meet the repayment obligations without financial hardship.

For example, if you can only repay by selling your principal place of residence, it is presumed that the loan will cause substantial hardship unless the contrary is proved. Accordingly, it is very important that the information you provide to us is accurate.

## **Dispute Resolution**

Our business is committed to excellent customer service and the resolution of any concerns or complaints quickly, fairly and efficiently. Our priority is to resolve these matters with you as quickly as possible.

If you have a concern or complaint, please lodge it with our internal dispute resolution scheme by phone, email or mail. The contact details are:

Telephone	<b>1300 138 831</b>
Email	<b>auswide@auswidebank.com.au</b>
Writing to us	<b>Head of Customer Operations Auswide Bank Ltd GPO Box 75 Brisbane QLD 4000</b>

Our staff will contact you to discuss your concerns and the outcome you want. We will then investigate your matter. We will provide you with a written response of the outcome if we cannot resolve your complaint or concern within one day of receiving it.

Should a complaint arise which we do not resolve to our mutual satisfaction, please be aware you can then lodge a complaint with our external dispute resolution service, the Australian Financial Complaints Authority (AFCA). AFCA is a free service which provides you with an independent mechanism to resolve any specific complaints or disputes you have with us which we cannot resolve together. They can be contacted by:

Online:	www.afca.org.au
Email:	info@afca.org.au
Phone:	1800 931 678 (free call)
Mail:	Australian Financial Complaints Authority GPO Box 3, Melbourne VIC 3001

## **Contacting Us**

For further information about this Credit Guide or if you have any questions or need more information, please contact us by:

Telephone	<b>1300 138 831</b>
Facsimile	<b>(07) 4152 3588</b>
Email	<b>contactcentre@auswidebank.com.au</b>
Website	<a href="http://www.auswidebank.com.au">www.auswidebank.com.au</a>
Writing to us	<b>Auswide Bank Ltd PO Box 1063 Bundaberg, Qld 4670</b>

Or by visiting one of our branches (see our website for location details)

# **General Terms and Conditions**

**Version 5.4 of October 2021**

## Part A – Loan terms

### 1. About these terms and conditions

- 1.1 These are the Auswide Bank General Terms and Conditions Version 5.4 incorporated into loan agreements referring to these terms and conditions. They form part of your *loan agreement*.
- 1.2 This document does not contain all the precontractual information required to be given to you. You must read this document together with the document that contains the Financial Table. The document which contains the Financial Table and these General Terms and Conditions together comprise your *loan agreement*.
- 1.3 Words in *italics* have a special meaning. These words are defined at the end of this document or in the document that contains the Financial Table.

### 2. Other documents you must read

You must read and comply with:

- (a) your *loan agreement* (which includes these General Terms and Conditions);
- (b) the Mortgage Common Provisions;
- (c) access methods, if applicable; and
- (d) any other conditions reasonably imposed by us.

Take particular notice of the things you must do and must not do with the *mortgaged property*, and when your payments are due. If you are unsure, please contact us.

### 3. When there is a binding legal contract between you and us

**NOTE: Until the *settlement date*, we have the right to change the terms of your *loan agreement* or to withdraw our offer to lend altogether.**

There is no binding legal contract between us until the *settlement date* or such earlier date as we decide. This means that until the *settlement date*:

- (a) you are not bound to go ahead; and
- (b) we have the right to change the terms of your *loan agreement* or to withdraw it altogether and decline to make an advance of funds to you if anything occurs which we reasonably believe makes proceeding with the loan undesirable. We are not obliged to make an advance of funds until all relevant conditions are fulfilled to our satisfaction. You may be liable for costs even if we decide not to proceed.

### 4. Joint borrowers

- 4.1 If there are two or more borrowers, each of you is individually liable, and all of you are jointly liable. This means that the Lender may take legal action against any one of you for all the outstanding amounts.
- 4.2 Each borrower can bind each other borrower. For example, any one of you can authorise a redraw or transaction on any offset account, a split into one or more loan accounts, or

any other activity in respect of your loan. Each borrower and any *guarantor* will be liable even if they did not know about or agree to the transaction.

- 4.3 Despite this clause 4, we may require all borrowers and *guarantors* to authorise any activity with respect to your loan.

**NOTE: This means that each of you can be required to pay the whole amount owing even if you have some other arrangement among yourselves or not all of you benefit equally. Any of you will be able to access the loan account using the access methods.**

## 5. Representations and warranties

You represent and warrant that all information you have given us regarding your financial and personal affairs, and any *mortgaged property*, is true and correct. You also represent and warrant that other than as disclosed to us in writing prior to the *settlement date*:

- (a) there are no unpaid rates or taxes owing in respect of the *mortgaged property*;
- (b) the *mortgaged property* will be occupied by you;
- (c) there are no notices or proposals from any government or other authority adversely affecting the *mortgaged property*;
- (d) there are no defects or disputes relating to the *mortgaged property*; and
- (e) there are no structural alterations or improvements on the *mortgaged property* which require approval by the council or any other authority which have not been approved.

## 6. What we can do with your loan account

- 6.1 We can debit your loan account with any amounts due under your *loan agreement*, such as interest and credit fees and charges, and any amounts lent to you or at your request. If you have more than one loan account, we can debit these amounts to any of your loan accounts.
- 6.2 If a third party makes a payment to you on our behalf, we can debit your loan account on the date that money is made available to you.
- 6.3 You may with our approval split your loan account into two or more accounts or switch account types. The following are examples of switches. Some or all of these options may not be available to you.
- Convert from a variable rate to a fixed rate and vice versa.
  - Consolidate one or more loan accounts.
  - Convert from interest only repayments to principal and interest repayments and vice versa.
  - Convert from one type of loan account to another type of loan account.
- 6.4 You may request a change prior to the initial drawdown, in which case the change takes effect from the *settlement date*. We have full discretion whether or not to approve any split or switch requested by you. Fees may be payable for any change to your *loan agreement* requested by you.

- 6.5 We may combine two or more loan accounts if they have identical repayment types, interest rates, fixed rate periods (if applicable), interest only periods (if applicable), and loan purposes.
- 6.6 If a new loan account is created, separate repayment dates and interest debit dates may apply to that new account. If your loan account is split into two or more accounts, or if you switch between types of interest rate, you may have to pay interest on the amount switched or split to the date on which the switch or split occurs.
- 6.7 If you switch from a fixed rate loan to a variable rate loan during the fixed rate period, fixed rate break costs and/or a complex variation fee may be payable if specified in the Financial Table (as varied from time to time).
- 6.8 Except in relation to any line of credit account, if you do not draw down the total *amount of credit* on the *loan date*, any borrowing of the balance is subject to our approval.

## **7. Payments you must make**

- 7.1 You must make all the payments and pay all the credit fees and charges specified in the Financial Table (as varied from time to time). In addition, on the *final repayment date*, you must pay us the *amount you owe us* in respect of all your loan accounts.
- 7.2 Payments will be credited to your loan account only when actually received by us. All payments must be made in full when they are due, without setting off or deducting any amounts you believe we owe you, and without counterclaiming any amounts from us.
- 7.3 You may with our approval make weekly or fortnightly repayments of the amount specified by us instead of making monthly repayments. If you want to make weekly or fortnightly repayments, please make appropriate arrangements with us.
- 7.4 Payments are to be made by direct debit or by any other reasonable method we direct. You must sign a direct debit authority to authorise us to debit one of your bank accounts and you must keep that account open. You authorise us to obtain any money due under your *loan agreement* by using the direct debit authority. If an attempted direct debit fails, we may make reasonable further attempts to direct debit your account until the direct debit is successful.
- 7.5 The amount of each payment may include any applicable direct debit fees, taxes or charges relating to the payment method.
- 7.6 If any payment is due on a day which is not a *business day*, the payment must be made on or before the next *business day*.
- 7.7 If any payment is dishonoured, the payment will be treated as not having been made, and interest will continue to accrue on the unpaid daily balance until actual payment is received by us.
- 7.8 The *amount you owe us* must be repaid within 180 days from the date you die (or if there is more than one borrower, the last borrower dies) unless other arrangements are made for the continuation of the loan to our satisfaction. We will discuss this with your executor or beneficiaries and seek to agree a mutually acceptable solution.
- 7.9 If you are required by law to deduct any amount from a payment due to us, unless we can receive a credit or rebate for that deduction, you must make an additional payment so that the amount we receive is not reduced.

## **8. How your payments are credited**

- 8.1 We can apply any payment or other credit to any part of the *amount you owe us* in any order we determine.
- 8.2 If you have more than one account with us, and you make a payment without telling us in writing how the payment is to be applied, we can apply it to any one or more of the accounts in any way we think fit.
- 8.3 If any of your loan accounts are in arrears while one or more of your other loan accounts or other accounts with us have funds available to be drawn, you authorise us to appropriate from any one or more of those accounts to pay some or all of your arrears. We are not obliged to do this.

## **9. Interest**

- 9.1 You must pay us interest on all amounts debited to your loan account from the date the amount is debited. Interest debited to your loan account forms part of the *amount you owe us*.
- 9.2 For term loans, if your *settlement date* falls on the 1<sup>st</sup> to 28<sup>th</sup> day of a month, interest charges are debited on the day that is one month after the date of the *settlement date* and monthly on the same day each month thereafter. If your *settlement date* is the 29<sup>th</sup>, 30<sup>th</sup> or 31<sup>st</sup> day of the month, interest charges are debited on the 28<sup>th</sup> day of the month following the *settlement date* and on the 28<sup>th</sup> day of each month thereafter. For example, if your *settlement date* is the 30<sup>th</sup> January, interest charges are debited on the 28<sup>th</sup> February, 28<sup>th</sup> March, 28<sup>th</sup> April and so on.
- 9.3 For line of credit accounts, interest charges are debited to your loan account monthly on the 28<sup>th</sup> day of the month.
- 9.4 If interest is due to be debited on a day which is not a *business day*, interest charges will be debited on the next *business day*.
- 9.5 If a fixed rate period or interest only period ends on a day which is not a *business day*, your fixed rate or interest only period may end on the next *business day*.
- 9.6 In addition to debiting interest to your loan account as specified above, we may debit interest whenever the loan is in default, the whole of the *amount you owe us* is repaid, or we increase your *amount of credit* or vary your *loan agreement*.
- 9.7 Interest charges are calculated by applying the interest rate to the unpaid balance owing to us at the end of each day. The end of each day for calculating interest charges is 5.00 pm Eastern Standard Time. The interest rate applied each day is equal to the annual percentage rate applicable to the loan at the time divided by 365.
- 9.8 Interest accrues on a daily basis from the day we disburse money at your request to make the first advance. This applies whether or not any real estate transaction to which the advance relates (such as a refinance or purchase) occurs on that day.
- 9.9 If more than one interest rate applies to your loan, we will apply the applicable daily percentage rate to the relevant loan account.
- 9.10 You can find out your current interest rates at any time by contacting us. We can change your interest rate(s) at any time except during a fixed rate period.
- 9.11 If you become liable by a court order to pay any money due under your *loan agreement*, you must pay interest at the higher of the rate ordered by the court or the rate payable under your *loan agreement*.

## 10. Additional payments and repaying your loan early

**NOTE: You may have to pay fees if you repay your loan early. Significant fees (called 'break costs') may be payable if you repay all or part of a fixed rate loan early.**

10.1 You may make additional payments or repay your loan in full at any time. If you do:

- (a) fees may be payable if specified in the Financial Table (as varied from time to time), including fixed rate break costs if you repay your loan during a fixed rate period;
- (b) repayments greater than your scheduled repayment will not be credited to any offset account unless you specifically request so before making the payment; and
- (c) you may be able to redraw any excess repayments.

10.2 If you inform us that you propose to repay your loan in full, we may place a stop on all further debits to your loan account to enable us to provide you with a payout figure.

## 11. About fixed rate break costs

When a lender agrees to lend money to a borrower for a fixed rate period, the lender may enter into financial arrangements to enable it to do so. If the loan is repaid or otherwise terminated before the end of the fixed rate period, the lender may still incur costs under those financial arrangements. Lenders normally pass on these costs (commonly known as 'break costs') to borrowers. Break costs are payable irrespective of whether the lender has entered into specific financial arrangements to fund the loan, and may be calculated by reference to retail interest rates (ie the rate at which lenders can lend money on similar terms) or wholesale interest rates (ie the rate at which lenders obtain funding).

### Example

The lender lends \$200,000 to you at 9% per annum for a fixed rate period of three years. The lender enters financial arrangements to fund this loan at 8% per annum (the market rate). You decide to repay the loan early at the end of one year. The market rate has reduced to 5% per annum. The break costs will be an assessment of the cost or loss to the lender as a result of the early repayment.

Using the above figures, the lender could calculate the loss by multiplying the amount repaid early (\$200,000) by the difference in interest rates (3%) for the period starting from the date of repayment to the end of the fixed rate term (2 years) =  $\$200,000 \times 3/100 \times 2 = \$12,000$ . The amount you would have to pay will be slightly less than \$12,000 because the lender is receiving the money at the time of the early repayment rather than over the remaining fixed rate period.

This is an example only to assist your understanding of break costs. We may use various funding techniques, but the underlying principle holds true (even if the formula applied each time is different). Break costs may be payable even if there is no matching borrowing by us.

**NOTE: If a fixed rate loan or any part of it is terminated early, break costs could be substantial, particularly if market interest rates have reduced during the fixed rate period. Ask us for an estimate of break costs before you arrange to repay a fixed rate loan early.**

There are a number of ways we may calculate break costs. We will act reasonably when calculating the break costs that are payable by you and will charge no more than a reasonable estimate of our loss arising from the early repayment plus our average reasonable administrative costs. Because of the changes that occur over time in financial markets, it is not possible to state the method of calculating break costs at the *disclosure date*.

## 12. About your redraw facility

This clause 12 applies if your loan has a redraw facility.

**NOTE: We can change, suspend or cancel your redraw facility at any time.**

- 12.1 We will tell you if redraw facilities are available. Redraws will be processed as we decide from time to time. If you request a redraw, we have full discretion whether or not to approve your request.
- 12.2 We may change, suspend or cancel the redraw facility at any time. We will tell you if we do any of these things.
- 12.3 Any redraw will be made from the loan account specified by you, or if no loan account is specified, the loan account determined by us.
- 12.4 Subject to this clause 12, if you have made extra payments above your minimum repayment amount, you may redraw up to the *scheduled balance* provided:
- (a) you have not defaulted under your *loan agreement*;
  - (b) your redraw facility has not been suspended or cancelled by us;
  - (c) no further charge or security interest has been granted over any of the *security*; and
  - (d) no other restrictions are set out in your *loan agreement*.
- 12.5 The amount available for redraw is the *scheduled balance* less the *amount you owe us*. Because the *scheduled balance* reduces over the term of your loan (except during any interest only period), the amount available for redraw will also reduce over the term of your loan.
- 12.6 The amount you redraw must not be less than the minimum amount specified by us from time to time. We may reduce the amount you can redraw by the estimated amount of your next scheduled repayment.
- 12.7 You must make sure that you do not draw more than the amount available for redraw. If you do draw more than that amount, you must repay the excess immediately, and we may charge default interest on that amount until it is repaid.
- 12.8 You must keep the method of making redraws from your loan accounts (including any offset account) confidential to ensure that there are no unauthorised transactions or other dealings with your loan accounts.
- 12.9 You can obtain a redraw:
- (a) if internet banking is available for your loan, by using internet banking in accordance with our internet banking terms and conditions;

- (b) if telephone banking is available for your loan, by using telephone banking in accordance with our telephone banking terms and conditions; or
- (c) by any other method we approve from time to time.

- 12.10 If you make your request for redraw manually, you should allow at least two *business days* for your redraw to be processed.
- 12.11 If you attempt to redraw more than the amount available for redraw, we may (but are not obliged to) stop or prevent the payment.
- 12.12 If you credit your salary to your loan account, and you have insufficient undrawn funds to cover your repayment when it is due, you will need to deposit further funds to your loan account to cover your repayment. We may also withhold funds and make them unavailable for redraw in order to apply them to your next payment.
- 12.13 If you request a redraw, and for that loan account your existing repayments are not sufficient to repay the amount owing under that loan account over the remaining term, we may recalculate your future repayments for that loan account.

### 13. About your offset facility

For the purposes of this clause 13, your offset account is any deposit, savings, or transaction account linked to a nominated loan account as described in this clause 13.

**NOTE: We can change, suspend or cancel your offset facility at any time. We may debit your offset account with any money due to us under any account you have with us.**

- 13.1 We will tell you if offset facilities are available. We may change, suspend or cancel the offset facility at any time.
- 13.2 We do not make any representations about the tax effectiveness of any offset account.
- 13.3 Each offset account must be linked to a separate nominated loan account.
- 13.4 Interest payable on each loan account linked to your offset account will be calculated on the daily balance of that loan account less the balance in the linked offset account.
- 13.5 You must ensure that the balance of any offset account does not exceed the amount owing under the linked loan account at any time. If the balance of your offset account exceeds the amount owing under the linked loan account, we may send the excess funds back to you, or apply them towards another one of your loan accounts.
- 13.6 No interest is payable on your offset account(s) even if the balance exceeds the amount owing under your linked loan account.
- 13.7 You may withdraw funds from your offset account in the same way as for redraw as set out in clause 12.
- 13.8 You must make sure that you do not allow your offset account to be overdrawn. If your offset account is overdrawn, you must repay the excess immediately, and we may charge default interest on that amount until it is repaid.
- 13.9 We may debit your offset account with any money due to us under any other loan account or other account you have with us.

#### 14. Paying third parties by direct debit

With our approval, you can arrange for third parties to have a right to debit any of your offset or line of credit accounts. Once set up, any request by a third party for payment under a direct debit authority will be treated as having been properly authorised by you. We can cancel this arrangement at any time, and we are not liable to you or anyone else if a payment is not made for any reason. Any arrangement must be confirmed before the *settlement date* and may not be available after the *settlement date* without our approval. We may impose an additional fee for any arrangement requested after the *settlement date*. We are not liable for any loss or damage if payment is not made under a third party payment arrangement.

#### 15. Changes we can make to your *loan agreement*

**NOTE: We can make changes to your *loan agreement* at any time (except interest rate changes during a fixed rate period). In making any changes, we will act reasonably. We will endeavour to give you reasonable notice of changes, but we reserve the right to make immediate changes to interest rates.**

15.1 Acting reasonably, we can change or vary any term of your *loan agreement*:

- (a) that deals with the pricing of your loan (including your interest rate and credit fees and charges, but subject to any specific agreement such as a fixed rate period);
- (b) that deals with the day you make repayments or we debit interest to your loan account;
- (c) to accommodate a change in law or market practice;
- (d) to accommodate a change in technology or other ways of communication;
- (e) to accommodate a change in payment methods; or
- (f) to make any other reasonable change.

15.2 If you are not satisfied with any material change or variation to your *loan agreement* (excluding changes to interest rates and repayments under a variable rate loan), you may repay your loan in accordance with clause 10, but we will not charge you any fees for terminating your *loan agreement* except our reasonable third party costs incurred in discharging any *security* and finalising your loan account and, if a fixed interest rate applies, our reasonable break costs.

15.3 We will give you:

- (a) not less than 30 days notice of a change to the manner in which interest is calculated or applied;
- (b) notice of a change to the interest rate(s) applicable to your loan not later than the day on which the change takes effect;
- (c) not less than 20 days notice of a change to the amount or frequency of your repayments;
- (d) not less than 20 days notice of a change to the fees and charges payable;
- (e) notice of a change to any government charge or tax not later than the day on which the change takes effect; and

(f) not less than 30 days notice of any other change we make to your *loan agreement*.

- 15.4 We may give you a shorter notice period or no notice if the change is not adverse to you or reduces your obligations. We will give you notice either in writing or by advertisement in a major newspaper or by electronic means. If notified by newspaper, the change will also be confirmed in your next statement of account. Any variation will take effect from the date specified in the notice of change we give you.

## 16. Statements of account

If you have a line of credit account, we will issue monthly statements to you. Otherwise, for all other loan accounts, statements of account will be sent to you at least once every six months or more frequently if required by law. We may not send account statements if not required by law.

## Part B – Construction loans

This part only applies to loans made to assist in the construction of building works.

## 17. About your construction loan

**NOTE: If you have a construction loan, we may suspend, reduce or cancel progress payments. For example, we can refuse to make any further advances if anything happens which adversely affects the value of the *mortgaged property* or if the works are not proceeding satisfactorily.**

- 17.1 No building works may be commenced on the *mortgaged property* without our prior written consent (which will not be unreasonably withheld). You must commence and complete construction within the timeframe, if any, specified in your *loan agreement*. You must complete the building works expeditiously in accordance with the best skills and practices to our satisfaction, with plans and specifications approved by us, and with the requirements of any responsible authority (such as a local council).
- 17.2 The *amount of credit* will be advanced progressively as and when we see fit to assist in the construction of building works.
- 17.3 We may suspend, reduce or cancel any progress payment, and in particular can refuse to make any further advances if anything happens which in our reasonable opinion adversely affects the value of the *mortgaged property* or if the works are not proceeding satisfactorily.
- 17.4 Generally, all progress payments will be made directly to the builder or service provider.
- 17.5 If total construction costs are less than the amount we agree to lend you for construction, we may reduce the amount we lend you accordingly.
- 17.6 If the insurer who has provided lenders mortgage insurance (or the provider of any other type of risk cover in respect of your loan) cancels, suspends or limits that insurance or cover, and that decision materially impacts our credit or security risk, we may demand repayment of the whole or any part of the *amount you owe us* on not less than 90 days notice,
- 17.7 If you overrun the approved planned expenditure, we may require you to fund the overrun from your own funds before we approve your next drawdown request.
- 17.8 We may not make progress payments for supplies until they are installed or permanently affixed to the *mortgaged property*.

17.9 Any variations to the building works must be funded by you unless we agree otherwise in writing.

## **18. Your obligations in relation to construction**

18.1 Before we make any progress payment under your *loan agreement*, we may require you to give us the following documents in a form and substance acceptable to us.

- (a) A copy of the building contract, including all variations, between you and the builder in relation to construction, with a completion date of no later than the completion date specified in your *loan agreement* and with a licensed builder acceptable to us.
- (b) A copy of the plans and specifications approved by the relevant authority in relation to construction.
- (c) Home owners warranty insurance (where applicable).
- (d) A builders all risk insurance policy and a certificate of currency for that policy.
- (e) An identification survey report completed by a licensed land surveyor.
- (f) A progress payment authority signed by you.
- (g) Any other document or evidence we reasonably require.

You are still liable under your *loan agreement* if we make any progress payment without requiring any of these things.

18.2 You must also:

- (a) as soon as the building works are complete provide to us:
  - (i) a general insurance policy noting our interest as mortgagee. The policy must include cover for appropriate insurance, evidenced by a copy of the certificate of currency (a cover note is not acceptable), and be otherwise on terms acceptable to us; and
  - (ii) a final certificate from the local council or other responsible authority confirming that building works have been completed in accordance with all relevant requirements;
- (b) ensure that the agreed drawdown schedule is observed and that there are always sufficient undrawn funds under the loan to complete construction;
- (c) promptly comply with any condition we impose in relation to any progress payment or the building works; and
- (d) not vary or terminate the building contract without our prior written consent (which will not be unreasonably withheld).

We accept no responsibility in respect of the building works irrespective of whether we conduct any inspections, make any comments or requirements, or make any progress payments. You must satisfy yourself that the building works are properly carried out.

## **Part C – Line of credit facility**

This part only applies to loans that include a line of credit facility.

## 19. About your line of credit facility

**NOTE: We can change, suspend or cancel your line of credit facility at any time.**

- 19.1 At any time on not less than 90 days' notice, we may convert the line of credit facility to a term loan under which you must make regular monthly principal and interest repayments.
- 19.2 We may change, suspend or cancel the line of credit facility including reduce your credit limit) at any time without your consent.
- 19.3 If we:
- (a) reduce your credit limit, you must repay any amount owing in excess of the new credit limit; or
  - (b) cancel your line of credit facility, you must repay the amount owing under your line of credit account,
- within 90 days of the date we give notice to you (or such longer period we specify in the notice). We may require immediate repayment or repayment within a shorter period if there is an *event of default* or if we consider it reasonably necessary. If you ask us, we will discuss other repayment regimes that may better suit you, but we are not obliged to agree to any alternate arrangements.
- 19.4 We are not liable for any loss suffered by you or anyone else as a result of us changing, suspending or cancelling the line of credit facility.
- 19.5 We calculate your available funds limit on each day by deducting from your credit limit:
- (a) the amount owing under your line of credit account;
  - (b) any withdrawal amounts or other proposed payments on your line of credit account for which we have received instructions, but which have not yet been debited to the account (not including future periodical payments); and
  - (c) the amount of any payments which have been credited to your line of credit account, but which have not cleared yet.
- 19.6 You must ensure that you do not exceed your credit limit. If you exceed your credit limit without our written consent, the amount by which you have exceeded the credit limit must be repaid immediately, and we may charge default interest on that amount until it is repaid.
- 19.7 If a transaction would cause the balance of your line of credit account to exceed your credit limit, we may, without notice, decline, stop or reverse the transaction. If for some reason we allow the balance of your line of credit account to exceed your credit limit, it does not mean we are increasing your credit limit.
- 19.8 If we consent to you exceeding your credit limit, we may impose one or more of the following conditions:
- (a) that the amount by which you have exceeded your credit limit be repaid within a certain period; or
  - (b) that payments made to your line of credit account are first applied by us to the excess amount and any interest charged on that amount.

- 19.9 We have the right to decline any transaction if we are uncertain for any reason of the authenticity or validity of the authorisation. We will not be liable to you or any other person for any loss or damage which you or such other person may suffer as a result of our action.

## Part D – Default

**NOTE: The events which may cause you to default under your loan are listed below. You may default under your loan even if you have made all your payments. If you do not make any payment by the due date, you must pay default interest on the overdue amount until it is paid. If you default, you may lose your property.**

### 20. Default interest

- 20.1 Acting reasonably, we may change the default rate of interest at any time without your consent. You will be notified of any changes in the default rate in the same way any variations to the interest rate are notified to you.
- 20.2 If any amount due by you is not paid on the due date, you must pay default interest on the overdue amount until it is paid. You will also be liable for any default fees specified in the Financial Table (as varied from time to time).
- 20.3 Default interest is also payable:
- (a) on the whole of the *amount you owe us* if that amount becomes due for any reason; and
  - (b) on any amount owing because the balance of your loan account exceeds the *scheduled balance* or because you have exceeded the credit limit of your line of credit account,
- until those amounts are paid.
- 20.4 Default interest is calculated, accrues, is debited and is payable in the same way as ordinary interest.

### 21. Consequences of a breach of any term

If you breach any term of your *loan agreement* or any *other agreement*, if an *event of default* occurs, or if any *security* or guarantee is terminated or is of reduced force and effect:

- (a) we will not be obliged to lend you any more money and we can stop any redraws or withdrawals from your offset account; and
- (b) we may rectify the breach or *event of default* by performing your obligations under your *loan agreement* or any *other agreement*.

### 22. Notification of event of default

Without limiting our rights under your *loan agreement* in any way, you must promptly inform us in writing if any *event of default* occurs.

### 23. Monetary events of default

A monetary *event of default* is an *event of default* that occurs as a result of your failure to make a payment. Each of the following is a monetary *event of default*.

- (a) you do not pay any money due to us under your *loan agreement* or any *other agreement* by the due date for payment; or
- (b) you do not pay any amount exceeding \$50,000 to any person other than us by the due date for payment.

**24. Non-monetary events of default**

A non-monetary *event of default* is an *event of default* that occurs even if you have made all your payments. Each of the following is a non-monetary *event of default*:

- (a) if you are an individual:
  - (i) you become bankrupt;
  - (ii) you are unable to pay your debts as they fall due; or
  - (iii) you make any arrangement with your creditors;
- (b) if you or a *guarantor* are a company:
  - (i) proceedings are commenced to wind up the company;
  - (ii) a receiver, manager, receiver and manager, administrator, controller, provisional liquidator or liquidator is appointed to the company or any part of *the company's* assets; or
  - (iii) the company is, or is deemed or presumed by law or a court to be, insolvent;
- (c) you or a *guarantor* no longer have legal capacity;
- (d) enforcement proceedings are taken against you or a *guarantor*, or your or their assets, by another creditor;
- (e) early repayment is required under any *other agreement*, or default based action is taken against you or a *guarantor* by us, in each case due to a non-monetary *event of default* of the kind described in this clause 24;
- (f) we reasonably believe that you or a *guarantor* have not complied with the law or any requirement of any competent authority, and such non-compliance has or may have a material adverse effect on the assets of you or a *guarantor* or any business conducted by you or a *guarantor*;
- (g) it becomes unlawful for you or us to continue with your *loan agreement* or any *other agreement*;
- (h) you or a *guarantor* give us information, or make a representation or warranty to us, that is materially incorrect or misleading (including by omission), and is such that we would not have provided the loan, or would only have provided the loan on different terms, if we had known the correct information;
- (i) you use the loan for a purpose not approved by us;
- (j) you use the loan for an illegal or improper purpose, or to finance an illegal or improper activity;

- (k) the assets of you or a *guarantor* are dealt with, or attempted to be dealt with, in breach of the terms of your *loan agreement* or any *other agreement* without our prior written consent (which will not be unreasonably withheld), including:
  - (i) any of the *mortgaged property* becomes subject to a mortgage or charge without a priority agreement being in place between us and the other security holder on terms acceptable to us, acting reasonably;
  - (ii) any of the *mortgaged property* becomes subject to a mortgage or charge without our prior written consent, which will not be unreasonably withheld; or
  - (iii) the amount secured by any mortgage or charge over the *mortgaged property* is increased without our prior written consent, which will not be unreasonably withheld;
- (l) you or a *guarantor* do not provide financial information required by any agreement with us;
- (m) you or a *guarantor* do not maintain a licence or permit necessary to conduct any business conducted by you or a *guarantor*;
- (n) you or a *guarantor* do not maintain insurance required by any agreement with us;
- (o) legal or beneficial ownership, or management control, of you or a *guarantor*, or your or their business, changes without our prior written consent, which will not be unreasonably withheld;
- (p) without our prior written consent (which will not be unreasonably withheld), the status, capacity or composition of you or a *guarantor* changes, including:
  - (i) you or a *guarantor* cease to carry on all or a material part of your or their business, or dispose of all or a material part of your or their assets; or
  - (ii) if you or a *guarantor* are an individual, you or a *guarantor* are sentenced to jail for a term of longer than 12 months;
- (q) the *mortgaged property* is:
  - (i) substantially damaged or destroyed, and we consider in our reasonable opinion that the *mortgaged property* cannot be expected to be reinstated within a reasonable time and without material loss of any material income from the *mortgaged property*; or
  - (ii) taken out of your control;
- (r) there is a material reduction in the value of the *mortgaged property*;
- (s) you, or any person on behalf of you, breach any material undertaking given to us or any condition imposed by us;
- (t) any repairs necessary to keep the *mortgaged property* in good repair are not made in a timely fashion;
- (u) any amount required to be paid in connection with the *mortgaged property* (including council rates, water rates, land tax or shared title contributions) is not paid within 90 days of the due date; or

- (v) any other event agreed in writing by you to be an *event of default* for the purposes of your *loan agreement* occurs.

**25. What we can do if an *event of default* occurs**

25.1 Subject to clauses 25.2 to 25.6 inclusive, at any time after an *event of default* occurs, we can take any of the following actions.

- (a) Demand and require immediate payment of any money due under your *loan agreement*.
- (b) Call up the loan and require payment of the *amount you owe us*.
- (c) Exercise any right, power or privilege conferred by law, your *loan agreement*, or any *security*.
- (d) In the case of a construction loan, complete the building works in any way we consider appropriate. We are not obliged to complete the building works. We may change the plans and specifications. We may employ any consultants or other builders we consider appropriate.

25.2 We will only act on a non-monetary *event of default* if the event by its nature is material, or we reasonably consider that the event has had, or is likely to have, a material impact on:

- (a) the ability of you or a *guarantor* to meet your or their financial obligations to us (or our ability to assess this);
- (b) our security risk (or our ability to assess this); or
- (c) our legal or reputational risk where an event in clause 24(f), 24(g), 24(h) or 24(i) occurs.

25.3 We will not:

- (a) require you to repay the *amount you owe us*;
- (b) take enforcement action against you; or
- (c) enforce any *security* held to secure repayment of yours loan,

unless:

- (d) we have given you at least 30 days written notice of the *event of default*;
- (e) if the *event of default* is remediable, you have not remedied that *event of default* within 30 days; and
- (f) no *event of default* of the same type has arisen during that period.

25.4 We do not need to give you notice to repay an overdraft or on-demand facility.

25.5 If your loan is **not** regulated by the National Credit Code, we may give you less than 30 days notice or no notice if:

- (a) the *event of default* is unable to be remedied;

- (b) it is reasonable for us to do so to manage a material and immediate risk relating to the nature of the relevant *event of default*, your particular circumstances, or the value of the *mortgaged property* or any *security*; or
  - (c) we have already given you a notice to remedy a non-monetary *event of default* and you have not remedied that *event of default*.
- 25.6 If your loan is regulated by the National Credit Code, we do not need to give you a default notice or wait 30 days before commencing enforcement action if:
- (a) we reasonably believe that we were induced by fraud by you or a *guarantor* to enter into your *loan agreement*;
  - (b) we have made reasonable attempts to locate you or a *guarantor* but without success;
  - (c) a court authorises us to begin enforcement proceedings; or
  - (d) we reasonably believe that you or a *guarantor* have removed or disposed of the *mortgaged property*, or that urgent action is necessary to protect the *mortgaged property*.
- 25.7 We can take action even if we do not do so promptly after the *event of default* occurs. We do not lose any rights or forgive any *event of default* unless we do so in writing.
- 25.8 We can exercise these rights with or without taking possession of any *mortgaged property*. If we hold more than one *security*, we can enforce any one of the securities first or all of them at the same time.
- 25.9 Our rights and remedies under your *loan agreement* may be exercised by any of our employees or any other person we authorise.
- 25.10 We are not liable for any loss caused by the exercise, attempted exercise, failure to exercise, or delay in exercising any of our rights or remedies, except where such loss arises from the mistake, error, fraud, negligence or wilful misconduct of us, our employees, our agents or a receiver we appoint.

## 26. Enforcement expenses

**NOTE: If you default under your loan, enforcement expenses may be payable. This means that you may have to pay any of our reasonable costs incurred in maintaining the *mortgaged property*, collection expenses, and any other internal or external costs we incur as a result of your default.**

- 26.1 Enforcement expenses may become payable under your *loan agreement* and any *security* if you breach your *loan agreement* or an *event of default* occurs. We may debit your loan account with our enforcement expenses at any time after they are incurred, and may then require you to pay these costs immediately (including by using any direct debit or similar authority you have given us), collect them with your regular repayments, or require them to be repaid by one or more repayments.
- 26.2 If your loan is regulated by the National Credit Code or similar laws, enforcement expenses payable by you will not exceed our reasonable enforcement costs (including internal costs).
- 26.3 Enforcement expenses include our expenses incurred in preserving or maintaining the *mortgaged property* (including insurance, rates and taxes payable in respect of the *mortgaged property*), collection expenses, expenses resulting from dishonour of a

payment, and any internal or external costs we incur as a result of you breaching your *loan agreement* or any *other agreement* or an *event of default* occurring (including legal costs and expenses on a full indemnity basis or solicitor and own client basis, whichever is higher).

- 26.4 You indemnify us from and against any expense, loss, loss of profit, damage, or liability which we incur as a consequence of a breach of your *loan agreement* or an *event of default* occurring, except where such loss arises from the mistake, error, fraud, negligence or wilful misconduct of us, our employees, our agents or a receiver we appoint, or is otherwise recovered by us.

## **Part E – General provisions**

### **27. Government charges**

- 27.1 You must pay us any government duties, taxes, and other charges on receipts, debits or withdrawals that apply to your loan. This includes (but is not limited to):

- (a) stamp duty;
- (b) income tax payable by you (if the Commissioner of Taxation requires us to deduct this from your loan account);
- (c) withholding tax; and
- (d) goods and services tax (GST).

- 27.2 You must pay these duties, taxes and charges whether or not someone else is liable to pay them and whether or not the loan is made. We may debit these duties, taxes and charges to your loan account as and when they become payable. We do not need to tell you first.

### **28. Disclosures to *guarantors***

We may disclose the following documents to each *guarantor*:

- (a) a copy of any notice, including correspondence, to us or to you;
- (b) any credit report received in relation to you;
- (c) any financial statements you have given us;
- (d) any notice of demand, or information regarding a dishonour, on any loan with us;
- (e) information on any excess or overdrawing;
- (f) a copy of your statement of account; and
- (g) any other information about you and your loan accounts with us.

### **29. Providing financial statements**

Within 14 days of our request, you must provide to us any information we require relating to your business, assets and financial affairs. For example, if you are an individual, we may require a copy of your taxation return or an assets and liability statement. In relation to a company, we may require a balance sheet, a profit and loss statement, or both. We may require this information to be certified or audited.

### **30. Additional repayment triggers**

- 30.1 The *amount you owe us* may become payable if we reasonably believe that continuing with your *loan agreement* would cause us to breach an applicable law or would represent an unacceptable level of risk for us because:
- (a) we reasonably believe that you have migrated to a country that we determine is 'high risk' given our obligations under anti-money laundering and counter-terrorism laws in respect of the services we provide;
  - (b) you fail to provide any information or document to us that we have requested for the purpose of our compliance with applicable laws (including any details necessary for us to verify your nationality in accordance with anti-money laundering and counter-terrorism laws); or
  - (c) we reasonably believe that you are 'high risk' given our obligations under anti-money laundering and counter-terrorism laws.
- 30.2 If any of the events in clause 30.1 occur, we will endeavour to give you not less than 90 days notice to repay the *amount you owe us*.

### **31. Breaches of laws**

We may delay, block, freeze or refuse a transaction from your loan account if we have reasonable grounds to believe that the transaction breaches Australian law or sanctions (or the law or sanctions of any other country). Where transactions are delayed, blocked, frozen or refused, we are not liable to any loss you suffer in connection with your use of your loan account.

### **32. If your loan account has a credit balance**

If you repay us more than the *amount you owe us*, we may place the excess funds into a suspense account, deposit it with a bank, or pay it to you. We may not pay you interest on that amount.

### **33. Valuations of the *mortgaged property***

- 33.1 We may obtain valuations or other reports concerning the *mortgaged property* whenever and as often as we decide. You must assist this process by providing access to and information about the *mortgaged property* when requested by us.
- 33.2 Our processes in relation to external expert valuations will be fair and transparent. Our communication will be clear and we will explain the purpose of the valuation to you.
- 33.3 We accept no responsibility if you rely on these valuations. You should obtain your own valuations of the *mortgaged property*.

### **34. Governing law**

- 34.1 Your *loan agreement* is usually governed by the laws of the Australian state or territory in which you reside. If there are two or more borrowers, and each of you reside in the same Australian state or territory when your *loan agreement* is entered into, your *loan agreement* is governed by the laws of that state or territory. If there are two or more borrowers who reside in different states or territories, your *loan agreement* is governed by the laws of the Australian state or territory in which the Lender first provides the loan.
- 34.2 You submit to the jurisdiction of the courts of the Australian state or territory whose laws apply to your *loan agreement* and the proper jurisdiction of any other court.

**35. How we can deal with your *loan agreement***

**NOTE: We may disclose information about you to any third party involved in an actual or proposed assignment or dealing by us, and that disclosure may be in a form that may enable that third party to identify you.**

- 35.1 We may at any time assign, novate or otherwise deal with our rights and obligations under your *loan agreement*, any *security*, and any document or agreement entered into or provided under or in connection with your *loan agreement* in any way we wish. You must sign anything and do anything we reasonably require to enable any dealing with your *loan agreement*, any *security*, and any document or agreement entered into or provided under or in connection with your *loan agreement*. Any dealing with our rights does not change your obligations under your *loan agreement* in any way.
- 35.2 You may not assign, novate, or otherwise deal with your rights or obligations under your *loan agreement*, any *security*, and any document or agreement entered into or provided under or in connection with your *loan agreement*.
- 35.3 We may disclose information about you, your *loan agreement*, or any *security* to anybody involved in an actual or proposed assignment, novation or dealing by us with our rights under your *loan agreement*.

**36. Applicable laws**

- 36.1 To the extent that your loan agreement is regulated under consumer legislation (such as the National Credit Code) or any other law, any provisions in your loan agreement which do not comply with that law have no effect, and to the extent necessary, your loan agreement is to be read so it does not impose obligations prohibited by that law.
- 36.2 If any provision of your loan agreement is illegal or becomes illegal at any time, the affected provision will cease to have effect, but the balance of your loan agreement will remain in full force and effect, and we may by notice vary your loan agreement so that the provision is no longer illegal.

**37. If you are a trustee**

If you are at any time trustee of any trust, you are liable under your *loan agreement* in your own right and as trustee of the trust. Accordingly, we can recover against the trust assets as well as you. An *event of default* occurs if there is a change of trustee, a termination of the trust, or any material change to the terms of the trust without our prior written consent, which will not be unreasonably withheld. You must comply with your obligations as trustee of the trust.

**38. Changes to your contact details**

You must tell us promptly if your contact details change (including any residential, postal or electronic address, or your phone number) or if you think there is any information that we should be aware of about your ability to comply with your *loan agreement*.

**39. How we can give you notices or other documents in connection with your loan**

- 39.1 Subject to any applicable laws, we may give you any notice, statement, demand, court document (including any collection notice, default notice, court originating process or other court document) or other document connected to your *loan agreement* or any mortgage given under your *loan agreement* by:
- (a) giving it to you personally;

- (b) leaving it at or posting it to your residential or business address last known to us;
- (c) electronic means to your electronic address last known to us; or
- (d) any other means permitted by law.

39.2 Subject to any applicable laws, you consent to any notice, statement, demand, court document or other document connected to your *loan agreement* or any mortgage given under your *loan agreement* being given to you by electronic means, including any documents that would otherwise require personal service in accordance with the relevant court rules in force in the jurisdiction in which the *mortgaged property* is located.

39.3 Any notice, statement, demand, court document or other document given by us to you will be taken to have been served:

- (a) if posted, when it would have been delivered in the ordinary course of post;
- (b) if sent electronically, on conclusion of transmission.

39.4 Any notice, statement, demand, court document or other document may be signed by any employee, solicitor or agent on our behalf.

#### 40. Lenders mortgage insurance or lenders risk fees

**NOTE: If we require you to pay for lenders mortgage insurance or a risk fee, this insurance or fee protects us and not you. If you default under your mortgage and the *mortgaged property* is then sold, and the sale proceeds are insufficient to fully repay the *amount you owe us*, you are still responsible for repaying the balance outstanding under the mortgage.**

40.1 If your *loan agreement* requires you to pay for lenders mortgage insurance or pay a lenders risk fee, this insurance or fee protects us and not you. The amount paid by you under your *loan agreement* is usually not refundable if you repay your loan early.

40.2 If you default under your mortgage, resulting in the sale of the *mortgaged property*, and the sale proceeds are insufficient to fully repay the *amount you owe us*, the Lender may incur a loss. We may recover this loss under its lenders mortgage insurance policy or from its lenders risk fee. However, you are still legally responsible for repaying the amount outstanding under the mortgage because you are not protected by the lenders mortgage insurance policy or any other type of risk cover.

#### 41. If the Lender is a trustee

If we are at any time trustee or custodian of any trust, our liability is limited to the assets of that trust which are available to us to enable us to satisfy that liability.

#### 42. Identification information

On request by us, you must provide us with any information we require about you or anyone authorised to operate your loan account, and if you are a company or trustee, information about beneficial owners of you.

#### 43. If there is a trustee in bankruptcy or liquidator

If a trustee in bankruptcy or liquidator is appointed to you, they may ask us to refund a payment we have received in relation to your loan. To the extent we are obliged to or

agree to make a refund, we may treat the original payment as if it had not been made except for the purpose of calculating interest payable by you.

## Part G – Account access methods

This part sets out how you can access your account. For further details, refer to the Guide to Banking Services.

### 44. How can you access your account

44.1 We may from time to time offer you access to your loan account by the following access methods:

- (a) card;
- (b) internet (including through the use of an app);
- (c) telephone;
- (d) BPAY®; and
- (e) a cheque book.

These are known as *access methods*. Some or all of the *access methods* may not always be available. You can contact us to check their availability.

44.2 We may provide you with *access codes*, including a personal identification number (PIN), user ID or password, to access the *access methods*. We may cancel or suspend an *access code* at any time without notice if we reasonably believe its use may result in loss to you or to us.

44.3 We may give access to your loan account through the *access methods* to any person who supplies the relevant *access code(s)* and process any transactions made by that person. We can debit your loan account and you are liable for all transactions conducted by anyone you've given your *access codes* to (even if that transaction is not authorised by you).

**NOTE: Some companies provide account aggregation services that allow you to view account information from different institutions on the one webpage, or download your account statements. These companies usually require you to give them your *access codes*. We do not endorse, promote or authorise the use of account aggregation services in connection with your loan account(s). If you disclose any *access code(s)* to another person, you will be liable for any transactions on your loan account(s) made by that person using that *access code(s)*.**

### 45. Your instructions

45.1 When you use the *access methods*, your instructions may be carried out if they:

- (a) are permitted by the account access terms in clauses 44 to 47 and the Guide to Banking Services; and
- (b) comply with the directions on how to use the *access methods*.

45.2 We may postpone processing a transaction if we need further information from you or an authorised third party.

- 45.3 When you or anyone authorised by you gives us instructions for a transaction through the *access methods*, we may not be able to stop the transaction authorised by those instructions. You are responsible for ensuring that the instructions are correct.
- 45.4 If we are instructed to do so, we will credit amounts to your loan account as soon as practicable after we receive them. Those amounts are then not available until they are cleared (which in some cases may take up to five business days).
- 45.5 We may decline to accept your instructions for a transaction through the *access methods* if:
- (a) we have any reason to doubt the authenticity or validity of the authorisation or your legal capacity to give the instructions; or
  - (b) we suspect that the transaction is in breach of law or that your loan account has been used illegally.
- 45.6 To the extent permitted by law, we are not liable to you or any other person for any loss or damage which you or any other person may suffer as a result of using the *access methods* or any delay, omission or failure in respect of any transaction.

#### **46. Changes, suspension and cancellation of *access methods***

- 46.1 We can change, suspend or cancel any of the *access methods* at any time without notice subject to any applicable laws or relevant codes of conduct to which we have subscribed.
- 46.2 We can change, suspend or cancel your use of any of the *access methods* at any time without notice, including if we consider it reasonably necessary to prevent loss to you or us for security reasons or if there is suspected fraud.
- 46.3 You can terminate your use of any of the *access methods* at any time by contacting us.
- 46.4 We do not warrant that any of the *access methods* will operate at any time. You should promptly advise us of any faults or unavailability of the *access methods*.

#### **47. Guide to Banking Services**

- 47.1 This document does not contain all the terms for accessing your loan account. For the account access terms for cheques, Visa debit cards, BPAY, phone banking, and internet and mobile banking, refer to the Guide to Banking Services. The Guide to Banking Services is available on our website at <http://www.auswidebank.com.au/info/terms-and-conditions/>.

### **Part H – Definitions and interpretation**

#### **48. Definitions**

In your *loan agreement*, the following words are defined as follows.

- (a) *access codes* means the PIN, user ID or password and/or a combination of all these we provide to you to access the *access methods*.
- (b) *access methods* means the methods we offer you for accessing your loan account as varied by us from time to time.
- (c) *amount of credit* means the amount specified in the Financial Table in your *loan agreement* as varied from time to time.

- (d) *amount you owe us* means the total amount outstanding from time to time in respect of all your accounts provided under your *loan agreement*, including all accrued interest, fees and charges (including where applicable those that accrue on partial or total repayment). and includes any part of that amount.
- (e) *business day* means a day that is not a Saturday or Sunday, or a Queensland or Commonwealth public holiday on which banks are generally not open to conduct business in Queensland.
- (f) *disclosure date* means the date specified in your *loan agreement*.
- (g) *event of default* means any event described in clauses 23 and 24.
- (h) *final repayment date* means the first to occur of:
  - (i) the date on which your loan term ends;
  - (ii) the date on which the final repayment is due as a result of your default;
  - (iii) the date on which you elect to repay the whole of the *amount you owe us*;
  - (iv) the date on which the whole of the *amount you owe us* becomes payable for some other reason; and
  - (v) such other date which we agree with you.
- (i) *guarantor* means any person who at any time guarantees to us the payment of all or any part of the *amount you owe us*, and includes any guarantor specified in your *loan agreement*.
- (j) *loan agreement* means the *loan agreement* which incorporates these General Terms and Conditions and includes any variations of that *loan agreement*. The document that contains the Financial Table and these General Terms and Conditions together comprise your *loan agreement*.
- (k) *mortgaged property* means any real estate subject to the *security* and, where the context permits, any other property subject to the *security*, and includes any improvements, attachments or contracts relating to that property and any part of that property.
- (l) *other agreement* means any other agreement or arrangement under which we provide financial accommodation to you or any *guarantor* at any time.
- (m) *scheduled balance*, in relation to a loan account, means the amount which would be owing if all repayments were made on the due date.
- (n) *security* means the security specified in document that contains the Financial Table and any other security from time to time given to secure your obligations.
- (o) *settlement date* means the date we first advance money to you.

#### **49. Interpretation**

In your *loan agreement*:

- (a) a reference to the singular includes the plural;
- (b) a reference to a document includes any variation or replacement of it;

- (c) a reference to a person includes any other entity recognised by law;
- (d) a reference to a person or to a party to your *loan agreement* includes its successors and permitted assigns;
- (e) headings are for ease of reference only and not to assist interpretation; and
- (f) use of examples is illustrative of the context only and does not limit the natural meaning of the terms of your *loan agreement*.

The information statement below will only apply to you if your loan is regulated by the National Credit Code. This statement is prescribed by law. If the borrower is a company, or if the loan is predominantly used for business purposes or investment purposes (except for investment in residential property), the loan will not be regulated by the National Credit Code.

## INFORMATION STATEMENT

### THINGS YOU SHOULD KNOW ABOUT YOUR PROPOSED LOAN AGREEMENT

This statement tells you about some of the rights and obligations of yourself and your credit provider.

It does not state the terms and conditions of your contract. If you have any concerns about your contract, contact the credit provider and, if you still have concerns, the AFCA scheme, or get legal advice.

#### THE CONTRACT

1. **How can I get details of my proposed credit contract?**

Your credit provider must give you a precontractual statement containing certain information about your contract. The precontractual statement, and this document, must be given to you before –

- your contract is entered into; or
- you make an offer to enter into the contract,

whichever happens first.

2. **How can I get a copy of the final contract?**

If the contract document is to be signed by you and returned to your credit provider, you must be given a copy to keep.

Also, the credit provider must give you a copy of the final contract within 14 days after it is made. This rule does not, however, apply, if the credit provider has previously given you a copy of the contract document to keep.

If you want another copy of your contract write to your credit provider and ask for one. Your credit provider may charge you a fee. Your credit provider has to give you a copy –

- within 14 days of your written request if the original contract came into existence 1 year or less before your request; or
- otherwise within 30 days of your written request.

3. **Can I terminate the contract?**

Yes. You can terminate the contract by writing to the credit provider so long as –

- you have not obtained any credit under the contract; or
- a card or other means of obtaining credit given to you by your credit provider has not been used to acquire goods or services for which credit is to be provided under the contract.

However, you will still have to pay any fees or charges incurred before you terminated the contract.

4. **Can I pay my credit contract out early?**

Yes. Pay your credit provider the amount required to pay out your credit contract on the day you wish to end your contract.

5. **How can I find out the pay out figure?**

You can write to your credit provider at any time and ask for a statement of the pay out figure as at any date you specify. You can also ask for details of how the amount is made up.

Your credit provider must give you the statement within 7 days after you give your request to the credit provider. You may be charged a fee for the statement.

6. **Will I pay less interest if I pay out my contract early?**

Yes. The interest you can be charged depends on the actual time money is owing. However, you may have to pay an early termination charge (if your contract permits your credit provider to charge one) and other fees.

7. **Can my contract be changed by my credit provider?**

Yes, but only if your contract says so.

8. **Will I be told in advance if my credit provider is going to make a change in the contract?**

That depends on the type of change. For example –

- you get at least same day notice for a change to an annual percentage rate. That notice may be a written notice to you or a notice published in a newspaper.
- you get 20 days advance written notice for –
  - a change in the way in which interest is calculated;
  - a change in credit fees and charges; or
  - any other changes by your credit provider;

except where the change reduces what you have to pay or the change happens automatically under the contract.

9. **Is there anything I can do if I think that my contract is unjust?**

Yes. You should first talk to your credit provider. Discuss the matter and see if you can come to some arrangement. If that is not successful, you may contact the AFCA scheme. The AFCA scheme is a free service established to provide you with an independent mechanism to resolve specific complaints. The AFCA scheme can be contacted by phone on 1800 931 678, by email at [info@afca.org.au](mailto:info@afca.org.au), or in writing to GPO Box 3, Melbourne VIC 3001.

Alternatively, you can go to court. You may wish to get legal advice, for example from your community legal centre or Legal Aid.

You can also contact ASIC, the regulator, for information on 1300 300 630 or through ASIC's website at <http://www.asic.gov.au>.

## INSURANCE

10. **Do I have to take out insurance?**

Your credit provider can insist you take out or pay the cost of types of insurance specifically allowed by law. These are compulsory third party personal injury insurance, mortgage indemnity insurance or insurance over property covered by any mortgage. Otherwise, you can decide if you want to take out insurance or not. If you take out insurance, the credit provider cannot insist that you use any particular insurance company.

11. **Will I get details of my insurance cover?**

Yes, if you have taken out insurance over mortgaged property or consumer credit insurance and the premium is financed by your credit provider. In that case the insurer must give you a copy of the policy within 14 days after the insurer has accepted the insurance proposal.

Also, if you acquire an interest in any such insurance policy which is taken out by your credit provider then, within 14 days of that happening, your credit provider must ensure you have a written notice of the particulars of that insurance.

You can always ask the insurer for details of your insurance contract. If you ask in writing your insurer must give you a statement containing all the provisions of the contract.

12. **If the insurer does not accept my proposal, will I be told?**

Yes, if the insurance was to be financed by the credit contract. The insurer will inform you if the proposal is rejected.

13. **In that case, what happens to the premiums?**

Your credit provider must give you a refund or credit unless the insurance is to be arranged with another insurer.

14. **What happens if my credit contract ends before any insurance contract over mortgaged property?**

You can end the insurance contract and get a proportionate rebate of any premium from the insurer.

## MORTGAGES

15. **If my contract says I have to give a mortgage, what does this mean?**

A mortgage means that you give your credit provider certain rights over any property you mortgage. If you default under your contract, you can lose that property and you might still owe money to the credit provider.

16. **Should I get a copy of my mortgage?**

Yes. It can be part of your credit contract or, if it is a separate document, you will be given a copy of the mortgage within 14 days after your mortgage is entered into.

However, you need not be given a copy if the credit provider has previously given you a copy of the mortgage document to keep.

17. **Is there anything that I am not allowed to do with the property I have mortgaged?**

The law says you cannot assign or dispose of the property unless you have your credit provider's, or the court's, permission. You must also look after the property. Read the mortgage document as well. It will usually have other terms and conditions about what you can or cannot do with the property.

18. **What can I do if I find that I cannot afford my repayments and there is a mortgage over property?**

See the answers to questions 22 and 23.

Otherwise you may –

- if the mortgaged property is goods – give the property back to your credit provider, together with a letter saying you want the credit provider to sell the property for you;
- sell the property, but only if your credit provider gives permission first;

OR

- give the property to someone who may then take over the repayments, but only if your credit provider gives permission first.

If your credit provider won't give permission, you can contact the AFCA scheme for help.

If you have a guarantor, talk to the guarantor who may be able to help you.

You should understand that you may owe money to your credit provider even after the mortgaged property is sold.

19. **Can my credit provider take or sell the mortgaged property?**

Yes, if you have not carried out all of your obligations under your contract.

20. **If my credit provider writes asking me where the mortgaged goods are, do I have to say where they are?**

Yes. You have 7 days after receiving your credit provider's request to tell your credit provider. If you do not have the goods you must give your credit provider all the information you have so they can be traced.

21. **When can my credit provider or its agent come into a residence to take possession of mortgaged goods?**

Your credit provider can only do so if it has the court's approval or the written consent of the occupier which is given after the occupier is informed in writing of the relevant section in the National Credit Code.

**GENERAL**

22. **What do I do if I cannot make a repayment?**

Get in touch with your credit provider immediately. Discuss the matter and see if you can come to some arrangement. You can ask your credit provider to change your contract in a number of ways –

- to extend the term of your contract and reduce payments; or
- to extend the term of your contract and delay payments for a set time; or
- to delay payments for a set time.

23. **What if my credit provider and I cannot agree on a suitable arrangement?**

If the credit provider refuses your request to change the repayments, you can ask the credit provider to review this decision if you think it is wrong.

If the credit provider still refuses your request, you can complain to the AFCA scheme. Further details about this scheme are set out below in question 25.

24. **Can my credit provider take action against me?**

Yes, if you are in default under your contract. But the law says that you cannot be unduly harassed or threatened for repayments. If you think you are being unduly harassed or threatened, contact the AFCA scheme or ASIC, or get legal advice.

25. **Do I have any other rights and obligations?**

Yes. The law will give you other rights and obligations. You should also READ YOUR CONTRACT carefully.

**IF YOU HAVE ANY COMPLAINTS ABOUT YOUR CREDIT CONTRACT, OR WANT MORE INFORMATION, CONTACT YOUR CREDIT PROVIDER. YOU MUST ATTEMPT TO RESOLVE YOUR COMPLAINT WITH YOUR CREDIT PROVIDER BEFORE CONTACTING THE AFCA SCHEME. IF YOU HAVE A COMPLAINT WHICH REMAINS UNRESOLVED AFTER SPEAKING TO YOUR CREDIT PROVIDER, YOU CAN CONTACT THE AFCA SCHEME OR GET LEGAL ADVICE.**

**THE AFCA SCHEME IS A FREE SERVICE ESTABLISHED TO PROVIDE YOU WITH AN INDEPENDENT MECHANISM TO RESOLVE SPECIFIC COMPLAINTS. THE AFCA SCHEME CAN BE CONTACTED BY PHONE ON 1800 931 678, BY EMAIL AT [INFO@AFCA.ORG.AU](mailto:INFO@AFCA.ORG.AU), OR IN WRITING TO GPO BOX 3, MELBOURNE VIC 3001.**

**PLEASE KEEP THIS INFORMATION STATEMENT. YOU MAY WANT SOME INFORMATION FROM IT AT A LATER DATE.**

## Freedom Package Terms and Conditions

These are the Auswide Bank Ltd Freedom Package Terms and Conditions (the “**Terms and Conditions**”) Version 1.3. These Terms and Conditions must be read in conjunction with the Schedule of Package Benefits. You can access the Schedule of Package Benefits at [www.auswidebank.com.au/info/terms-and-conditions/#homeloans](http://www.auswidebank.com.au/info/terms-and-conditions/#homeloans). If you cannot access the Schedule of Package Benefits, please contact us immediately.

Both these Terms and Conditions and the Schedule of Package Benefits make up the Terms and Conditions for your Freedom Package. To the extent of any inconsistency between these Terms and Conditions and the Schedule of Package Benefits, these Terms and Conditions prevail to the extent of the inconsistency.

To the extent that there are any inconsistencies between these Terms and Conditions and the terms and conditions relating to your Package Loan contract, to your Mandatory Bank Account or to other Eligible Products, then the terms and conditions relating to your Package Loan contract, to your Mandatory Bank Account or to other Eligible Products will prevail in respect to the extent of the inconsistency.

### Definitions

“**Eligible Product**” means any loan or financial product issued by Auswide Bank Ltd or one of our product partners to which Freedom Package benefits apply.

“**Mandatory Bank Account**” means an Everyday Access (S10), Freedom Line of Credit Access Account (S15) or any other account that Auswide Bank Ltd may specify from time to time - which is held under the same client number as one of the borrowers on the Freedom Package Loan.

“**Package**” means the Auswide Bank Ltd Freedom Package.

“**Package Fee**” means the package fee which is an annual fee charged in return for provision of the Package benefits.

“**Package Loan**” means an eligible loan or line of credit which is approved after 1 August 2017.

“**you**” or “**your**” means any holder of the Package or of an Eligible Product.

“**we**” or “**our**” or “**us**” means Auswide Bank Ltd ABN 40 087 652 060, Australian Financial Services & Australian Credit Licence 239686.

### 1. Acceptance of Terms and Conditions

These Terms and Conditions contain the terms and conditions applying to the Package. By requesting to open a Package, you accept these Terms and Conditions.

### 2. Qualifying for the Package

In order to receive the Package you must:

- (a) Request us to open a Package;
- (b) Be approved for a qualifying Package Loan;
- (c) Open a Mandatory Bank Account;

- (d) Apply for Auswide Bank Internet Banking (which helps you view and manage your loan).

**3. Eligibility for Package benefits**

In order to be eligible for the Package benefits:

- (a) Package benefits are only available on Eligible Products held by the borrowers of the eligible Package Loan/s;
- (b) You must pay an annual Package Fee in accordance with clause 7;
- (c) You must not be in breach of any of the terms and conditions applicable to any Package Loan, Mandatory Bank Account or Eligible Product;
- (d) All loans held in a Package, must be held in the same borrower name/s. If a loan is to be held in whole or in part by a borrower who is not a borrower associated with an existing Package, a separate Package is applicable;
- (e) Where a borrower qualifies for a new Package, existing eligible loan/s may qualify for Package interest rate discounts. Discounts are not automatically applied, and must be requested upon application of the new Package;
- (f) The following criteria apply to new or additional borrowings in relation to the eligibility of a new Package and the application of interest rate discounts:

	<b>New to bank Borrowers</b>	<b>Existing Borrowers Non-Package</b>	<b>Existing Borrowers Package</b>
<b>New Borrowing</b>	You must apply for \$100,000 or more in eligible Package loan/s	You must apply for \$100,000 or more additional borrowing (An increase to an existing eligible loan or an additional new eligible Package loan)	New borrowing not required as Package already established and interest rate discount applied at time of Package application
<b>Discounted Package Interest Rates</b>	Package rates as advertised for eligible Package loan/s at the time of application	Package rates as advertised for eligible Package loan/s at the time of application	Discount margin on existing eligible loan/s already in a Package and any new lending will remain as contracted - unless additional borrowings (new or increase to existing eligible Package Loan) exceeds \$100,000

- (g) Package benefits are not available to loan guarantors.

**4. Application of Package benefits**

We will apply the loan and everyday banking Package benefits to the relevant accounts at the time of Package application. Other Package benefits will only be applied at your request on application for those Eligible Products.

If your Package is cancelled in accordance clause 5 and you subsequently wish to reapply for the Package after meeting Package eligibility criteria as detailed in clause 3, we may, at our total discretion, allow you to reapply. If we allow you to reapply for the Package, we will apply the loan and everyday banking Package benefits to the relevant accounts from the date of reapplication. Other Package benefits may also be reapplied at your request but this will be at the sole discretion of the product issuer.

Applications on some Eligible Products will be subject to issuer approval - regardless of whether your Package Loan is approved. We cannot guarantee approval of Eligible Products which are not issued by Auswide Bank Ltd, such as credit cards, in which case if a product issuer does not approve your Eligible Product application, you will not receive all Package benefits.

Unless we tell you otherwise, Package benefits cannot be taken in conjunction with, or in addition to other special or introductory offers, negotiated rates, rewards or discounts offered by Auswide Bank Ltd, its subsidiaries or product partners. Some of the Package benefits may also be available in conjunction with other special or introductory offers or packages. If a Package benefit has already been applied or provided as part of another special or introductory offer or package, you are not entitled to another benefit or discount of the same type. i.e. a benefit of the same type will not be applied to a product more than once.

We reserve the right to withdraw, amend, change or add to these Package benefits subject to Clause 6.

## **5. Cancellation of the Package**

Package benefits are only available during the life of the Package. If you cease to meet the Package eligibility criteria, you will no longer be entitled to the Package benefits.

If all Package Loans are closed, the Package will be cancelled and all Benefits will cease.

You may cancel your Package at any time by giving us a written request. After we have processed your request, all benefits will cease.

We may cancel your Package immediately if:

- (a) You do not continue to hold a Mandatory Bank Account;
- (b) You are in breach of any of the terms and conditions applicable to any loan contract with us (whether or not this loan contract is a Package Loan) - including default of payments (our rights under this clause are in addition to our rights under such contract);
- (c) You are in breach of the terms and conditions of one of the other Eligible Products;  
or
- (d) At our discretion, we provide you with three months written notice.

We will not refund your Package Fee if your Package is cancelled or a Package benefit is removed.

## **6. Changes to the Terms and Conditions**

We may change any part of these Terms and Conditions including (but not limited to):

- (a) The Package Fee; or
- (b) The Package benefits

We will notify you of material adverse changes to the Package or as required by law.

## **7. Fees and charges**

The standard fees and charges, interest rates and premiums otherwise applicable to the respective Package Loans and Eligible Products are amended in accordance with the Schedule of Package Benefits. In the event of cancellation of the Package under clause 5, the standard fees and charges applicable to the respective Package Loans and Eligible Products will apply.

## **8. Government taxes and charges**

If any government taxes, duties, or charges such as stamp duty become payable (whether by you or by us) on or in connection with these Terms and Conditions, you authorise us to debit any such amount when due:

- (a) To your Mandatory Bank Account; or
- (b) To any other Auswide Bank Ltd account held by you where there are insufficient funds in the Mandatory Bank Account to pay the amount when due.

## **9. Waiver**

The rights Auswide Bank Ltd has under these Terms and Conditions cannot be waived except by us giving you written notice waiving the particular right. In particular:

- (a) We do not waive any right merely because we do not exercise that right or do not exercise it as soon as we can; and
- (b) If we exercise a right once or partly, it does not mean we cannot exercise that right again or other rights.

## **10. Changes in law**

If we give you written notice that, in our opinion, it has become illegal in a jurisdiction or otherwise impracticable for us to continue to make any Package benefit available, our obligations in relation to that Package benefit thereupon terminate.

## **11. Assignment of rights**

Auswide Bank Ltd may, without telling you and without obtaining your consent, assign any of its rights under, or in connection with, these Terms and Conditions.

We may give information about these Terms and Conditions, and your obligations under these Terms and Conditions, to anyone who is an assignee of our rights under these Terms and Conditions or is considering becoming an assignee.

You may not transfer any of your rights or obligations under these Terms and Conditions unless we consent in writing.

# Mortgage Common Provisions

The registered numbers of these mortgage common provisions are as follows.

<b>State</b>	<b>Registration Number</b>
New South Wales	AQ497600V
Victoria	AA6817
Australian Capital Territory	3033135
Queensland	720348916
South Australia	13394261
Western Australia	O533876
Tasmania	M664
Northern Territory	372325

## **Summary**

**These mortgage common provisions are incorporated into mortgages which refer to one or more of the registration numbers shown on the cover sheet of this document.**

**Reading this summary does not replace reading the whole of the mortgage common provisions. These mortgage common provisions (not this summary) are the legal contract.**

**You are strongly advised to obtain independent legal advice. If you feel any of the clauses are unclear or unfair, raise your concerns before signing the mortgage.**

### **The mortgage**

By signing the mortgage, you agree to comply with all of the terms set out in these mortgage common provisions.

You are giving us a mortgage over the real estate referred to in the mortgage. The mortgage covers all of the buildings and other property erected on or attached to that real estate. It includes any contracts or other rights relating to that real estate.

By mortgaging the property, you are tying it up so that you cannot deal with it freely until the mortgage is discharged. We are not obliged to discharge the mortgage until you have no further obligations to us.

### **Your obligations under the mortgage**

The mortgage obliges you to keep the property in good repair, and to pay all rates, taxes and other expenses in relation to the property. You must not alter the property or change the use of the property without our prior written consent. You must not deal with the property in any way without our prior written consent. This means that you cannot mortgage the property to someone else, sell the property, or lease the property for more than 12 months without our consent. You must keep the property fully insured.

### **Costs**

You must pay all of our costs in relation to the mortgage and any costs which arise if you are in default of your obligations under the mortgage. Our costs may include paying lawyers, valuers and any other advisers we use.

### **Default**

Section 4 sets out the circumstances in which you will be in default of your obligations under the mortgage. Read it carefully. The most common default is failure to pay money by the due date. If you default under the mortgage, we may require you to move out of the property, or if it is tenanted, require the tenants to vacate the property or pay the rent to us. If you default, we can deal with the property however we like, including by selling it or renting it out. In addition to dealing with the property, we can commence legal proceedings against you.

# Mortgage Common Provisions

These mortgage common provisions are incorporated into mortgages which refer to one or more of the registered mortgage common provisions shown on the cover sheet of this document.

## 1. Understanding these mortgage common provisions

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In these mortgage common provisions, certain words have a special meaning. Those words are defined as follows.

*borrower* means any person to whom we provide loans or other financial accommodation and whose obligations are secured by the *mortgage*.

*debt* means:

- (a) any money that you have agreed is secured by the *mortgage*;
- (b) all money owing by you to us now or in the future on any account;
- (c) any money due or contingently due by you to us as a result of any arrangement, including:
  - (i) any loans made to you by us;
  - (ii) any money we have advanced or paid on your behalf or at your express or implied request;
  - (iii) any guarantees given by you to us;
  - (iv) any money due by any other person to us because of something that we do or do not do at your express or implied request;
  - (v) any loss or damage suffered by us as a result of the arrangements above; and
  - (vi) any interest, costs, fees, duties, taxes and any other amount you are obliged to reimburse or pay to us at any time under the *mortgage* or otherwise,

and includes any part of the *debt*.

*event of default* means any event described in clauses 4.2 and 4.3.

*guarantor* means any person who at any time guarantees to us the payment of all or any part of the *debt*.

*mortgage* means the mortgage signed by you which incorporates these mortgage common provisions and includes the terms of these mortgage common provisions.

*other agreement* means any other agreement or arrangement under which we provide financial accommodation to you, a *borrower* or a *guarantor* at any time.

*secured property* means the property specified in the *mortgage* and includes:

- (a) all buildings, fences, structures, carpets, floor coverings, light fittings, blinds, curtains and other objects attached to that property;
- (b) any contract or other rights relating to that property such as building contracts, leases, development approvals, building approvals, other approvals, plans, specifications, consents and licences;

- (c) all income (such as rent) derived from the property;
  - (d) any right to occupy, lease or licence relating to or adjoining the property,
- and includes any part of the *secured property*.

'we/us/our' means the mortgagee named in the *mortgage*, and includes anyone else who acquires an interest in our rights under the *mortgage*.

'you/your' means each mortgagor named in the *mortgage*.

In the *mortgage*, a reference to a person includes companies and trusts and any other entity recognised by law. Singular words include plural words and vice versa. A reference to a person or to a party to the *mortgage* includes its successors and permitted assigns. If there are two or more of you, each of you is individually liable, and all of you are jointly liable.

## **2. Provisions relating to money**

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### **2.1 Payment of the *debt***

- (a) You must make all payments in respect of the *debt* on the dates agreed between you and us. Usually this agreement appears in a credit contract, loan offer or loan agreement. If there is no agreement, you must pay the *debt* to us on demand.
- (b) You must pay interest on the *debt* at the rate and on the dates agreed between you and us, or if there is no agreement, at the rate and on the dates notified to you by us from time to time as determined by us, acting reasonably.

### **2.2 Application of money**

Payments will be credited only when they are actually received by us, and will be applied as agreed between you and us, or if there is no agreement, as determined by us.

### **2.3 Debit and set-off**

- (a) We may debit any account held by you with us with any money due to us by you at any time. However, we are under no obligation to debit any account or allow for any credit balance in any account, and therefore you may be in default of a payment obligation even though there is a credit balance in any other account held with us.
- (b) You must make all payments in full without deducting or setting off any money we owe you for any reason and without making any counterclaim against us.
- (c) We may combine two or more accounts conducted by you into a single account.

### **2.4 Costs and stamp duty**

- (a) You must pay us all costs and expenses, including any stamp duty, bank fees, government charges and taxes of any kind relating to the *mortgage* or the *debt*. This includes our reasonable internal costs in relation to the *mortgage*.
- (b) You must also pay us any of our costs or liabilities that arise in relation to the *mortgage*, the *secured property* or any other security you provide to us, including costs we incur by exercising our rights under the *mortgage* or recovering the *debt* or dealing with the *secured property* (for example, lawyer's fees on a full indemnity basis, valuer's fees and real estate agent's commissions).

- (c) We may debit your account with any amounts described in this clause 2.4 with effect from the date we incur them, whether or not we have demanded payment from you or anybody else.

## 2.5 **GST**

If any payment to us is for a taxable supply for the purposes of GST or any similar tax, you must also pay to us on demand an additional amount equal to the tax relating to that supply.

## 3. **Things you must do and must not do relating to the *secured property***

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### 3.1 **You mortgage the *secured property***

You for valuable consideration charge and mortgage to us the whole of the *secured property* to secure payment of the *debt* and to secure performance of the obligations owed by you to us.

### 3.2 **You must keep the *secured property* insured**

- (a) You must keep the *secured property* insured for not less than its full replacement value on terms approved by us against loss or damage by fire, storm, tempest and any other risks specified by us. You must also maintain public liability insurance in respect of the *secured property* and any other insurance we reasonably require.
- (b) All insurances must be with an insurer approved by us. Our interest as mortgagee must be noted on all policies until the *debt* is repaid.
- (c) If loss or damage to the *secured property* occurs, we may enforce any rights under the insurance policy and settle any claim against the insurer. Any money paid by the insurer must be paid directly to us. We may apply that money as we see fit, including to repair or rebuild the *secured property*, apply it in repayment of the *debt*, or hold it as additional security for the *debt*.
- (d) You must pay all insurance premiums by the due date.
- (e) You must not do anything which may result in any insurance policy relating to the *secured property* being prejudiced or cancelled.
- (f) You must provide evidence of currency of the insurance of the *secured property* and of payment in full of any premium or other charges due in respect of that insurance when requested by us.

### 3.3 **You must make necessary repairs**

You must make all repairs necessary to keep the *secured property* in good repair. We may require you to promptly carry out any work that we consider necessary, including any work required by any competent authority (for example, a local council).

### 3.4 **Altering the *secured property***

You must not demolish, extend or alter the *secured property* without our prior written consent, which will not be unreasonably withheld. You must not do anything or allow anything to be done which adversely affects the value of the *secured property*.

### 3.5 **You must pay all rates and taxes**

You must punctually pay all rates, taxes, charges, outgoing and assessments (including council rates, water rates and taxes) payable or assessed in respect of the *secured property*

or on the owner or occupier of the *secured property*. You must provide evidence of such payment if requested by us. If these amounts are not paid by you, we may decide to pay them on your behalf, and any such amounts will form part of the *debt*.

### 3.6 Your obligations in dealing with the *secured property*

- (a) **Provide information.** You must provide to us on demand the full details of anything relating to the *secured property*, including any leases, licences or other agreements relating to the *secured property*, and full details of the use to which the *secured property* is being put. You must also tell us if anything occurs that materially affects the *secured property* (for example, fire, damage, rezoning etc).
- (b) **No noxious uses.** You must not carry on any noxious, loud, illegal or offensive activity on the *secured property*, or allow such activity to be carried on.
- (c) **Not change the use.** You must not change the use of the *secured property* except with our prior written consent, which will not be unreasonably withheld. If there is a business conducted on the *secured property*, you must ensure that it is conducted in a proper and efficient manner, that it is kept open at all usual times for that kind of business, and that any licences held or required in connection with that business are obtained and kept current.
- (d) **Approvals.** You must maintain any approvals relating to the *secured property* (for example, development approvals, building approvals, licences etc), and must take any action we require in relation to those approvals.
- (e) **Dealing with the *secured property*.** Before you deal with the *secured property* in any way, you must first obtain our prior written consent, which will not be unreasonably withheld. For example, you must not sell, lease or licence the *secured property*, accept or allow a surrender, assignment or variation of any lease or any licence, consent to or allow any sublease or assignment or variation of any sublease, or further mortgage, charge, encumber, subdivide or consolidate the *secured property* without our prior written consent. (Because any income derived from the *secured property* forms part of the *secured property*, this clause 3.6(e) prevents you from dealing with the income relating to the *secured property* in any way without our prior written consent). You may lease a residential property for the best rent reasonably obtainable for a term not exceeding 12 months without obtaining our prior written consent.
- (f) **Subsequent mortgages.** If you further mortgage, charge or encumber the *secured property* to any other person, you must arrange for that person to enter into a written priority agreement with us on terms satisfactory to us before doing so.
- (g) **Rentals to be at market rent.** You must ensure that any leasing or other dealing with the *secured property* is at a fair market rent.
- (h) **Caveats.** If any caveat is lodged on the *secured property*, you must take any action required by us to remove it.
- (i) **Comply with easements and restrictions.** You must fully comply with any covenants or easements (such as a right of access over a part of your property given to someone such as a neighbour) or other notifications affecting the *secured property*, including any requirements of any law or any notices or orders given by any competent authority (for example, a local council).
- (j) **Not leave vacant.** If there are any buildings on the *secured property*, you must not leave them unoccupied for a continuous period of more than 60 days without our prior written consent, which will not be unreasonably withheld.

### 3.7 **Adjoining property**

You must notify us immediately if you acquire any other property to be used or held in conjunction with the *secured property*. We reserve the right to require you to immediately *mortgage* the other property to us.

### 3.8 **Protection of the environment**

You must make sure that, during the term of the *mortgage*, there is nothing on or affecting the *secured property* which causes or may cause contamination or environmental damage. You must promptly take any action we reasonably require you to take to rectify any breach of this clause 3.8. We may require a report on environmental issues to be prepared at your cost if we reasonably believe that this clause 3.8 has been or is likely to be breached.

## 4. **Default**

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### 4.1 **Consequences of a breach of any term**

If you breach any term of the *mortgage* or any *other agreement*, if an *event of default* occurs, or if any security or guarantee is terminated or is of reduced force and effect:

- (a) we will not be obliged to provide any new financial accommodation to you or at your request; and
- (b) we may rectify the breach or *event of default* by performing your obligations under the *mortgage* or any *other agreement*.

### 4.2 **Monetary events of default**

Each of the following is an *event of default*:

- (a) you or a *borrower* do not pay any money due to us under the *mortgage* or any *other agreement* by the due date for payment; or
- (b) you or a *borrower* do not pay any amount exceeding \$50,000 to any person other than us by the due date for payment.

### 4.3 **Non-monetary events of default**

Each of the following is an *event of default*:

- (a) if you or a *borrower* are an individual:
  - (i) you or a *borrower* become bankrupt;
  - (ii) you or a *borrower* are unable to pay your or their debts as they fall due; or
  - (iii) you or a *borrower* make any arrangement with your or their creditors;
- (b) if you or a *borrower* are a company:
  - (i) proceedings are commenced to wind up the company;
  - (ii) a receiver, manager, receiver and manager, administrator, controller, provisional liquidator or liquidator is appointed to any part of the company's assets; or
  - (iii) the company is, or is deemed or presumed by law or a court to be, insolvent;

- (c) you, a *borrower* or a *guarantor* no longer have legal capacity;
- (d) enforcement proceedings are taken against you, a *borrower* or a *guarantor*, or your or their assets, by another creditor;
- (e) early repayment is required under any *other agreement*, or default based action is taken by us against you, a *borrower* or a *guarantor*, in each case due to a non-monetary *event of default* of the kind described in this clause 4.3;
- (f) we reasonably believe that you, a *borrower* or a *guarantor* have not complied with the law or any requirement of any competent authority, and such non-compliance has or may have a material effect on any business conducted by you, a *borrower* or a *guarantor*;
- (g) it becomes unlawful for you, a *borrower* or a *guarantor* or us to continue with the *mortgage* or any *other agreement*;
- (h) you, a *borrower* or a *guarantor* give us information, or make a representation or warranty to us, that is materially incorrect or misleading (including by omission), and is such that we would not have provided the *debt*, or would only have provided the *debt* on different terms, if we had known the correct information;
- (i) you use the *debt* for a purpose not approved by us;
- (j) you use the *debt* for an illegal or improper purpose, or to finance an illegal or improper activity;
- (k) the assets of you, a *borrower* or a *guarantor* are dealt with, or attempted to be dealt with, in breach of the terms of the *mortgage* or any *other agreement* without our prior written consent (which will not be unreasonably withheld), including:
  - (i) any of the *secured property* becomes subject to a mortgage or charge without a priority agreement being in place between us and the other security holder on terms acceptable to us, acting reasonably;
  - (ii) any of the *secured property* becomes subject to a mortgage or charge without our prior written consent, which will not be unreasonably withheld; or
  - (iii) the amount secured by any mortgage or charge over the *secured property* is increased without our prior written consent, which will not be unreasonably withheld;
- (l) you, a *borrower* or a *guarantor* do not provide financial information required by any agreement with us;
- (m) you, a *borrower* or a *guarantor* do not maintain a licence or permit necessary to conduct any business conducted by you, a *borrower* or a *guarantor*;
- (n) you, a *borrower* or a *guarantor* do not maintain insurance required by any agreement with us;
- (o) legal or beneficial ownership, or management control, of you, a *borrower* or a *guarantor*, or your or their business, changes without our prior written consent, which will not be unreasonably withheld;
- (p) without our prior written consent (which will not be unreasonably withheld), the status, capacity or composition of you, a *borrower* or a *guarantor* changes, including:

- (i) you, a *borrower* or a *guarantor* cease to carry on your or their business or a material part of your or their business, or dispose of substantially all of your or their assets; or
  - (ii) if you, a *borrower* or a *guarantor* are an individual, you, a *borrower* or a *guarantor* are sentenced to jail for a term of longer than 12 months;
- (q) the *secured property* is:
- (i) substantially damaged or destroyed, and we consider in our reasonable opinion that the *secured property* cannot be expected to be reinstated within a reasonable time and without material loss of any material income from the *secured property*; or
  - (ii) taken out of your control;
- (r) there is a material reduction in the value of the *secured property*;
- (s) you, or any person on behalf of you, breach any material undertaking given to us or any condition imposed by us;
- (t) any repairs necessary to keep the *secured property* in good repair are not made in a timely fashion;
- (u) any amount required to be paid in connection with the *secured property* (including council rates, water rates, land tax or shared title contributions) is not paid within 90 days of the due date; or
- (v) any other event agreed in writing by you to be an *event of default* for the purposes of the *mortgage* occurs.

#### 4.4 **When we can take action under the *mortgage***

- (a) We will only act on a non-monetary *event of default* if the event by its nature is material, or we reasonably consider that the event has had, or is likely to have, a material impact on:
- (i) the ability of you, a *borrower* or a *guarantor* to meet your or their financial obligations to us (or our ability to assess this);
  - (ii) our security risk (or our ability to assess this); or
  - (iii) our legal or reputational risk where an event in clause 4.3(f), 4.3(g) 4.3(h) or 4.3(i) occurs.
- (b) We will not take enforcement action under the *mortgage* unless:
- (i) we have given you at least 30 days written notice of the *event of default*;
  - (ii) if the *event of default* is remediable, you have not remedied that *event of default* within 30 days; and
  - (iii) no *event of default* of the same type has arisen during that period.
- (c) If your loan is not regulated by the National Credit Code, we may give you less than 30 days notice or no notice if:
- (i) the *event of default* is unable to be remedied;

- (ii) it is reasonable for us to do so to manage a material and immediate risk relating to the nature of the relevant *event of default*, your particular circumstances, or the value of the *secured property*; or
  - (iii) we have already given you a notice to remedy a non-monetary *event of default* and you have not remedied that *event of default*.
- (d) If your loan is regulated by the National Credit Code, we do not need to give you a default notice or wait 30 days before commencing enforcement action if:
- (i) we reasonably believe that we were induced by fraud by you, a *borrower* or a *guarantor* to enter into the *mortgage*;
  - (ii) we have made reasonable attempts to locate you, a *borrower* or a *guarantor* but without success;
  - (iii) a court authorises us to begin enforcement proceedings; or
  - (iv) we reasonably believe that you, a *borrower* or a *guarantor* have removed or disposed of the *secured property* or that urgent action is necessary to protect the *secured property*.

#### 4.5 Our enforcement rights

Subject to clause 4.4, at any time after an *event of default* occurs, we may sign anything and do anything we consider appropriate to recover the *debt* and deal with the *secured property*. We may do this how and when we decide in our absolute discretion, and with or without taking possession of the *secured property*, whether or not in conjunction with other property. We do not lose any rights or forgive any *event of default* unless we do so in writing. We can take action even if we do not do so promptly after the *event of default* occurs. If we hold collateral security, we can enforce any one of the securities first or all of them at the same time. Our costs of exercising these rights will form part of the *debt*. Without limitation, we may do any of the following if an *event of default* occurs.

- (a) Demand and require immediate payment of the *debt*.
- (b) Exercise any right, power or privilege conferred by law, the *mortgage* or any *other agreement*.
- (c) Deal with the *secured property* in any way we see fit (including the contracts and other property that form part of the *secured property*), including:
  - (i) sell the *secured property* in one line or by separate lots;
  - (ii) rescind, vary or complete any contract for sale of the *secured property*;
  - (iii) lease or license the *secured property* on any terms and for any period (and to the extent possible, no legislation operates to restrict or limit any lease or licence by us under this clause 4.5(c));
  - (iv) subdivide or consolidate the *secured property*;
  - (v) repair, cleanse, repaint, demolish, rebuild, alter or construct completely new buildings or structures on the *secured property*;
  - (vi) prepare plans and specifications and obtain approvals from any competent authority in relation to the *secured property*;
  - (vii) give or transfer the *secured property* to any competent authority;

- (viii) acquire additional property for development, sale or lease in conjunction with the *secured property*; or
- (ix) carry on any business activities on the *secured property*.
- (d) Eject you or any other occupants from the *secured property* and take possession of the *secured property*. If we take possession of the *secured property*, we can subsequently withdraw from possession of the *secured property*.
- (e) Direct any tenants to pay rent to us.
- (f) Borrow or obtain financial accommodation on the security of the *secured property*, and lend or grant financial accommodation to a receiver on the security of the *secured property* for the purposes of enabling us or a receiver to exercise a right under the *mortgage*.
- (g) Remove any property from the *secured property* (such as furniture and personal effects) and, after giving you not less than 30 days written notice, sell or otherwise deal with those goods without receiving any money for them.
- (h) Pay any money owing to any person in relation to the *secured property* or goods on the *secured property* (for example, owing under hire purchase agreements and leases). Any amounts paid by us will form part of the *debt*.
- (i) Appoint one or more persons to be joint or several agents, receivers, managers, or receivers and managers of the whole or any part of the *secured property* (including the contracts and other property that form part of the *secured property*) on terms and for fees approved by us. Those persons may exercise any of the powers conferred on us under the *mortgage* or conferred by law. We may remove any of those persons and appoint replacements whenever we wish.
- (j) Pay and obtain a transfer or a discharge of any other *mortgage* or charge affecting the *secured property*.
- (k) In addition to any other right of set-off we have, combine, consolidate or merge any of your accounts with us, and set-off the *debt* against them. We are not obliged to allow any set-off between the *debt* and any credit balance of any account conducted with us by any person.

#### 4.6 **Negation of restrictions**

There may be some laws intended to limit mortgagees' rights. None of those laws will operate to limit our rights under the *mortgage* unless by law those rights cannot be negated. In particular, we need not give any notice before exercising any right, power (including the power of sale) or remedy under the *mortgage* unless required by law, and if the law does require notice, we need only give the shortest notice required by that law.

#### 4.7 **Interest on judgment**

If a liability under the *mortgage* is subject to a judgment or order, you must pay interest to us on the amount of that liability at the higher of the rate payable under the judgment or order and the rate payable on the *debt*.

## **5. Things you need to know about different kinds of property and carrying out building works**

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### **5.1 Secured property under shared title**

This clause 5.1 applies if all or any part of the *secured property* at any time comprises a lot within a strata scheme, a community title scheme, or any other shared ownership arrangement.

- (a) You must punctually pay all contributions and any other money which at any time is payable in respect of the *secured property* in connection with the shared title arrangement.
- (b) You must punctually comply with any obligations imposed on you in connection with the shared title arrangement (eg the by-laws).
- (c) We may in our discretion exercise any voting rights referable to the *secured property* in relation to the shared title arrangement.
- (d) You must have our interest in the *secured property* recorded in any appropriate records of the shared title arrangement (such as the strata roll).
- (e) You irrevocably authorise us at any time to obtain from anybody any information relating to the shared title arrangement.

### **5.2 Agricultural lands**

This clause 5.2 applies if all or any part of the *secured property* at any time comprises agricultural or pastoral land.

- (a) You must properly manage and maintain the *secured property* and keep the *secured property* free from noxious animals and plants. If requested by us, you must grant to us security in a form specified by us over any existing or future produce of the *secured property* (including wool clips and agricultural crops) and any machinery, plant or water rights on or relating to the *secured property*.
- (b) You must comply with obligations under any statutory or other licences or quotas affecting or regulating production at or from the *secured property* or the sale of its produce.

### **5.3 Building works on the *secured property***

This clause 5.3 applies if any building works are commenced on the *secured property*. No building works may be commenced on the *secured property* without our prior written consent, which will not be unreasonably withheld. However, repairs and maintenance and urgent building works necessary to preserve the *secured property* may be carried out without our prior written consent.

- (a) You must complete the building works expeditiously in accordance with plans and specifications approved by us and with the requirements of any competent authority (for example, a local council).
- (b) You must comply with any obligations under any building contract and pay any money due in connection with the building works as it becomes due, including professional and consultancy costs.
- (c) You must not contract with any person in relation to any material part of the building works, or alter the plans and specifications or building contract for the building works, without our prior written consent, which will not be unreasonably withheld. You must

require the builder to promptly and properly perform its obligations under any building contract.

- (d) Upon completion of the building works, *you* must obtain such certificates as we reasonably require to evidence that the building works have been properly completed (such as a certificate issued by a local government department or council). We may obtain any reports or other information we require during and upon completion of the building works at your cost.
- (e) If you breach any of your obligations in respect of the building works, we may (but are not obliged to) complete the building works and do anything we consider appropriate to complete the building works. We need not complete the building works and may sell the *secured property* in its existing state and condition. Any money that we spend completing the building works forms part of the *debt*.
- (f) We may decide not to make any advances to fund the building works until we are satisfied with the progress of the building works and have received any reports or other information we reasonably require.
- (g) In no circumstances will we be responsible for the building works, including any plans or specifications, even if we approve them and even if we pay the builder directly.
- (h) If we monitor the building works (such as inspecting construction or approving plans), we do so only for our own purposes. We do not owe you or anyone else any duty to exercise care or skill in doing so.

#### 5.4 **Leasehold *secured property***

This clause 5.4 applies if all or any part of the *secured property* at any time is leased to *you* (ie it is leasehold *land*).

- (a) *You* must comply with all of the terms of the relevant lease and promptly inform us of any default under the lease.
- (b) If the lease contains any option to renew, *you* must exercise the option to renew and grant to us a mortgage in a form approved by us over any lease for a further term unless we agree otherwise in writing.
- (c) *You* must not agree to any variation of any term of the lease or to any change in the rent without obtaining our prior written consent, which will not be unreasonably withheld.

## 6. **General matters**

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### 6.1 **Our right to inspect**

You must give us and any agent we appoint access to the *secured property* when we request it so that we or our agents can:

- (a) inspect the *secured property*;
- (b) check that you are complying with the *mortgage*; and
- (c) do anything which we are entitled to do under the *mortgage*.

We will give you reasonable notice if we require access to the *secured property*. However, we may enter the *secured property* at any time without notice to take any urgent action required to prevent damage to or preserve the *secured property*.

## 6.2 You must notify us of certain things

You must promptly notify us in writing if an *event of default* occurs, there is any material damage to the *secured property*, or anything happens which materially affects the *secured property* or its value.

## 6.3 Severability

If any provision of the *mortgage* is or becomes illegal, invalid or unenforceable, it will be severed to the extent that it is illegal, invalid or unenforceable, and none of the remaining provisions will be affected in any other jurisdiction.

## 6.4 Consumer legislation

To the extent that the *mortgage* secures regulated credit (ie money due under a loan contract or under some other arrangement regulated by any consumer legislation), the *mortgage* only secures the amount authorised by that legislation in relation to that credit. This clause 6.4 does not restrict how the *mortgage* secures unregulated credit. To the extent that the *mortgage* relates to regulated credit, any provisions which do not comply with the relevant consumer legislation have no effect in relation to that consumer credit.

## 6.5 Perfect security

You must sign anything and do anything we reasonably require to more effectively secure our rights over the *secured property* or to effect the stamping and registration of the *mortgage*. We may complete any blanks and fix any typographical errors in the *mortgage* and date it.

## 6.6 Governing law

The *mortgage* is governed by and interpreted in accordance with the law for the time being in force in the jurisdiction where the *secured property* is located, and the courts of that jurisdiction can deal with any matter relating to the *mortgage*.

## 6.7 Provide information

You must promptly comply with any of our requirements regarding 'know your customer' or similar identification procedures and produce any documents or other evidence requested by us in that regard.

## 6.8 How we can deal with the *mortgage*

We may assign, novate or otherwise deal with our rights and obligations under the *mortgage* in any way we wish. You must sign anything and do anything we reasonably require to enable any dealing with the *mortgage*. You must not assign, novate or otherwise deal with your rights or obligations under the *mortgage*. We may disclose information about you, the *secured property* and the *mortgage* to anybody involved in an actual or proposed assignment, novation or dealing by us of our rights under the *mortgage*.

## 6.9 Limitation of liability

- (a) If we enter into the *mortgage* as a custodian or trustee, we do so only in our capacity as custodian or trustee (as the case may be) and our liability is limited to the assets of the trust which are available to us to satisfy that liability. We are not liable under any circumstances to any party to the *mortgage* other than as custodian or trustee (as the case may be). This limitation of our liability applies despite any other provision of the *mortgage* and extends to all of our liabilities and obligations in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to the *mortgage*.

- (b) We are not obliged to do, or refrain from doing, anything under the *mortgage* (including without limitation incur any liability) unless our liability is limited in the same manner as set out in this clause 6.9.
- (c) No attorney, agent, receiver, or receiver and manager appointed in accordance with the *mortgage* has authority to act on behalf of us in a way which exposes us to any personal liability.

#### 6.10 **Your liability continues**

Your obligations under the mortgage continue and remain unaffected despite anything that happens to you or a *borrower*.

#### 6.11 **Discharge of *mortgage***

We do not need to give a discharge of the *mortgage* until we are satisfied that there is no likelihood of any *debt* being due by you to us on any account whatsoever. Even if the *mortgage* is discharged, any part of the *debt* which is outstanding, or becomes outstanding after the discharge, must still be paid by you.

#### 6.12 **Power of Attorney**

You irrevocably, and for valuable consideration, appoint us and any receiver, manager, or receiver and manager appointed by us, and each of our directors and managers, from time to time, alone or together, to be your attorneys, and authorise them to sign anything and do anything on your behalf (including in your name) we think fit to give effect to your obligations or our powers under the *mortgage*. In addition, the attorneys can exercise any powers, authorities, duties or functions as a trustee if you are a trustee, and may sign things and do things which benefit us.

#### 6.13 **Valuation and reports about the *secured property***

We may obtain independent valuations or other reports in relation to the *secured property* whenever and as often as we decide. You must assist this process by providing access to and information about the *secured property* if requested by us or any agent we appoint. We accept no responsibility if you rely on these valuations or reports. You should obtain your own valuations of the *secured property*.

#### 6.14 **If you are a trustee**

If you are at any time a trustee of any trust, you are liable under the *mortgage* in your own right and as trustee of the trust. Accordingly, we can recover against the trust assets as well as you. You must ensure that there is no change of trustee, termination of the trust, or change to the terms of the trust without our prior written consent (which will not be unreasonably withheld).

#### 6.15 **How notices may be given**

- (a) Subject to any applicable laws, we may give you any notice, statement, demand, court document (including any collection notice, default notice, court originating process or other court document) or other document connected to the *mortgage* by:
  - (i) giving it to you personally;
  - (ii) leaving it at or posting it to:
    - (A) your address shown on the *mortgage*;
    - (B) the *secured property*;

- (C) your registered office if you are a company; or
  - (D) your address last known to us;
  - (iii) electronic transmission sent to your electronic address last known to us; or
  - (iv) any other means permitted by law.
- (b) Any notice, statement, demand, court document or other document may be signed by any employee, solicitor or agent on our behalf.
- (c) Subject to any applicable laws, you consent to any notice, statement, demand, court document or other document connected to the *mortgage* being given to you by electronic means, including any documents that would otherwise require personal service in accordance with the relevant court rules in force in the jurisdiction in which the *secured property* is located.
- (d) Any notice, statement, demand, court document or other document given by us to you will be deemed served:
- (i) if posted, when it would have been delivered in the ordinary course of post; or
  - (ii) if sent by electronic transmission, on conclusion of transmission.

#### 6.16 **Waiver**

We do not lose the power to exercise any of our rights under the *mortgage* unless we expressly waive that right in writing. Our rights under the *mortgage* do not merge in any judgment, and so we can, for example, take fresh proceedings if a judgment becomes stale.

## Direct Debit Service Agreement

This Direct Debit Request ('DDR') Service Agreement is issued by Auswide Bank Ltd, to explain what your rights and responsibilities are when undertaking a Direct Debit arrangement with us. It also details what our obligations are to you as your Direct Debit provider.

### Our Commitment to You

1. Auswide Bank will arrange for funds to be debited from your account at another financial institution as nominated. Payments will be initiated when due and no individual advice of payments made will be issued by Auswide Bank.
2. This DDR will remain in force for period specified in the authority or until:
  - Auswide Bank receives cancellation advice in writing or by some other means acceptable to Auswide Bank from you.
  - Auswide Bank receives notice of your death, bankruptcy or any form of insolvency administration affecting you.
  - The financial institution where the account to be debited is held, advises no further debits will be accepted.
  - Auswide Bank will give you at least 14 days written notice if we intend to change or discontinue your direct debit arrangements unless the changes are made at your request.
3. If a payment falls due on any day which is not a business day, the payment will be made on the next business day.
4. If a payment is returned unpaid by the debiting financial institution, the amount of the transaction will be debited from your Auswide Bank account plus any fees applicable. Should funds be paid by the debiting financial institution, such funds will remain unavailable until such time as Auswide Bank can ascertain the payment will not be rejected.
5. Details of fees, charges and dishonour fees that apply to direct debit payments are available in your account terms and conditions for relevant fees and charges.
6. We will keep information pertaining to your nominated account at the Financial Institution private and confidential, unless this information is required by Auswide Bank to investigate a claim made on Auswide Bank relating to an alleged incorrect or wrongful debit, or as otherwise required by law.

### Your Commitment to Us

7. It is your responsibility to:
  - Ensure that your nominated account can accept direct debits (this may not be available on all accounts, please check with your financial institution). You understand that Auswide Bank may confirm your bank account details with the debiting financial institution.
  - Complete your nominated account details from a recent account statement or passbook from your Financial Institution.
  - Ensure that there are sufficient cleared funds available in the nominated account, on the due date, to cover the direct debit. If there are insufficient cleared funds in your account to meet a debit payment: you may be charged a fee and/or interest by your financial institution; you may also incur fees or charges imposed or incurred by us; and you must arrange for the debit payment to be made by another method.

- Ensure that the authorisation given to draw on the nominated account is identical to the account signing instruction held by the financial institution where the account is held.
- Advise Auswide Bank as soon as possible, if the nominated account is transferred or closed, or your account details change.
- Arrange an alternate payment method if the direct debit arrangements are cancelled either by yourselves or the nominated Financial Institution.
- Check your account statements or passbooks to verify that the amounts debited from your account are correct.

### **Making changes to your Direct Debit Arrangements**

8. You may request Auswide Bank to vary this authority by notifying us in writing or by completing a new 'Electronic Payment Maintenance Form'
9. This form allows you to:
  - Cancel the payment completely
  - Alter the next payment date
  - Alter the frequency of your payment (i.e. weekly, fortnightly or monthly)
  - Alter the amount to be transferred
10. You need to ensure that Auswide Bank receives your written notice at least 3 business days prior to the next due date to ensure that your request can be processed.

### **Your Rights**

11. If you believe that there has been an error in debiting your account, you should notify Auswide Bank immediately and confirm that notice in writing with us as soon as possible so that we can resolve your query more quickly. Alternatively you can lodge a Direct Debit Claim form through your nominated Financial Institution.
12. If Auswide Bank concludes as a result of our investigations that your account has been incorrectly debited we will respond to your query by arranging for your nominated financial institution to adjust your account (including interest and charges) accordingly.
13. If Auswide Bank concludes as a result of our investigations that your account has not been incorrectly debited we will respond to your query by providing you with reasons and evidence of this finding in writing.
14. Details of Auswide Bank's Dispute Resolution Process is available on request or alternatively by referring to Auswide Bank's 'Guide to Banking Services'.

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