

# **Auswide Bank**

## **Mortgage Booklet**



Credit Guide

General Terms and Conditions (Version 5.3)

Information Statement (for Regulated Loans)

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

Account Access Methods

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 5.3)
3. Information Statement (for Regulated Loans)
4. Freedom Package Terms and Conditions Version 1.2 (only applicable to Freedom Package Customers)
5. Account Access Methods
6. Mortgage Common Provisions
7. Direct Debit Service Agreement

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

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

The Account Access Methods explain how you can access your loan account.

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 the website <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.

## 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           **1300 138 831**

Email               **idr@auswidebank.com.au**

Writing to us       **Internal Dispute Resolution Auswide Bank Ltd**  
**P.O. Box 1063 Bundaberg QLD 4670**

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](http://www.afca.org.au)

Email: [info@afca.org.au](mailto:info@afca.org.au)

Phone: 1800 931 678 (free call)

Mail: Australian Financial Complaints Authority  
GPO Box 3, Melbourne VIC 3001

## Contacting

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

Telephone           **1300 138 831**

Facsimile           **(07) 4152 3588**

Email               **contactcentre@auswidebank.com.au**

Website             [www.auswidebank.com.au](http://www.auswidebank.com.au)

Writing to us       **Auswide Bank Ltd**  
**PO Box 1063**  
**Bundaberg, Qld 4670**

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

# **General Terms and Conditions**

**Version 5.3 of November 2019**

## Part A – Loan Terms

### 1. What are these terms about?

- 1.1 These are the Auswide Bank General Terms and Conditions Version 5.3 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.
- 1.3 Words in *italics* have special meanings. These words are defined at the end of this document or in the document that contains the Financial Table.

### 2. Is there anything else you need to read and comply with?

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 is there a binding legal contract between you and us?

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. 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. What happens if there are two or more borrowers?

- 4.1 If there are two or more of you, each of you is individually liable, and all of you are jointly liable. This means we may sue any one of you for all the outstanding amounts.

Each borrower can bind each other borrower. For example, any one of you can authorise a redraw, a split into one or more sub-loans, or any other activity in respect of your loan. Each other borrower and any *guarantor* will be liable even though they did not know about or did not agree to the transaction.

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

**WARNING: This means that each one of you can be required to pay the whole amount even though you may have some other arrangement among yourselves or not all of you benefit equally.**

## **5. Representations and warranties**

5.1 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 can we do with your loan account?**

6.1 We can debit your loan account with any amounts lent to you or due under your *loan agreement*.

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 We may combine two or more sub-accounts if they have identical repayment types, annual percentage rates, fixed rate periods (if applicable), interest only periods (if applicable), and loan purposes.

6.4 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 variable rate to fixed rate and vice-versa.
- Consolidate one or more accounts.
- Convert from interest only to principal and interest repayments and vice-versa.
- Convert from one type of account to another type of account.

6.5 You may request a change prior to the initial advance being made to you, in which case the change takes effect from the *settlement date*.

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 must 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, a fixed rate break cost fee and/or a complex variation fee may be payable – see your *loan agreement*.

6.8 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. What payments must you make?**

7.1 You must make all payments and pay all credit fees and charges specified in your *loan agreement*. 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 fall due, without setting off 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 payments weekly or fortnightly, please make appropriate arrangements with us. Weekly or fortnightly repayments are not available for interest only loans.

7.4 Payments are to be made by direct debit or by any other method approved by us. In any case, you must sign a direct debit authority to allow us to debit an account from which repayments will be made and you must keep that account open until your loan is repaid in full. You authorise us to obtain any payment due under your *loan agreement* by using the direct debit authority.

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 direct debit or cheque used for repayment is dishonoured, the repayment 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 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*.

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

8.1 We can apply any payment or other credit to any *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. How is interest applied to your loan?

- 9.1 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.
- 9.2 For lines of credit, interest charges are debited to your loan account monthly on the 28<sup>th</sup> day of the month.
- 9.3 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*.
- 9.4 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.
- 9.5 In addition to debiting interest to your loan account as specified above, we may debit interest whenever the loan is in default, you repay the *amount you owe us*, there is any principal increase or variation in your *loan agreement*, or there is any change to the loan terms.
- 9.6 Interest accrues on a daily basis from the day we draw cheques or otherwise allocate money at your request to make the first advance. This applies whether or not any real estate transaction to which the advance relates (eg, refinance or purchase) occurs on that day.
- 9.7 If more than one interest rate applies to your loan accounts, we will apply the applicable daily percentage rate to the relevant portion of the *amount you owe us*.
- 9.8 You can find out our current interest rates at any time by contacting us.

## 10. What happens if you make additional payments or repay early?

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

- (a) fees may be payable as specified in your *loan agreement*,
- (b) fees or fixed rate break costs may be payable on early repayment of a fixed rate account; and
- (c) you may be able to redraw any excess repayments

### What are fixed rate break costs?

When a lender agrees to lend money to a customer for a fixed period at a fixed rate, the lender may enter into finance arrangements to enable it to do so, which may consist of the lender borrowing money on similar terms. If the fixed rate loan is repaid before the end of the fixed rate period, the lender may still be obliged to pay the agreed rate for the balance of the period to its own lender or may incur other costs with respect to its finance arrangements. This may result in a cost to the lender (commonly known as break costs). Lenders normally pass on this cost to borrowers.

### Example

A lender may borrow money for three years at a fixed rate of 8% per annum. The lender lends this money to you, also for three years, at say 9% per annum. During the three years, you

decide to repay the loan early or switch to a variable rate. The lender incurs a cost in varying or cancelling the finance arrangements it has made.

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

**WARNING: If the fixed rate loan or any part of it is terminated early, break costs could be substantial. This is particularly true if market interest rates have reduced during your 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. The method of calculation is not ascertainable at the *disclosure date* in your *loan agreement*.

## 11. How do you use your redraw facility (if applicable)?

- 11.1 We will tell you if redraw facilities are available. We may review, suspend or cancel the redraw facility at any time. Redraws will be processed as we decide from time to time. If you request a redraw, we have full discretion whether to approve or refuse your request.
- 11.2 While you have one or more split loans, any re-borrowing will be made from the loan account specified by you, or if no loan account is specified, the loan account determined by us.
- 11.3 If you have made extra payments above your minimum repayment amount, you may redraw all or any part of those extra payments provided:
- (a) you have not defaulted under your *loan agreement*;
  - (b) and
  - (c) no other redraw restrictions are set out in your *loan agreement*.
- 11.4 The amount you redraw must not be less than the minimum amount specified by us from time to time, and must not be more than the total amount you have repaid early and for which cleared funds have been received. We may reduce the amount otherwise available to you to redraw by an amount approximately equal to the payments due for the next month.

You must keep the method of making redraws from your loan accounts (including any offset sub-account(s)) confidential to ensure there are no unauthorised transactions or other dealings with your loan account(s).

- 11.5 You can obtain a redraw:
- (a) if internet access is available under your loan, by using internet access in accordance with our internet access terms and conditions;
  - (b) if telephone access is available under your loan, by using telephone access in accordance with our telephone access terms and conditions; or
  - (c) by any other method we approve from time to time.
- 11.6 If you make your request for redraw manually, you should allow at least two *business days* for your redraw to be processed.
- 11.7 If you attempt to redraw more than your available funds limit, we may (but are not obliged to) stop or prevent the payment, including by:

- (a) not processing a direct transfer from your loan account;
  - (b) dishonouring a cheque (where you have chosen the cheque facility) drawn on your loan account.
- 11.8 You must make sure that the *amount you owe us* does not go over your credit limit. However, if it does go over the credit limit, you must repay the excess immediately.
- 11.9 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.
- 11.10 If you have a construction loan, no redraw is available during the construction period.
- 11.11 If you request a redraw, and for that loan account your existing repayments are not sufficient to repay the balance over the remaining term, we may recalculate your future repayments for that loan account.

## **12. What if you have an offset account?**

- 12.1 For the purposes of this section your offset account means a deposit, savings, or transaction account linked to a nominated loan account as described in this section.
- 12.2 We will tell you if offset facilities are available. We may review, suspend or cancel the offset facility at any time.
- 12.3 We do not make any representations about the tax effectiveness of any offset account.
- 12.4 Each offset account must be linked to a separate nominated loan account.
- 12.5 You must ensure that the balance of all your offset accounts does not exceed the amount outstanding on your nominated loan account at any time.
- 12.6 You have no right to receive interest payments or payments in the nature of interest on the amount in your offset account, even if the balance of the offset account exceeds the amount outstanding in your nominated loan account.
- 12.7 Interest payable on your nominated loan account will be reduced to be equal to interest payable on the daily balance of your nominated loan account less the combined amount in your offset account.
- 12.8 You may withdraw funds from your offset account in the same way as set out above for redraw accounts in accordance with these terms and conditions – see clauses relating to redraw.

## **13. What happens if you want to pay third parties by direct debit?**

- 13.1 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.

**14. Can your obligations under your *loan agreement* change?**

- 14.1 Acting reasonably, we can change or vary any term of your *loan agreement* dealing with:
- (a) the pricing of your loan (including credit fees and interest rates, but subject to any specific agreement such as a fixed rate period);
  - (b) the day you make repayments or we debit interest to your loan account;
  - (c) a change in law or market practice;
  - (d) a change in technology or other ways of communication;
  - (e) a change in payment methods; or
  - (f) any other reasonable change.
- 14.2 If you are not satisfied with any change or variation, you may repay your loan in accordance with the early repayment provisions in your *loan agreement*.
- 14.3 You will be notified in accordance with applicable laws on or before the day the change takes effect either in writing or by advertisement in a major newspaper or (if you have consented) by electronic means. If notified by newspaper, the change will also be confirmed in your next statement of account. You may not be notified of changes which reduce your obligations.
- 14.4 The interest rates and repayments shown in the Financial Information in your *loan agreement* are correct at the *disclosure date* but may change prior to the *settlement date* if the interest rate changes.

**15. When will you receive account statements?**

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 forwarded 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.

**16. How does your construction loan work?**

- 16.1 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 the special conditions to your *loan agreement*. In any event, you must complete the building works expeditiously in accordance with the best skills and practices to our satisfaction, and in accordance with plans and specifications approved by us and with the requirements of any responsible authority (eg a local council).
- 16.2 The *amount of credit* will be advanced progressively as and when we see fit to assist in the construction of building works.
- 16.3 Generally, all progress payments will be made directly to the builder or service provider.
- 16.4 If total construction costs are less than the agreed amount in your *loan agreement*, we may reduce the amount we lend you accordingly.

- 16.5 We are under no obligation to make any progressive advances, and in particular can refuse to make any further advances if anything happens which in our opinion adversely affects the value of the *mortgaged property* or if the works are not proceeding satisfactorily.
- 16.6 If the insurer who has provided mortgage insurance (or the provider of any other type of risk cover in respect of this loan) cancels, suspends or limits that insurance or cover, a default under your *loan agreement* will have occurred, and we can demand repayment of the whole or any part of the *amount you owe us*.
- 16.7 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.
- 16.8 Construction payments can only be applied to completed work fixed to the building. All variations must be funded by you using your own funds.

**17. What are your obligations in relation to construction?**

- 17.1 Before we advance 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 fixed price (inclusive of GST) 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*.
  - (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 policy and a certificate of currency for that insurance.
  - (e) A certificate of currency of the builder's insurance policy.
  - (f) An identification survey report completed by a licensed land surveyor.
  - (g) A progress payment authority signed by you.
  - (h) Any other document reasonably required by us.
- 17.2 You must also do the following:
- (a) As soon as the building works are complete, provide us with 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.
  - (b) Promptly after completion of construction, provide to us a final certificate from the local council or other responsible authority confirming that building works have been completed in accordance with all relevant requirements.
  - (c) Ensure that the agreed drawdown schedule is observed and that there is always a sufficient undrawn amount under the loan to complete construction.
  - (d) Promptly comply with any condition imposed by us in relation to any progressive draw or the works.
  - (e) Not vary or terminate the building contract without our prior written consent (which will not be unreasonably withheld).

You are still liable under your *loan agreement* if we make any advances without requiring any of these things and despite anything in relation to the construction. We accept no responsibility for anything relating to the building works.

### Part C – Line of Credit Facility

#### 18. Amount you may borrow under a line of credit account

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

**WARNING: We can suspend, cancel or change your line of credit facility at any time. Read the clauses below carefully.**

- 18.1 At any time upon not less than 30 days' notice, we may convert the facility to a term loan under which you must make regular monthly instalments of principal and interest to repay the loan by a specified date.
- 18.2 We may suspend, change or cancel the line of credit limit at any time and you must then repay any amount owing in excess of the changed line of credit limit within 90 days of the date we give notice to you (or such longer period we specify in the notice). However, we may require immediate repayment or repayment within a shorter period if there is an *event of default*, or we consider that there are sound reasons why the loan must be repaid earlier. 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.
- 18.3 We are not liable for any loss suffered by you or anyone else as a result of us terminating, suspending, or changing the line of credit facility.
- 18.4 We calculate your available funds limit on each day by taking your credit limit and deducting the following from it:
- (a) the *amount you owe us* under your line of credit account;
  - (b) any incurred fees or charges;
  - (c) any withdrawal amounts for which we have received instructions, but which have not yet been processed (not including future periodical payments);
  - (d) the amount of any payments by cheque which have been credited to your line of credit account, but which have not cleared yet; and
  - (e) the amount of any other proposed payments on your line of credit account which we have been told about, but which have not yet been debited to your account, eg certain types of deposits for goods or services.
- 18.5 You must ensure that you do not exceed your credit limit. If you exceed your credit limit without our written consent, we may apply a higher interest rate as set out in your *loan agreement* and the amount by which you have exceeded the credit limit must be repaid immediately with or without demand.
- 18.6 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.

18.7 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**

### **19. Default rate**

19.1 Acting reasonably, we may change the default rate 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.

19.2 If any amount due by you is not paid on the due date, you must pay default interest on the amount in default until it is paid. You may also be liable for default fees as specified in your *loan agreement*. If for any reason the total *amount you owe us* becomes due, interest at the applicable default rate is payable on the entire amount.

19.3 Default interest accrues and is payable in the same way as ordinary interest.

### **20. Breach of any term**

If you breach any term of your *loan agreement* or any *other agreement*:

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

### **21. Notification of event of default**

21.1 You must promptly inform us in writing if any *event of default* occurs.

### **22. Monetary events of default**

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

- (a) you fail to pay any money due to us under your *loan agreement* or any *other agreement* by the due date;
- (b) you fail to pay any amount exceeding \$50,000 to any person other than us by the due date.

### **23. Non-monetary events of default**

Each of the following is an *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 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 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 a separate financing arrangement you or a *guarantor* have with us, or default based action is taken against you or a *guarantor* by us, in each case due to an *event of default* which is described in this clause 23;
  - (f) we reasonably believe that you, your agent or a *guarantor* have not complied with the law or any requirement of a statutory authority, and such non-compliance has, or has the potential to have, a material effect on any business you conduct;
  - (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, for an illegal or improper purpose, or to finance an illegal or improper activity;
  - (j) your assets or a *guarantor's* assets 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);
  - (k) you or a *guarantor* do not provide financial information required by any agreement with us;
  - (l) you or a *guarantor* do not maintain a licence or permit necessary to conduct any business you conduct;
  - (m) you or a *guarantor* do not maintain insurance required by any agreement with us;
  - (n) 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);



- (o) 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 your business or a material part of your business, or dispose of substantially all of your 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;
- (p) 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;
- (q) there is a material reduction in the value of the *mortgaged property*;
- (r) you, or any person on behalf of you, breach any material undertaking given to us or any condition imposed by us;
- (s) all repairs necessary to keep the *mortgaged property* in good repair are not made in a timely fashion;
- (t) 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 due date; or
- (u) any other event agreed in writing by you to be an *event of default* for the purposes of your *loan agreement*.

**24. Final determination of an *event of default***

Any provision in any *security* which states that an *event of default* occurs if the Lender makes a determination that an *event of default* has occurred, and that any such determination is final, is negated and does not apply.

**25. What can we do when you are in default?**

25.1 Subject to clauses 25.225.2 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 entire balance owing under your *loan agreement*.
- (c) Exercise any right, power, or privilege conferred by law, equity, 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 specific 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) your or a *guarantor's* ability to meet your or their financial obligations to us;
  - (b) our credit or security risk (or our ability to assess these); or
  - (c) our legal or reputational risk where an event in clause 23(f), 23(g), 23(h) or 23(i) occurs.
- 25.3 We will not:
- (a) require you to repay the loan;
  - (b) take enforcement action against you; or
  - (c) enforce any *security* held to secure repayment of this loan,
- unless:
- (d) we have given you at least 30 days written notice of the *event of default*; and
  - (e) if the *event of default* is rectifiable, you have not rectified that *event of default*; 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) based on our reasonable opinion, it is necessary for us to act to manage an immediate risk;
  - (b) you or a *guarantor* become insolvent, go into bankruptcy, voluntary administration or other insolvency process or arrangement, or no longer have legal capacity;
  - (c) enforcement action is taken against you by another credit provider;
  - (d) we reasonably believe that you or a *guarantor* have not complied with the law or any requirement of a statutory authority; or
  - (e) we have already given you a notice to rectify a non-monetary *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 default occurs. We do not lose any rights or forgive any defaults 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 fraud, negligence or wilful misconduct by us, our employees or a receiver we appoint.

## **26. Are you liable for enforcement expenses?**

- 26.1 Enforcement expenses may become payable under your *loan agreement* and any security if you default. We may debit your loan account with our costs in connection with any exercise or non-exercise of rights arising from any default when we incur them, including:
- (a) legal costs and expenses on a full indemnity basis or solicitor and own client basis, whichever is higher; and
  - (b) our internal costs.

We may then either require you to pay these costs immediately, collect them with your regular repayments, or require them to be repaid by one or more repayments.

- 26.2 Where the loan is regulated by the National Credit Code or similar laws, these costs will not exceed our reasonable enforcement costs (including internal costs).
- 26.3 These 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 and expenses resulting from dishonour of a cheque or payment. These expenses may be debited to your loan at any time after they are incurred.
- 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 default occurring, except where such loss arises from fraud, negligence or wilful misconduct by us, our employees or a receiver we appoint, or is otherwise recovered by us.

## **Part E – General provisions**

### **27. Do you have to pay 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. What happens if you have a guarantor?**

You agree to allow us to disclose the following documents to each *guarantor* named in your *loan agreement*:

- (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 loan account statement; and
- (g) any other information about you and your loan accounts with us.

**29. Do you have to provide 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, we may require a copy of an individual's taxation return or an assets and liability statement. In relation to a company, we might require a balance sheet, a profit and loss account, or both. We may require this information to be certified or audited.

**30. What happens 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 will not pay you interest on that amount.

**31. Will we obtain valuations of the *mortgaged property*?**

- 31.1 We may obtain valuations or other reports concerning the *mortgaged property* whenever and as often as we decide. Upon request, you must assist this process by providing access to and information about the *mortgaged property*.
- 31.2 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.
- 31.3 We accept no responsibility if you rely on these valuations. You should obtain your own valuations of the *mortgaged property*.

**32. What law applies to your *loan agreement*?**

- 32.1 If, when your *loan agreement* is entered into, each of you reside in the same Australian state or territory, your *loan agreement* is governed by the laws of that state or territory. Otherwise, your *loan agreement* is governed by the laws of the Australian state or territory in which the Lender first provides the loan.
- 32.2 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.

**33. How can your *loan agreement* be dealt with?**

- 33.1 We may 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.
- 33.2 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*.
- 33.3 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*.

**34. What about any relevant legislation or statutes?**

- 34.1 To the extent that your *loan agreement* is regulated under consumer legislation (eg 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.
- 34.2 If any of the provisions of your *loan agreement* are illegal or become illegal at any time, the affected provisions 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.

**35. What happens 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. Default occurs if there is a change of trustee, a termination of the trust, or any change to the terms of the trust without our consent.

**36. What should you do if your contact details change?**

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*.

**37. How can we give you notices about your loan?**

- 37.1 Subject to any applicable laws, we may give you a notice or any other document by personal delivery, electronic means or post sent to your address shown on your *loan agreement*, sent to your registered office (if you are a company), or sent to your last address known to us (including an electronic address). We may also give a notice in any other way authorised by law.
- 37.2 The notice may be signed by any employee, solicitor, or agent on our behalf.

**38. What is lenders mortgage insurance or a lenders risk fee?**

- 38.1 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.

38.2 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 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.

**39. What happens if a borrower dies?**

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 of you dies) unless other arrangements are made for the continuation of the loan to our satisfaction.

**40. 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.

**Part G – Definitions and Interpretation**

**41. Definitions**

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

- (a) *amount of credit* means the amount specified in the Financial Table in your *loan agreement*.
- (b) *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.
- (c) *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.
- (d) *disclosure date* means the date specified in your *loan agreement*.
- (e) *event of default* means any of the events described in clauses 22 and 23.
- (f) *final repayment date* means the date on which your loan term ends, the date on which the final repayment is due as a result of your default, the date on which you elect to repay the *amount you owe us*, or such other date which we agree with you.
- (g) *guarantor* means anyone who at any time guarantees to us the payment of all or any part of the *amount you owe us*, and includes the guarantor specified in your *loan agreement*.
- (h) *loan agreement* means the *loan agreement* which incorporates these General Terms and Conditions and includes any variations of that *loan agreement*.
- (i) *mortgaged property* means any real estate subject to the *security* specified in your *loan agreement* and, where the context permits, any other property subject to the *security*.
- (j) *other agreement* means any other agreement or arrangement under which we provide financial accommodation to you or any *guarantor* at any time.

- (k) *security* means any security specified in your *loan agreement* that secures your obligations and any other security from time to time given to secure your obligations.
- (l) *settlement date* means the date we first advance money to you.

#### **42. Interpretation**

In this document:

- (a) a reference to the singular includes the plural;
- (b) reference to a document includes any variation or replacement of it;
- (c) headings are for ease of reference only and not to assist interpretation; and
- (d) 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 this loan is predominantly used for business purposes or investment purposes (except for investment in residential property) it 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 loan agreement 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 complaint. 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 loan agreement. 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 loan agreement 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 loan agreement 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 that your credit provider belongs to. 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 LOAN AGREEMENT, 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 1.2. 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 a composite 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**

#### **New borrowers:**

In order to be eligible for the Package benefits:

- (a) You must apply for \$100,000 or more in eligible Package Loan/s all held under the same borrower name/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; and

Package benefits are only available on Eligible Products held by the borrowers of the eligible Package Loan/s. Package benefits are not available to loan guarantors.

#### **Existing borrowers (non-Package):**

An existing Auswide Bank borrower, who is not a Package borrower, may apply for the Package at the time of applying for an increase of \$100,000 or more on an existing loan / line of credit, or by applying for a new loan / line of credit of \$100,000 or more. 'Special' discounted promotional Package rates are available on the loan/credit limit increase or additional loan only.

Any other existing eligible loan/s / line of credit/s may be incorporated into the Package. The applicant must meet all other terms and conditions relating to eligibility for the Package and all loans are to be held under the same borrower/s name. The Package benefit "Interest Rate Discount" applicable to the existing loan/s / line of credit/s will be based on the standard Package interest rates available at the time of applying for the Package. 'Special' discounted promotional Package rates are not available.

#### **Existing borrowers (Package):**

An existing Package borrower may apply to include a loan/ line of credit limit increase to an existing loan in their Package.

An existing Package borrower may apply to include an additional loan in their Package. An additional loan must be for an eligible Package Loan with all loans held under the same borrower name/s. Where a new or additional loan is to be held in whole or in part by a borrower who is not a borrower associated with an existing Package, a new Package is applicable.

The Package benefit "Interest Rate Discount" will be based on the standard Package interest rates available at the time of applying for a loan/line of credit limit increase or additional loan into the Package. 'Special' discounted promotional Package rates are not available unless the application is for a loan/line of credit limit increase or additional loan of \$100,000 or more.

For loan/line of credit limit increases or additional loans applying to refinance an existing Auswide Bank loan the 'Special' discounted promotional Package rates are not available.

### **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.

## **Account Access Methods**

Auswide Bank Ltd ACN 087 652 060 AFSL and Australian Credit Licence 239686 (we/us/our)

This section governs how you can access your account. A reference to we / us in this section includes the third party providing the Access Methods. A reference to you / your includes all account holders.

## General

### 1. ePayments Code

We will use reasonable endeavours to comply with the ePayments Code when our dealings with you fall under that code.

### 2. How can you access your account?

2.1 We may offer you access to your account by the following access methods:

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

2.2 We may tell you how to use the Access Methods from time to time.

2.3 The Access Methods may be subject to fees contained in your Credit Contract, or restrictions, such as daily transaction limits set by us.

2.4 When you use the Access Methods, merchants and other institutions may charge additional fees and may impose additional obligations or restrictions (for example, minimum spend rules).

2.5 We may provide you with access codes, including a 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.

## Access Methods

### 3. Who can use the Access Methods?

**WARNING: If you have entered into this loan as a joint borrower, any borrower can bind each other borrower. Any of you will be able to access the account. All borrowers will be obliged to repay any and all amounts owing, even if a borrower did not benefit equally from the funds. You should maintain significant security in relation to the Access Methods.**

3.1 We may give access to your account, and process any transactions made by any person supplying the relevant access code(s). We can debit your 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).



3.2 You may instruct us to block access to your account using the Access Methods.

**WARNING: 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 account(s). If you disclose any access code(s) to another person, you will be liable for any transactions on your account(s) made by that person using that access code(s).**

#### **4. Your instructions**

4.1 When you use the Access Methods, your instructions may be carried out if they:

- (a) are permitted by these access terms; and
- (b) comply with the directions on how to use these access terms.

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

4.3 When you or anyone authorised by you gives us instructions using 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.

4.4 When you transact using electronic Access Methods (except telephone access), you can be provided with an electronic receipt.

#### **5. Direct debits and credits**

5.1 We may allow you to arrange both inbound direct credit payments and outbound direct debit payments for your account.

5.2 You must give us correct information. You are liable for any credits or debits we carry out in accordance with your instructions.

5.3 We may permit you to arrange recurring credits or debits.

5.4 We will decide the order in which credits or debits will be processed.

5.5 We do not guarantee that any credit or debit will be made on the day or at the time requested. We will endeavour to complete the transaction as soon as practicable after the requested time.

5.6 We have the right to decline your authorisation for any transaction if we are uncertain for any reason of the authenticity or validity of the authorisation or your legal capacity to give 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.

5.7 To the extent permitted by law, we are not liable for any loss or damage you suffer as a result of using any Access Method or any delay omission or failure in respect of any payment.

#### **6. Direct credit**

6.1 You can arrange an inbound direct credit by providing your full account details (including BSB) to the party crediting funds to your account. To setup, cancel or amend a direct credit you will need to contact the crediting party.

- 6.2 If you have no entitlement to an amount that is incorrectly credited to your account, the transaction may be reversed.
- 6.3 We will credit your account with the amount supplied by the third party crediting party. Incorrect account details may result in money being credited to the incorrect account, delays in crediting money or return of payments to the crediting party.

## **7. Direct debit**

- 7.1 You can arrange for a direct debit to be drawn from your account and paid to another account by supplying us with written authorisation. A direct debit can be set up through internet access or by contacting us.
- 7.2 You can authorise a third party to debit your account with us by providing them with written authorisation.
- 7.3 You must ensure that there are sufficient cleared funds to process a debit. If we try to process a debit and you have insufficient available funds, then the debit may be dishonoured and we may charge you a fee.
- 7.4 A business day is a day that is not a Saturday or Sunday, or Queensland or Commonwealth public holiday on which banks are generally not open to conduct business (**Business Day**).
- 7.5 Where the date for a debit falls on a day which is not a Business Day, you must ensure that your account has enough money for the debit to be processed on the next Business Day.

## **8. Altering or stopping a debiting or crediting service**

- 8.1 We may terminate the credit and debit services at any time without notice including without limitation where:
- (a) it is not or will not be possible for us to access the systems we use to provide these services;
  - (b) there are insufficient available cleared funds in your account or the account is closed;
  - (c) the debit or credit was made in error;
  - (d) the account to which payment is to be made or taken from is closed; or
  - (e) we are advised by the recipient of a debit that the debit is no longer required.
- 8.2 In circumstances where the crediting or debiting has been arranged through a third party, then the arrangement will need to be altered, cancelled or stopped by notifying the third party.
- 8.3 We are unable to stop a direct debit transaction after it has been processed to your account. If you wish to stop a direct debit before a transaction is processed to your account, you should contact us directly on phone 1300 138 831 or visit a branch and complete a Direct Debit Request - Stop Payment form.
- 8.4 If a direct debit has already been processed to your account and you have not authorised the direct debit or you disagree with the timing or amount of payment, you should contact the relevant direct debit user. If you cannot resolve the problem directly with the relevant direct debit user, you must complete a Direct Debit Claim form. After you have completed the form and provided it to us, we will investigate the transaction on your behalf. A direct debit claim may take up to 14 days to resolve.


## **9. Cards**

- 9.1 You must sign your card as soon as you receive it.
- 9.2 Do not give our card to anyone else (including family or friends) or allow anyone else to use it.
- 9.3 You must always keep your card with you and check regularly that you still have it.
- 9.4 We may approve your appointment of an additional cardholder. You are responsible for them understanding these terms and, liable for their transactions.
- 9.5 You may cancel the authority of an additional cardholder by contacting us.
- 9.6 If you forget your PIN, simply visit one of our branches with your card or contact us and we will issue a new card and PIN to you.

## **10. Verified by Visa**

- 10.1 'Verified by Visa' is an external service that provides you with extra protection and security when you make a purchase from a participating retailer on the internet.
- 10.2 The 'Verified by Visa' service enables you to authenticate that you are communicating with us during an online shopping transaction, and helps us verify that it is you who is using your card online before authorising the purchase. Just like entering a PIN at an ATM, 'Verified by Visa' provides important added protection when shopping online.
- 10.3 You can register for this service online at any time on our website [www.auswidebank.com.au](http://www.auswidebank.com.au). Alternatively, you will be prompted to register during the checkout process when making an online purchase with a 'Verified by Visa' retailer.

## **11. Visa PayWave**

Your Visa Debit Card may include PayWave contactless technology. These cards will feature the  PayWave symbol. PayWave will allow you to tap your card on a contactless POS terminal to make transactions through an embedded antenna in the card. Purchases can be made up to \$100 simply and securely with PayWave and do not require a PIN. The option to use PayWave is at the discretion of the cardholder. For more information about a PayWave enabled Visa Debit Card visit our website.

## **12. Purchasing goods or services with your card**

- 12.1 Your account will be debited with any purchases made using your card.
- 12.2 We are not responsible if a merchant refuses to accept your card.
- 12.3 The merchant may charge a different price for goods or services when you pay with card rather than with cash.
- 12.4 We do not accept any responsibility for the goods or services purchased with your card.
- 12.5 You should ensure that the correct amount is entered at the terminal or written in the total box on the sales voucher before you authorise the transaction. As your instructions to us to debit your account and pay another person will be regarded as being final and irrecoverable once processed, you must contact the merchant with any disputes regarding incorrect charges.
- 12.6 The amounts shown on each sales voucher and withdrawal slip are sufficient evidence of the price of the goods or services to which the voucher or withdrawal slip relates.

12.7 You must not use your card to pay for any illegal purchase.

### **13. Obtaining cash with your card**

13.1 We will debit your account with any cash withdrawals you make using your card.

13.2 Individual ATMs or EFTPOS terminals may not have money available and may not accept your card. Contact us if an ATM retains your card.

13.3 You may use your card to obtain cash from your account subject to your daily transaction limit, and the specific conditions of the ATM or EFTPOS supplier. When completing a transaction, you must ensure that the details are correct prior to authorisation, and you should keep any receipt or voucher issued.

13.4 If you want to withdraw more than our standard cash limit at any time, you must provide at least 24 hours' notice. You can provide notice by contacting the branch where you wish to collect the cash, or by phoning 1300 138 831. A fee may apply for this service.

13.5 You can withdraw up to our standard cheque limit without notice if you take the funds in the form of a bank cheque. We may charge a fee for this.

### **14. Transactions outside Australia with your card**

14.1 Your card can be used overseas through any ATM or bank branch displaying the logo of your card. When used overseas, foreign currency amounts will be converted into Australian dollars as at the date they are processed. The amount debited to your account will include currency conversion charges.

14.2 Use of an overseas ATM or bank is subject to their terms and conditions.

14.3 A fee may be charged by the foreign institution when you use your card at an ATM or bank overseas.

### **15. No deposits at an ATM**

You may not make a deposit into your account at an ATM.

### **16. Expiry date of your card**

16.1 Your card is only valid during the period stated on the card. You must destroy an expired card, and not use your card after the expiry date.

16.2 We may not automatically issue a new Cashcard to you before the expiry date of your current card. However, we will automatically issue a new Visa Debit Card prior to expiry.

### **17. Replacement cards**

You may order a replacement card at any time by contacting us. A fee may apply for issuing the replacement card.

### **18. Lost or stolen cards**

You must immediately report a lost or stolen card. Within Australia call us on 1300 138 831 or 1800 072 111. Outside Australia, call +61 2 9959 7884.

## **19. Cancelling your card**

- 19.1 The card remains our property at all times. We may cancel your card at any time, even if:
- (a) you are not in default; or
  - (b) we have not cancelled your account.
- 19.2 You may cancel your card at any time by contacting us.
- 19.3 If you or we cancel your card:
- (a) you must immediately destroy the card(s); and
  - (b) we may refuse to honour any transactions using the cancelled card(s) which take place after cancellation.
- 19.4 You will be liable for authorised transactions on your card before and after that card has been cancelled.

## **20. Internet access**

- 20.1 We may provide you with access to internet access.
- 20.2 You may use internet access to obtain account information, to transfer money to third parties and between your accounts, and to access BPAY®.

## **21. Telephone access**

Telephone access may be used to obtain account balances, transfer funds to and from your accounts, and make BPAY® payments from your accounts.

## **22. BPAY®**

If a BPAY transaction is made after 5:00pm Sydney time or on a non-business day, the transaction may be processed the following business day subject to the biller's financial institution and processing times. Specific limits may apply to BPAY® payments.

## **23. Cheque book**

- 23.1 You must look after your cheque book and keep it in a safe place. You must contact us as soon as possible if it is lost or stolen. You must not sign blank cheques.
- 23.2 You will be liable for the full amount of any cheque we have honoured before you have requested that we cancel the cheque.

## **24. Completing cheques**

- 24.1 You must only write cheques in pen only (never use a pencil or erasable ink). To complete a cheque you must write:
- (a) the name of the person or company who the cheque is made out to;
  - (b) the amount (in words and numbers);
  - (c) the date on which the cheque is written; and

(d) the signature of an authorised signatory.

24.2 Do not leave gaps between words or figures when completing the amounts.

24.3 If the cheque is not completed correctly we may dishonour the cheque or we may debit the cheque amount to your account.

24.4 Any account holder may sign cheques. Each account holder is liable for the amount of the cheque regardless of which borrower signed the cheque.

## **25. Stopping a cheque**

25.1 You may cancel or stop payment on a cheque before it has been paid by giving written and signed notification to us which includes the following information:

- (a) your account number;
- (b) the cheque number;
- (c) the cheque amount;
- (d) who the cheque is payable to; and
- (e) the reason for stopping the cheque.

25.2 Even if you have directed that a cheque be cancelled or stopped, it may still be debited to your account. We are not responsible for unsuccessful stop payment attempts. Fees may apply for stopping a cheque.

25.3 If we agree to stop the cheque, you will indemnify and hold us harmless against all actions, liabilities, proceedings, claims, costs and expenses that we may suffer, incur or sustain in connection with, or arising in any way whatsoever out of your request that that payment be stopped.

25.4 If the cheque is a bank cheque made out to a third party, you will be required to obtain written consent from the third party to stop the cheque. If you are unable to obtain this consent, we will require you to hold funds in your account equal to the amount of the bank cheque until we are satisfied that no proceedings will be brought by the third party against us. As the cheque drawer we may, at our discretion, pay the value of the bank cheque to the third party where in our opinion, we are liable to honour the cheque.

## **26. Other general information regarding cheque books**

A cheque may be paid even though it is dated after the date on which it is presented for payment. A cheque may also be honoured even though it has become a 'stale cheque' because it was dated a long time before it was presented for payment.

## **27. Dishonouring Cheques**

27.1 We may, at our discretion, dishonour a cheque if:

- (a) you have insufficient funds in your account to cover the amount of the cheque;
- (b) the cheque has not been completed correctly or is incomplete (including but not limited to a cheque that is unsigned, undated, post-dated, stale, has no payee stated or has been materially altered and you have not authorised the alteration);

- (c) you have instructed us to stop payment on the cheque;
- (d) we have received notice of your mental incapacity, bankruptcy or death; or
- (e) your account is closed or your cheque facility is cancelled, and you have not made any alternative prior arrangements with us to handle this situation.

However, we may pay any cheque at our discretion.

## **28. Recorded transactions**

We can, at our discretion, make electronic copies (including recordings) of or monitor any transaction conducted via the internet or telephone access for the purpose of accuracy and security.

## **29. Transaction processing times**

- 29.1 If we are instructed to do so, we will credit amounts to your 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 5 business days).
- 29.2 Any request for an account balance or information you make in relation to any account that is regulated by the National Credit Code is not a request under section 36 of that Code.

## **Security**

### **30. General**

- 30.1 You must keep your access codes, cards and cheque books (and any records of the details of these) secure.
- 30.2 You must do everything necessary to ensure that your access codes, your card, and your cheque book are not misused, lost or stolen. If any of these are misused, lost or stolen, you must tell us as soon as possible. If you breach any term in this document, you may be held liable for any unauthorised transactions.
- 30.3 You should contact us about any problems or questions relating to the Access Methods.

### **31. Access security**

- 31.1 You must always act with care and protect the security of your access codes. Memorise your access codes, and destroy any correspondence notifying you of an access code.
- 31.2 You must not:
  - (a) disclose voluntarily to anyone (including family or friends) any of your access codes;
  - (b) record any access code on a device (such as a smartphone) that could be used to perform a transaction, or anything carried with the device or anything liable to loss or theft with the device, unless you make a reasonable attempt to protect the security of the access codes; or
  - (c) keep a written record of all or any access codes required to perform a transaction on one or more things which are likely to be lost or stolen at the same time, without making a reasonable attempt to protect the security of the access codes.

- 31.3 You must act with care to protect the security of your access codes – for example, never store an access code in an unprotected notebook or under a heading ‘internet access password’.
- 31.4 If you choose your own access code, you must not select numbers or words which represent your date of birth, your name, or any other combination of numbers or letters which can be readily identified with you.
- 31.5 You must always log off from internet access and close your browser once you have finished an internet access session. If you are using a public computer or mobile device, you must clear the computer or device cache or history after using internet access.
- 31.6 You should take appropriate steps to ensure any device you use to access an electronic access channel is protected against computer viruses and unauthorised access.

## **Liability**

### **32. Liability for business accounts**

If your account is a business account, you are liable for all transactions made on your account, whether they are authorised by you or not. The provisions under ‘Liability’ do not apply.

### **33. Our liability**

- 33.1 Subject to any warranties implied by law that cannot be excluded, we are not responsible for, or liable for loss, damage, or interruption arising out of:
- (a) errors, inaccuracies, omissions, interruptions, viruses or defects where you were aware, or should have been aware, that the electronic services or any system or related equipment was malfunctioning, other than the refund of any charges or fees imposed on you as a result of the system being unavailable or malfunctioning;
  - (b) reliance on information obtained through use of the electronic services; or
  - (c) failure of the electronic services to perform a function in whole or in part.
- 33.2 If an error, inaccuracy or omission occurs and you advise us in writing, we will endeavour to correct the problem within three business days of notification. If we cannot, we will inform you when we expect to complete the correction.
- 33.3 Your access to electronic services may be automatically denied after unsuccessful attempts to enter the relevant access codes. If this happens, you must contact us to obtain access to the electronic services.

### **34. When you are not liable for losses – electronic Access Methods**

- 34.1 If transactions not authorised by you are processed on your account, you must inform us as soon as you become aware of these. You will not be liable for unauthorised transactions:
- (a) if it is clear that you have not contributed to the loss, or for transactions that you could not have known about;
  - (b) when they are caused by the same transaction being incorrectly debited more than once to the same account;
  - (c) which took place before you received any relevant card or access code;



- (d) that are caused by the fraudulent or negligent conduct of our employees or agents, a third party supplier company involved in our networking arrangements or by merchants, or their employees or agents;
- (e) which relate to a device, card or access code which is forged, faulty, expired or cancelled;
- (f) that occur after you inform us that your card or access code has been lost or stolen or the security of the access code has been breached;
- (g) result from an unauthorised transaction that can be made using an identifier without a card or PIN; or
- (h) that occurred while our facilities for you to report unauthorised transactions, or the loss, theft or misuse of a card are unavailable, provided you report the unauthorised transaction, or loss, theft or misuse of your card in a reasonable period of time once the facilities become available.

**35. When you will have limited liability for losses – electronic Access Methods**

35.1 If it's not clear whether you've contributed to the loss caused by an unauthorised transaction that required one or more access codes, the amount of your liability will be limited to the least of:

- (a) \$150;
- (b) the actual loss at the time we're notified that the security of your access code or PIN was breached or your card has been lost, stolen or used without your permission (limited by the applicable daily or period transaction limits over the relevant timeframe); and
- (c) the credit limit (if any) of the account from which value was transferred in the unauthorised transaction.

**36. When you will be liable for losses – electronic Access Methods**

36.1 If we can prove on the balance of probability that you've contributed to the loss by:

- (a) acting fraudulently; and
- (b) breaching any security terms set out in this document,

your liability will extend to the total loss suffered before you report the loss, theft or misuse of a device or breach of access code security to us.

36.2 You will not be liable for any portion of the losses incurred:

- (a) on any one day that exceed any relevant daily transaction limit;
- (b) in a period that exceeds any other applicable periodic transaction limit applicable to the relevant period;
- (c) that exceeds the credit limit (if any) applying to your account during the period; or
- (d) on any account that you and we agree could not be accessed by way of the Access Methods.

36.3 You are liable for losses from unauthorised transactions if they result from you leaving your card in an ATM, as long as the ATM incorporates reasonable safety measures to mitigate the risk of a card being left in the ATM.

36.4 Where more than one access code is required to perform a transaction and we prove:

- (a) that the security of an access code(s) has been breached, but not all of the required codes; and
- (b) we can prove on the balance of probability that a breach of security of the access code(s) was more than 50% responsible for the losses when assessed together with all the contributing causes,

then you are liable for the actual losses which occur before we are notified of the loss, theft or misuse of your access code or card or a breach of the access code security requirements.

### **37. Liability for unreasonably delaying notification**

37.1 If we can prove on the balance of probability that you have contributed to a loss caused by an unauthorised transaction by unreasonably delaying notification that the security of your access codes or your card has been compromised after you become aware of the loss, theft or breach, you will be liable to us for the actual losses incurred between:

- (a) the time you first became aware (or should reasonably have become aware) of any of these events; and
- (b) the time we are actually notified of the relevant event;

however, you will not be liable for any loss on any day, or in any period which exceeds any applicable transaction limit for that day or period, and you will not be liable for loss in excess of the credit limit (if any) of your account.

### **38. Liability caused by equipment malfunctions**

38.1 You are not responsible for any loss caused by the failure of a system or equipment provided by any part to a shared electronic network to complete a transaction accepted by the system or equipment in accordance with your instructions.

38.2 If you incur loss as a result of a shared electronic network being unavailable or malfunctioning, and you should reasonably have been aware of the unavailability or malfunction, our liability is limited to:

- (a) correcting any errors; and
- (b) reducing any fees or charges imposed on you.

38.3 We are not responsible for:

- (a) errors, inaccuracies, interruptions, viruses/defects due to any system or equipment failing to complete a transaction;
- (b) delays resulting from any network, system or equipment failing to support the interactive service or card; or
- (c) any internet access or telephone access service or card system or equipment failing to complete your transaction instructions.

38.4 If we're responsible, our liability is limited to the cost of re-supplying the service.

### **39. Liability when using your card without a PIN**

You will not be liable for an unauthorised transaction on your account where the transaction does not require the use of an access code, PIN or device but only an identifier (such as a member number). When a transaction can be made using only a device, or a device and an identifier, you will only be liable if you unreasonably delay reporting the loss or theft of the device.

### **40. Liability for BPAY® payments**

40.1 If a BPAY® payment is unauthorised or is made from your account otherwise than in accordance with your instructions, we will credit your account for the amount of the payment.

40.2 If a BPAY® payment is fraudulently made by someone involved in the BPAY® scheme, then that person should refund you that payment.

40.3 If that person doesn't refund the payment you have to bear the loss unless some other person in the BPAY® scheme:

(a) knew of the fraud; or

(b) would have detected it with reasonable diligence

that person must refund you the payment.

40.4 We are not liable for any indirect loss or damage you may suffer as a result of using the BPAY® scheme, unless we:

(a) acted negligently; or

(b) breached any condition or warranty in regard to the supply of goods and services, which can't be excluded or limited under law.

40.5 You indemnify us against any loss or damage we may suffer due to any action of any kind brought against us because you:

(a) did not observe any of your obligations; or

(b) acted negligently or fraudulently in regard to this account.

### **41. Mistaken internet payments**

41.1 A mistaken internet payment occurs when you make a transfer of money by internet access, and that money goes to an unintended recipient because:

(a) you entered the destination account details incorrectly; or

(b) you are not provided with the correct destination account details.

41.2 You should report a mistaken internet payment to us as soon as you become aware of it.

41.3 If you report the suspected mistaken internet payment within 10 business days:

(a) we will contact the financial institution that received the payment;

- (b) if there are sufficient funds available in the destination account and both we and the destination financial institution are satisfied that a mistaken internet payment has occurred, we will request the money back;
  - (c) the other financial institution must return the funds to us within 5 to 10 business days of receiving our request; and
  - (d) upon receipt of the funds by us, we will return the funds to your account as soon as practicable.
- 41.4 If you report the suspected mistaken internet payment between 10 business days and 7 months of making the payment;
- (a) we will contact the financial institution that received the payment to find out if there is sufficient money in the destination account to refund the payment;
  - (b) if we are satisfied that a mistaken internet payment has occurred, we will ask the destination financial institution to investigate;
  - (c) the destination financial institution must complete their investigation within 10 business days;
  - (d) if the destination financial institution is satisfied that a mistaken internet payment has occurred, they must prevent the holder of the destination account from withdrawing the amount of the mistaken internet payment for 10 business days;
  - (e) the destination financial institution must then notify the recipient that the funds representing the mistaken internet payment will be withdrawn from their account unless they can prove that they are entitled to the funds within 10 business days; and
  - (f) if the recipient cannot prove this, the money will be returned to us within two business days, and we will then return the money to your account as soon as practicable.
- 41.5 If you report the suspected mistaken internet payment after 7 months of making the payment:
- (a) we will contact the financial institution that received the payment to find out if there is sufficient money to refund the payment in the destination account;
  - (b) if we and the destination financial institution are satisfied that a mistaken internet payment has occurred, the destination financial institution must seek the consent of the recipient to have the funds returned;
  - (c) if the recipient consents, the destination financial institution must return the funds to us; and
  - (d) upon receipt of the money to us, we will return the funds to you as soon as practicable.
- 41.6 If you report the suspected mistaken internet payment to us, and there is sufficient funds in the destination account to refund the payment, but the destination financial institution is not satisfied that a mistaken internet payment has occurred then:
- (a) the destination financial institution may seek the consent of the recipient to return the funds;
  - (b) if the recipient consents, the destination financial institution must return the funds to us; and

- (c) when we receive the funds, we will return the funds to your account as soon as practicable.
- 41.7 If you report a suspected mistaken internet payment to us, and we and the destination financial institution are satisfied that a mistaken internet payment has occurred, but there is insufficient funds to return the payment to you then the destination financial institution must use reasonable endeavours to retrieve the funds.
- 41.8 If you report a suspected mistaken internet payment to us, but we are not satisfied that a mistaken internet payment has occurred, we are not required to take any further action. We may ask the destination financial institution to investigate. You will be liable for any loss arising from such a payment.
- 41.9 We will always tell you the outcome of a reported mistaken internet payment in writing within 30 business days of the report being made.
- 41.10 If you receive a mistaken internet payment into your account and we are required to refund the payment, you authorise us to withdraw the funds from your account and return the funds to the payer's account.

## **Miscellaneous**

### **42. Changes, suspension and termination of Access Methods**

- 42.1 We can change, suspend, or cancel any one or more of the Access Methods at any time without notice subject to any applicable laws or relevant codes of conduct to which we have subscribed.
- 42.2 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 an access method.

### **43. Indemnity**

You indemnify us against any loss or damage we may suffer due to any claim, demand or action of any kind brought against us arising directly or indirectly because:

- (a) you did not observe any of your obligations under these Access Methods; or
- (b) you acted negligently or fraudulently in connection with these Access Methods.

# Mortgage Common Provisions

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

State	Registration Number
New South Wales	AP212259W
Victoria	AA5165
Australian Capital Territory	2213451
Queensland	719374262
South Australia	13099583
Western Australia	O137604
Tasmania	M613
Northern Territory	372278

## Summary

**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.**

**Reading this summary does not replace reading the whole of the mortgage common provisions. The mortgage common provisions (not this summary) is 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 observe all the terms of these mortgage common provisions.

You are mortgaging the real estate referred to in the mortgage. The mortgage covers all 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 land. 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 you cannot mortgage, sell 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 might include paying lawyers, valuers, and any other advisers we use.

## Default

Part 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 there is default, 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 proceedings against you.

We hope there will be no default, but if there is, please contact us promptly so that we can try to find a mutually acceptable solution. There is no need to be embarrassed or distressed if a default occurs, and any problems that arise in relation to your loan or your mortgage should be openly discussed with us.

# 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.

*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 possibly 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 those arrangements; 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 that money.

*event of default* means each of the events 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 or any *guarantor* at any time.

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

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



- (f) all income (such as rent) derived from the *property*;
- (g) any right to occupy, lease or licence relating to or adjoining the *property*; and
- (h) 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*, references to a person include companies and trusts and any other kind of body. Singular words include plural words and vice versa. If there are two or more of *you*, each of *you* is individually liable, and all of *you* are jointly liable. The clause headings are to help understanding only.

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

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

- (a) *You* must make all repayments in respect of the *debt* on the dates agreed between *you* and us. Usually this agreement appears in a credit contract, loan offer letter 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 from time to time 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 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 facilities provided by us to *you* which are secured by the *mortgage*. This includes any of our internal costs in relation to the *mortgage*.
- (b) *You* must also pay us any of our costs or liabilities arising 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* (eg 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 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 and must not do relating to the *secured property***

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

*For valuable consideration you hereby charge and mortgage to us the whole of the *secured property* to secure payment of the *debt* and to secure the performance of any other obligations secured by the mortgage.*

### 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, any other usual risks and any other risk specified by us.*
- (b) *You must also maintain public liability insurance in respect of the *secured property* and any other insurance we reasonably require.*
- (c) *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.*
- (d) *If loss or damage to the *secured property* occurs, we *may* enforce any rights under the 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*.*
- (e) *You must pay all insurance premiums on or before the date they fall due.*
- (f) *You must not do anything which may result in any insurance policy relating to the *secured property* being prejudiced or cancelled.*
- (g) *On demand by us, you must provide evidence of currency of that insurance and of payment in full of any premium or other charges due in respect of that insurance.*

### 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 authority (eg a local council). Our agents may enter the *secured property* at any reasonable time to inspect it.*

### 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 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, outgoings 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 produce to us on demand evidence of such payment. 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** secured by the **mortgage**.*

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

- (a) **Provide information.** *You must provide to us on demand with 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** (eg fire, damage, rezoning etc).*
- (b) **No noxious uses.** *You must not carry on nor permit to be carried out any noxious, loud, illegal or offensive activity on the **secured property**.*
- (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 it is conducted in a proper and efficient manner, 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** (eg development approvals, building approvals, licences), 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 permit a surrender, assignment or variation of any lease or any licence, consent to or permit 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 “**secured property**” includes any income from the **secured property**, this clause 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* 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. (A caveat is a notification to the Land Titles Office that somebody has an interest in the **secured property**).*
- (i) **Comply with easements and restrictions.** *You must fully comply with any covenants or easements (eg 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 authority (eg 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.

### 3.7 **Adjoining property**

If *you* acquire any other property to be used or held in conjunction with the *secured property*, *you* must immediately notify us of this, and 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 the *secured property* and nothing concerning the *secured property*, nor any use of the *secured property* or any neighbouring 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. We may require a report on environmental issues to be prepared at *your* cost if we have reasonable cause to believe this clause has been or is likely to be breached.

## 4. **Default**

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### 4.1 **Breach of any term**

If *you* breach any term of the *mortgage* or any *other agreement*:

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

### 4.2 **When there is default**

An *event of default* occurs if we make a determination that an *event of default* has occurred. A determination by us will be final and binding on *you* and any *guarantor*. *You* must promptly inform us in writing if any *event of default* occurs.

### 4.3 **Monetary events of default**

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

- (a) *you* fail to pay any money due to us under the *mortgage* or any *other agreement* by the due date;
- (b) *you* fail to pay any amount exceeding \$50,000 to any person other than us by the due date.

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

Each of the following is an *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 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 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 a separate financing arrangement you or a *guarantor* have with us, or default based action is taken against you or a *guarantor* by us, in each case due to an *event of default* which is described in this clause 4.3;
- (f) we believe on reasonable grounds that you, your agent or a *guarantor* have not complied with the law or any requirement of a statutory authority, and such non-compliance has, or has the potential to have, a material effect on any business you conduct;
- (g) 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 *debt*, or would only have provided the *debt* on different terms, if we had known the correct information;
- (h) you use the *debt* for a purpose not approved by us, for an illegal or improper purpose, or to finance an illegal or improper activity;
- (i) your assets or a *guarantor's* assets 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);
- (j) you or a *guarantor* do not provide financial information required by any agreement with us;
- (k) you or a *guarantor* do not maintain a licence or permit necessary to conduct any business you conduct;
- (l) you or a *guarantor* do not maintain insurance required by any agreement with us;

- (m) 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);
- (n) 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 your business or a material part of your business, or dispose of substantially all of your 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;
- (o) 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;
- (p) there is a material reduction in the value of the *secured property*;
- (q) you, or any person on behalf of you, breach any material undertaking given to us or any condition imposed by us;
- (r) all repairs necessary to keep the *secured property* in good repair are not made in a timely fashion;
- (s) 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 due date; or
- (t) any other event agreed in writing by you to be an *event of default* for the purposes of the *mortgage*.

#### 4.5 **When we can take action under this *mortgage***

- (a) We will only act on a specific 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) your or a guarantor's ability to meet your or their financial obligations to us;
  - (ii) our credit or security risk (or our ability to assess these); or
  - (iii) our legal or reputational risk where an event in clause 4.3(f), 4.3(g) or 4.3(h) 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*; and
  - (ii) if the event of default is rectifiable, you have not rectified that event of default; 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) based on our reasonable opinion, it is necessary for us to act to manage an immediate risk to the secured property;
  - (ii) you or a guarantor become insolvent, go into bankruptcy, voluntary administration or other insolvency process or arrangement, or no longer have legal capacity;
  - (iii) enforcement action is taken against you by another credit provider;
  - (iv) we believe, on reasonable grounds, that you or a guarantor have not complied with the law or any requirement of a statutory authority; or
  - (v) we have already given you a notice to rectify a non-monetary 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 or a guarantor to enter into the mortgage;
  - (ii) we have made reasonable attempts to locate you or a guarantor but without success;
  - (iii) a court authorises us to begin enforcement proceedings; or
  - (iv) we reasonably believe that you or a guarantor have removed or disposed of the secured property or that urgent action is necessary to protect the secured property.

#### 4.6 **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, despite any omission, neglect, delay, and without liability for loss, or need to account as mortgagee or chargee in possession. We do not lose any rights or forgive any defaults unless we do so in writing. We can take action even if we do not do so promptly after the 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 one or more of the following:

- (a) Demand and require immediate payment of the *debt*.
- (b) Exercise any right, power or privilege conferred by law, equity, the *mortgage* or any *other agreement*.
- (c) Do anything we consider appropriate to recover the *debt* and deal with the *secured property* in any way we consider fit (including the contracts and other property included in the definition of *secured property*), including:
  - (i) 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*;

- (ii) direct any tenants to pay rent to us;
  - (iii) sell the *secured property* in one line or by separate lots;
  - (iv) rescind, vary or complete any contract for sale of the *secured property*;
  - (v) 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);
  - (vi) subdivide or consolidate the *secured property*;
  - (vii) repair, cleanse, repaint, demolish, rebuild, alter, or construct completely new buildings or structures on the *secured property*;
  - (viii) prepare plans and specifications and obtain approvals from any competent authority in relation to the *secured property*;
  - (ix) give or transfer the *secured property* to any competent authority;
  - (x) acquire additional property for development, sale, or lease in conjunction with the *secured property*;
  - (xi) carry on any business activities on the *secured property*; or
  - (xii) 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*.
- (d) Remove any property from the *secured property* (eg 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.
  - (e) Pay any money owing to any person in relation to the *secured property* or goods on the *secured property* (eg owing under hire purchase agreements and leases). The amount paid by us will form part of the *debt*.
  - (f) 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 included in the definition of *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.
  - (g) Pay and obtain a transfer or a discharge of any other *mortgage* or charge affecting the *secured property*.
  - (h) Perform any of *your* obligations under the *mortgage*.

#### 4.7 **Negation of restrictions**

There may be some laws intended to limit mortgagees' rights. None of those statutes or 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 one day's notice or the shortest notice required by that law.



#### 4.8 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 applies if 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 arrangement.
- (b) You must punctually comply with any obligations imposed on you in connection with the arrangement (eg the by-laws).
- (c) We, at our discretion, may exercise any voting rights referable to the *secured property* in relation to the arrangement.
- (d) You must have our interest in the *secured property* recorded in any appropriate records of the arrangement (eg the strata roll).
- (e) You irrevocably authorise us at any time to obtain from anybody any information relating to the arrangement.

#### 5.2 Agricultural lands

- (a) If any part of the *secured property* is agricultural or pastoral land, you must properly manage and maintain the *secured property* and keep the *secured property* free from noxious animals and plants. On demand, 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 agricultural or pastoral land or the sale of its produce.

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

This clause 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.

- (a) You must complete the building works expeditiously in accordance with the best skills and practices to our satisfaction and in accordance with plans and specifications approved by us and in accordance with the requirements of any responsible authority (eg 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 (eg pay the builder on the due date), including professional and consultancy costs.

- (c) *You* must not contract with any person in relation to any material portion of the works or alter the plans and specifications or building contract for the 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, if required by us, *you* must obtain such certificates as we reasonably require to evidence that the building works have been properly completed (eg a certificate issued by a local government department or council). At *your* cost, we may obtain any reports or other information we require during and upon completion of the building works.
- (e) If *you* breach any of the provisions relating to building works, we may (but are not obliged to) complete the works and may do anything and sign anything we consider appropriate to complete the building works. We need not complete the 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) If we advance money to fund the building works, we may decide not to make any additional advances until we are satisfied with the progress of the building works and have received any reports or other information we 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***

- (a) If all or any part of the *secured property* is leased to *you* (ie it is leasehold *land*), *you* must comply with all the terms of the relevant lease and promptly inform us of any default.
- (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**

If we ask, *you* must give us access to the *secured property* so that we 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* under this clause, but *you* must give *us* access immediately if there is an emergency.

## 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 damage to the *secured property*, or anything happens which materially affects the *secured property* or its value.

## 6.3 Provisions in the *mortgage*

If any of the provisions of the *mortgage* are illegal or become illegal at any time, the affected provisions will cease to have effect, but the balance of the *mortgage* will remain in full force and effect.

## 6.4 Consumer legislation

To the extent 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 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 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 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 the *mortgage* in any way we wish. You must sign anything and do anything we reasonably require to enable any dealing with the *mortgage*.

## 6.9 Disclosure of information by us

In exercising our powers to assign, novate or otherwise deal with the *mortgage*, we may disclose to anybody any information about you, the *secured property* and the *mortgage*.

## 6.10 Limitation of liability

If we enter the *mortgage* in our capacity as a trustee of a trust, our liability is limited to the assets of that trust.

## 6.11 Your liability continues

(a) Your obligations under the *mortgage* continue irrespective of anything which happens to you or anything else. For example, the obligations continue if you die or are made

bankrupt, if you are in a partnership and the partnership ends or the members change, or if *you* are a company and it is wound up.

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

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

To make sure the *mortgage* is valid and to enable enforcement after default, *you* give to us and certain other people *your* power of attorney as set out in this clause.

*You* hereby 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 required to make sure the *mortgage* is valid. At any time after default occurs, *your* attorneys can sign anything and do anything they wish in relation to the *secured property* (including the contracts and other property included in the definition of *secured property*). 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 about the *secured property* whenever and as often as we decide. Upon request *you* must assist this process by providing access to and information about the *secured property*. We accept no responsibility if *you* rely on these documents. *You* should obtain *your* own valuations for 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*. There must not be any change of trustee, termination of the trust, or change to the terms of the trust, without our consent (which will not be unreasonably withheld).

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

Subject to any law requiring otherwise, we may give a notice or other documents (including any collection notices, default notices, court originating processes or other court documents) to *you*:

- (a) by delivery or post sent to:
  - (i) *your* address shown on the *mortgage*;
  - (ii) the *secured property*;
  - (iii) *your* registered office (if *you* are a company); or
  - (iv) *your* last address known to us; or
- (b) by electronic transmission to an electronic address of *yours* known to us.

The notice may be signed by any employee, solicitor or agent on our behalf.

Any document or notice given in accordance with one of the above methods will be deemed served:

- (c) if posted, when it is received in the ordinary course of post; or
- (d) if by electronic means, upon completion of transmission.

#### 6.16 **Waiver**

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