



**AUSWIDE BANK**

**RESIDENTIAL HOME LOAN GENERAL  
TERMS AND CONDITIONS**

**VERSION 5.2 OF FEBRUARY 2019**



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## Part A – Loan Terms

### 1. What are these terms about?

- 1.1 These are the Auswide Bank General Terms and Conditions version 5.2 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 pre-contractual information required to be given to you. You must read this document together with your loan agreement.
- 1.3 Please read both your loan agreement and this document carefully.
- 1.4 Words printed *like this* have a special meaning - see your loan agreement and this document.
- 1.5 The *amount you owe us* means, in respect of each account, the total amount outstanding from time to time and includes all interest, fees and charges.
- 1.6 A *business day* is 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.
- 1.7 If there is any conflict between your loan agreement and this document, the terms of the loan agreement prevail. If there is any conflict between any provisions of any security or guarantee and this document and the loan agreement, the terms of this document and the loan agreement prevail.

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

You must read and comply with:

- (a) your loan contract;
- (b) these General Terms and Conditions;
- (c) the Mortgage Common Provisions;
- (d) access methods, if applicable; and
- (e) any other conditions reasonably imposed by the Lender.

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 agreement between you and the Lender?

There is no binding legal agreement 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 this loan agreement or to withdraw it altogether and decline to make an advance of funds to you. We will not make an advance of funds until we are satisfied that all relevant conditions are fulfilled. You may be liable for costs even if we decide not to proceed. We will not be liable for any loss, damage or cost if we do not 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 the Lender may sue any one of you for all the outstanding amounts.

You agree that 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 any 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 account?

6.1 We can debit your 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 account on the date that money is made available to you.

6.3 You may with our approval split an 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. For example, from an “Australian Home Loan” (L11) to a “Home Loan Plus” (L1).

6.4 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*. Where a new account is created, separate repayment dates and interest debit dates may apply to that new account. If an 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. Interest will be debited and repayments will be due on the new sub-account monthly in arrears from the date of the split or switch.

6.5 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 switch/split administration fee may be payable - see your loan agreement.

## **7. What payments must you make?**

7.1 You must make all payments specified in your loan agreement. In addition on the final repayment you must pay us the *amount you owe us*, together with any fees or other costs arising on repayment. The final repayment is the date set out in your loan agreement, or such other date which we agree with you. The *amount you owe us* means, in respect of each account, the total amount outstanding from time to time and includes all interest, fees and charges.

7.2 You must pay all payments and pay all credit fees and charges as specified in your loan agreement. Payments will be credited to your loan account only when actually received by the Lender. All payments must be made in full when they fall due. You cannot reduce a payment if you believe the Lender owes you anything.

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 either 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 will include any applicable direct debit fees, taxes or charges. If the interest rate changes, your repayments may change.

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 the Lender.

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 this 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 those accounts are in arrears while any other account has available funds, you irrevocably request and authorise us to withdraw an amount up to the available funds and apply that money towards payment of the 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 which 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 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 the Lender 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. In addition to debiting interest to your account as specified above, we may debit interest whenever the loan is in default, there is any repayment of the loan, there is any principal increase or variation in your loan agreement, or any change to the loan terms.
- 9.5 Interest accrues on a daily basis from the day the Lender draws cheques or otherwise allocates 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.
- 9.6 The charging of interest on arrears of interest and fees and charges does not mean that they are part of the principal sum or the loan amount. These amounts only become part of the principal sum or loan amount if we elect to convert them to principal.
- 9.7 If more than one interest rate applies to your accounts, we will apply the applicable daily percentage rate to the relevant portion of the *amount you owe 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. Fees may be payable on early repayment as specified in your loan agreement. If you repay all or part of a fixed rate loan early, fixed rate break costs may apply.

#### **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% pa. 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. The Lender may use various funding techniques but the underlying principle holds true. Break costs may be payable even if there is no matching borrowing by the Lender.

**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 for an estimate of break costs before you arrange to repay a fixed rate loan early.**

There are a number of ways the Lender 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 without notice. 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. While you have one or more split loans, any re-borrowing will be made from the account specified by you, or if no account is specified, the account determined by us.

11.2 If you have made extra payments above your minimum repayment amount, you may redraw all or any part of those extra payments provided:

- you have not defaulted under your loan agreement; and
- no other redraw restrictions are set out in your loan agreement.

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 accounts (including any offset sub-account(s)) confidential to ensure there are no unauthorised transactions or other dealings with your account(s).

11.3 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.

You must ensure that the amount you wish to redraw is not for more than you have paid early and is greater than any minimum amount specified by us from time to time.

11.4 If you make your request for redraw manually you must allow at least two *business days* for your redraw to be processed.

11.5 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:

- not processing a direct transfer from your account;
- dishonouring a cheque (where you have chosen the cheque facility) withdrawn on your account.

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.

- 11.6 If you credit your salary to your account and have insufficient undrawn funds to cover your repayment when it is due, you will need to deposit further funds to your 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.
- 11.7 If you have a construction loan, no redraw is available during the construction period.
- 11.8 If you request a redraw and for that account your existing repayments are not sufficient to repay the balance over the remaining term, we may recalculate your future repayments for that 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 off-set facility at any time.
- 12.3 We do not make any representations about the tax effectiveness of any offset account.
- 12.4 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.
- 12.5 You have no right to receive interest payments or payments in the nature of interest on the amount in your offset account(s), even if the balance of the offset account(s) exceeds the amount outstanding in your nominated loan account. 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(s).
- 12.6 You may withdraw funds from your offset account(s) 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.
- 13.2 Each request by that third party for payment under a direct debit authority will be deemed to be a request for a redraw by you of the amount of that payment.

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

- 14.1 Acting reasonably, we can change any term of your loan agreement including the interest rate, the credit fees or charges, and the repayments. We can introduce new credit fees or charges. 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.
- 14.2 The interest rates and repayments shown in the financial information section in your loan agreement are correct at the *disclosure date* but may change prior to the *settlement date* if the interest rate changes.



- 14.3 The Lender may change the interest rate at any time, except:
- (a) in respect of a fixed rate loan during the fixed rate period. The variable rate is an individual rate set for your loan, and acting reasonably we may vary as we see fit from time to time; or
  - (b) in respect of an interest rate which has been locked as agreed between you and us (unless the locked period has expired).

**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 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. 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 in accordance with the requirements of any responsible authority (eg a local council).
- 16.2 The loan amount 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 the total construction costs are less than the agreed amount in the loan contract, 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 if the provider of any other type of risk cover in respect of this loan cancels, suspends, or limits that insurance or cover, a default will have occurred, and we can demand repayment of the whole of the total amount outstanding.
- 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 in a form acceptable to us.
- 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 not more than the date specified in your loan agreement.

- A copy of the plans and specifications approved by the relevant authority in relation to construction.
- Home owners warranty insurance (where applicable).
- A builders all risk policy and a certificate of currency for that insurance.
- A certificate of currency of the builder's insurance policy.
- Identification survey report completed by a licensed land surveyor.
- Progress payment authority signed by you.
- Any other document required by us.

17.2 You must also do the following.

- As soon as the building works are complete, provide the Lender with a general insurance policy noting the Lender's 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.
- Promptly after completion of construction provide to the Lender a final certificate from the local council or other responsible authority confirming that building works have been completed in accordance with all relevant requirements.
- Ensure that the agreed drawdown schedule is observed and that there is always a sufficient undrawn amount under this loan to complete construction.
- Promptly comply with any condition imposed by us in relation to any progressive draw or the works.
- Not vary or terminate the building contract without our prior written consent.

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.

- 18.1 Your loan agreement sets out when we may suspend, change, cancel or convert the line of credit facility.
- 18.2 We are not liable for any loss suffered as a result of terminating, suspending, or changing the line of credit facility.
- 18.3 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*;
  - (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 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, e.g. certain types of deposits for goods or services.
- 18.4 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.
- 18.5 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.
- 18.6 We have the right to decline to accept your authorisation for 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 your entire loan amount becomes due, interest at the applicable default rate is payable on the entire amount.
- 19.3 Default interest accrues daily calculated by applying the daily default rate to the amount in default at the end of each day while the default continues. The daily default rate is the annual default rate divided by 365. The end of each day for calculating default interest is 5.00 pm Australian Eastern Standard time. Default interest is debited to your account in the same manner and at the same time as ordinary interest.

### **20. When will you be in default?**

If any one or more of the following occur we may decide an event of default has occurred. You must ensure no event of default occurs.

- (a) There is default of any term or condition of your loan agreement.
- (b) There is default under any mortgage or other security given under your loan agreement.
- (c) You fail to pay any person (including the Lender and/or other lenders) any money by the due date.
- (d) Any representations or warranties made by you or on your behalf to us or our agents or our lawyers prove to be untrue or misleading.

- (e) You die, become bankrupt, enter into any kind of bankruptcy administration or are jailed.
- (f) Any agreement or security becomes wholly or partly unenforceable.
- (g) An event occurs which in our reasonable opinion adversely affects the value of the *mortgaged property*, our interests in the security, or your ability to repay.
- (h) You do not maintain appropriate insurance over all *mortgaged property* on terms acceptable to us.
- (i) You breach any material undertaking given at any time to us.
- (j) You use any amount advanced under your loan agreement for a purpose other than the purpose provided in your loan agreement.
- (k) If you are a company:
  - (i) there is any change in ownership or control of you or any company of which you are a subsidiary;
  - (ii) a receiver, manager, receiver and manager, administrator, controller, provisional liquidator, or liquidator is appointed to any part of your assets;
  - (iii) any action is commenced to strike the company's name off any register of companies; or
  - (iv) the company reduces or proposes to reduce its authorised capital.

## **21. What can the Lender do when you are in default?**

- 21.1 At any time after default occurs, we can take any of the following action after giving any notice required by law.
- (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, including accrued interest charges.
  - (c) Exercise any right, power, or privilege conferred by any law, your loan agreement, or any security.
  - (d) Use any money of yours in any account with us to reduce the *amount you owe us*.
  - (e) 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.
  - (f) If you have a Freedom Package, we may cancel your Freedom Package and you will no longer receive the Freedom Package benefits.
- 21.2 We need not give any notice before exercising any right, power (including power of sale) or remedy under this loan contract unless required by law. If the law does require notice, we need only give one day's notice or the shortest notice required by that law.
- 21.3 If the law does require us to give you notice before exercising rights, we may not have to give notice if:

- (a) we cannot locate you after making reasonable attempts to do so;
- (b) you are insolvent; or
- (c) we are authorised by a court.

21.4 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.

21.5 We can exercise these rights with or without taking possession of any *mortgaged property*. If the Lender holds more than one security, we can enforce any one of the securities first or all of them at the same time.

21.6 Our rights and remedies under the loan agreement may be exercised by any of our employees or any other person we authorise.

21.7 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.

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

22.1 Enforcement expenses may become payable under your loan agreement and any security if you default. You must pay on demand and we may debit your account with our costs in connection with any exercise or non-exercise of rights arising from any default, 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.

22.2 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.

22.3 These expenses include the Lender's 's expenses incurred in preserving or maintaining the *mortgaged property* (including insurance, rates and taxes payable in respect of any security), 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.

22.4 You indemnify the Lender from and against any expense, loss, loss of profit, damage, or liability which the Lender incurs as a consequence of a default occurring.

## **Part E – General provisions**

### **23. Do you have to pay government charges?**

You must pay us on request 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 account);
- (c) withholding tax; and
- (d) goods and services tax (GST).

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.

**24. 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 accounts with us.

**25. Must you 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.

**26. What happens if your account has a credit balance?**

If you repay us more than the total amount outstanding, 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.

**27. What does a certificate signed by the Lender mean?**

A certificate signed by us or on behalf of us as to an amount payable to the Lender is conclusive and binding on you. In making any decision the Lender will act reasonably.

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

We may obtain at your cost independent valuations or other reports concerning any *mortgaged property* whenever and as often as we decide. Any valuation or other report is for our use only. We are not obliged to inform you of anything adverse contained in these reports. If the contents of any of these documents become known to you, we accept no responsibility if you rely on them. You should obtain your own valuation in respect of any *mortgaged property*. We are not obliged to provide you with a copy of any valuation report.

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

Your loan agreement is governed by and interpreted in accordance with the law for the time being in force in the place where the main security is located.

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

- 30.1 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. Of course, any dealing with our rights does not change your obligations under your loan agreement in any way.

- 30.2 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.
- 30.3 We may disclose information about you, your loan agreement, or the security to anybody involved in an actual or proposed assignment, novation or dealing by us with our rights under your loan agreement.

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

- 31.1 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.
- 31.2 There may be some statutes (ie laws passed by parliament) or other law (usually called common law) intended to limit Lenders' rights. None of those statutes or laws will operate to limit our rights under your loan agreement unless by law those statutes or laws cannot be negated. 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.

**32. 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, the Lender 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.

**33. What should you do if your residential address changes?**

You must tell us if you change any address, or if you think there is any information that we should be aware of about your ability to comply with your loan agreement.

**34. How can the Lender give you notices about your loan?**

- 34.1 Subject to any applicable laws, we may give you a notice by personal delivery, prepaid ordinary post or email. We may also give a notice in any other way authorised by law.
- 34.2 The notice may be signed by any employee, solicitor, or agent on our behalf.

**35. What is lenders mortgage insurance or a lender's risk fee?**

- 35.1 If your loan agreement requires you to pay for lenders mortgage insurance or pay a lenders risk fee, this insurance or fee protects the Lender and not you. The amount paid by you under your loan agreement is usually not refundable if you repay your loan early.
- 35.2 If you default under your loan agreement or mortgage, resulting in the sale of the *mortgaged property* and the sale proceeds are insufficient to fully repay your loan, the Lender may incur loss. The Lender 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.
- 35.3 If a borrower or guarantor dies, the Lender may require the loan to be repaid in full. Alternatively, where there is more than one borrower, if a borrower or guarantor dies or is

released from the loan agreement or guarantee (as appropriate) for any reason, the Lender may allow the remaining borrower/guarantors(s) to become the borrower(s) under the loan agreement, or guarantors under the guarantee. If the Lender does not agree to the remaining borrower(s) becoming the borrower(s) under the loan agreement (or the guarantors to be the remaining guarantors under the guarantee), the Lender may call up the loan even though further advances have been made after the death or release of a borrower or guarantor.

**36. Identification information**

You must promptly produce documents or other evidence we require to enable use to verify your identity or other information about you.

**Part G – Interpretation**

**37. 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 in this agreement 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.