

### Why you need to read this

This document is the terms and conditions for your business term loan. It sets out terms that apply to your business term loan.

#### You'll also need to read other documents to understand all the terms that apply to your business term loan.

Your *contract* consists of these *terms and conditions*, the *loan agreement* and the *account and payment facility terms*. If there is any inconsistency between the *loan agreement*, the *terms and conditions* and the *account and payment facility terms*, then the documents and their terms will prevail in that order to the extent of the inconsistency, unless the term relates to a *payment facility*, in which case the *account and payment facility terms* will prevail.

The meaning of words printed *like this* and other important words used in this *contract* are explained in Part E of these *terms and conditions*.

### Part A: Conditions to lending, your account and how and when interest, fees and charges are calculated and payable

Part A of these *terms and conditions* describes:

- our agreement to lend you the *amount of credit* if all necessary conditions are satisfied
- how the *amount of credit* can be used
- how your *account* operates
- how we use and apply your payments, and
- how we calculate and charge interest and other fees and charges.

#### 1 The amount of credit

- 1.1 We agree to lend you the *amount of credit* in accordance with this *contract*. It will be paid in accordance with the *loan agreement*.
- 1.2 The *amount of credit* can only be used for the purpose stated in the *loan agreement* and to pay other fees, charges and amounts described in the *loan agreement*.
- 1.3 If you don't accept the offer set out in the *loan agreement* by signing and returning the *loan agreement* to us within 90 days after the *disclosure date*, the offer is automatically withdrawn and we will have no obligation to lend you the *amount of credit*.
- 1.4 If you don't draw down any part of the *amount of credit* within 90 days of the *disclosure date* this *contract* is automatically terminated. You must pay any fees incurred before this date.

#### 2 Conditions to lending

- 2.1 We'll only make the *amount of credit* available to you when we're satisfied that the following conditions have been met:
  - (a) we're satisfied as to the title of any *security*, and we're satisfied that any charges, including land tax, council rates, and water fees in relation to each *security* have been paid and are up to date
  - (b) we've received every document relevant to a *security* and each document has been completed to our satisfaction

- (c) we've received any report, consent, valuation, certificate, approval, information, or any other document that we reasonably require, in a form satisfactory to us
  - (d) we've received a copy of the relevant insurance policy over any *security*, with our interest as mortgagee noted
  - (e) we're satisfied with the results of all searches and enquiries we and our consultants have done in connection with you, any *security* and any works
  - (f) you've given us all other documents and information we've reasonably requested
  - (g) all information we've been given (including each declaration given in this *contract* and any document evidencing a *security*) is correct, complete and not misleading
  - (h) we've received a certificate of independent advice from a solicitor for you and each *security provider* in a form satisfactory to us if we require it
  - (i) if the loan will be secured by a guarantee and indemnity, you've provided us with a guarantee and indemnity signed by each relevant *security provider*
  - (j) you're not in *default* under this *contract*.
- 2.2 You represent and warrant that all information you've provided to us in connection with this *contract*, including information about you and your financial affairs and any *security interest*, is true and correct.

#### 3 Declarations

##### General declarations

- 3.1 You declare (except in relation to matters disclosed to us and accepted by us in writing) that:
  - (a) by entering this *contract* and carrying out your obligations under it you do not breach:
    - (i) your constitution or other constituent documents (if any) or limit any powers under those documents
    - (ii) any agreement which binds you or to which any of your assets are subject
  - (b) unless the *loan agreement* states otherwise you don't enter into this *contract* as the trustee of any trust, and

- (c) unless the *loan agreement* states otherwise you don't enter into this *contract* acting as a partner in a partnership.

#### **Additional declarations if you're a trustee**

- 3.2 If you're signing this *contract* as a trustee, you declare (except in relation to matters disclosed to us and accepted by us in writing) that:
- (a) the trust has been duly established
  - (b) you're the only trustee of the trust
  - (c) you have power under the terms of the trust to enter into this *contract* and comply with your obligations under it
  - (d) you have the right to be fully indemnified out of the trust assets for all obligations you incur under any *arrangement with us* and the trust assets are sufficient to satisfy that right of indemnity
  - (e) no action has been taken or proposed to terminate the trust, and
  - (f) your entry into this *contract* is a valid exercise of your powers under the trust deed for the benefit of the beneficiaries.

#### **Additional declarations if you're a partnership**

- 3.3 If you're signing this *contract* as a partner in a partnership, you declare (except in relation to matters disclosed to us and accepted by us in writing) that:
- (a) you haven't done or allowed anything to be done which could result in the dissolution of the partnership,
  - (b) you've told us about any changes to the partnership (eg a partner dies, leaves or joins the partnership), and
  - (c) you've done everything we've asked to ensure all partners of any existing or new partnership are bound by each *arrangement with us* to which you're a party.

#### **When you make these declarations**

- 3.4 You agree to tell us if anything happens which means you can't truthfully repeat these declarations. You give us these declarations when you enter into this *contract* and on the last day of each month.

#### **Additional matters relating to your declarations**

- 3.5 You acknowledge that we've entered into the *arrangements with us* in reliance on the representations

### **4 Account**

- 4.1 On or before the day we lend you the *amount of credit*, we'll open an *account* in your name.
- 4.2 The *account* will record the *balance owing on your account* and transactions in connection with your loan. The *account* is a 'credit or loan account' for the purposes of the *account and payment facility terms*.
- 4.3 You agree that we can debit your *account* at any time with any amounts that become payable by you under this *contract*. We don't need to notify you first. Fees are not refundable in any circumstance, including if the *amount of credit* is not provided.

### **5 Accessing your account**

- 5.1 The terms that apply to your use of *payment facilities* are set out in the *account and payment facility terms*.

### **6 Calculating interest**

- 6.1 We calculate interest daily by multiplying the *balance owing on your account* by the daily percentage rate at the end of each day. The daily percentage rate is the *annual percentage rate* divided by 365.

- 6.2 If you don't make a payment when due, you'll also need to pay default interest on the overdue amount. Default interest is calculated by multiplying your overdue amount at the end of each day by the daily default interest rate. The daily *default interest rate* is the default interest rate divided by 365.

### **7 Debiting interest**

- 7.1 We debit interest to your *account* in the following circumstances:
- (a) in arrears on the last day of the month following the month in which we first provide any of the *amount of credit* to you
  - (b) in arrears on the last day of every month following the month in which we first debited interest to your *account*
  - (c) on the day you repay the *total amount owing*.

### **8 Fees and charges**

- 8.1 You must pay us all fees and charges in the circumstances described in the *loan agreement* and any new fee or charge we introduce after the *disclosure date* in accordance with this *contract*.
- 8.2 You must also pay us government fees and charges in connection with your loan.
- 8.3 You authorise us to debit any fees or charges payable under this *contract* to your *account*. After they've been debited, they'll form part of the *balance owing on your account*.

### **9 Payments generally**

- 9.1 If you pay us more than the *total amount owing* then we'll repay the excess funds to you or to another person entitled to it (such as another person with a *security interest*). We will not pay interest on any amount exceeding the *total amount owing*.
- 9.2 Any amount you must pay us under this *contract* in respect of which a time for payment isn't stated is payable when we ask.

### **10 Enforcement expenses**

- 10.1 Enforcement expenses may become payable under this *contract* or any *security* in the event of *default* (see clause 18).
- 10.2 You must pay us any reasonable expenses we reasonably incur in enforcing this *contract* or a *security* after a *default* (including expenses incurred in recovering, preserving and maintaining the *security* after a *default*). You authorise us to debit these expenses to your *account* at any time after they're incurred.

### **11 Lender's Mortgage Insurance**

- 11.1 Lender's mortgage insurance protects us and not you. If we incur a loss in connection with this *contract* we may recover that loss under the lender's mortgage insurance policy. If this happens, you must pay still repay all amounts you owe under this *contract*.

### **12 Further mortgage**

- 12.1 If your obligations under this *contract* are at any time secured by a *security interest* over land (**primary mortgage**), then you must give us a further mortgage over that land if requested to do so at any time (**further mortgage**).
- 12.2 If we request a further mortgage you must:
- (a) execute and deliver the further mortgage to us promptly after we provide it to you, and
  - (b) do all things requested by us to assist in the stamping and registration of the further mortgage.

- 12.3 Any further mortgage requested by us under this clause must be substantially in the form of our then current standard mortgage for the jurisdiction in which the *security interest* is located.
- 12.4 Our right to request a further mortgage will survive even if we assign the primary mortgage. However, that right won't survive if we discharge the primary mortgage.
- 12.5 You agree that we can lodge a caveat in respect of our rights and interests under this clause and any request made pursuant to it.

## Part B: Repayments, early payments and break costs

Part B of these *terms and conditions* sets out:

- when and how you must make required repayments, and
- what happens if you make voluntary prepayments or pay the *total amount owing* early.

### 13 Repayments

- 13.1 You must make repayments on the *payment date* (or such other date as we agree). The amount of each repayment as at the *disclosure date* is set out in the *loan agreement*.
- 13.2 On or before the *final repayment date*, you must repay the *total amount owing* to us.
- 13.3 Repayments will be credited to your *account* only after they've been received by us.
- 13.4 All repayments must be made in full when they're due, and you must not reduce a repayment because you believe we owe you anything.
- 13.5 You can request to switch your repayment option from principal and interest to interest only or vice versa.

### 14 Prepayments

- 14.1 You may prepay any part of the *total amount owing* at any time. If you make a prepayment during a *fixed rate period* you may be required to pay a fee (see clause 15 below).
- 14.2 If you prepay only part of the *total amount owing*, you must still make your scheduled repayment on the *payment date*.

### 15 Prepayment fee and break cost fee

- 15.1 When we fix your *annual percentage rate* we assume that you'll make all your required payments when they're due during the *fixed rate period*. If you don't, we may incur a loss. To cover that loss we'll charge you a 'prepayment fee' or a 'break cost fee'.
- 15.2 A prepayment fee is payable if you make a prepayment and we estimate we'll make a loss as a result of the payment.
- 15.3 A break cost fee is payable if you:
- repay or you're required to repay the *total amount owing* earlier than agreed during a *fixed rate period* (eg. because there's a *default*), or
  - switch your loan from fixed rate to variable rate during a *fixed rate period*.
- 15.4 To work out whether you must pay a break cost fee or prepayment fee, we compare the interest that we should have received from you for the rest of the *fixed rate period* with what we estimate the interest we would receive if we re-lend those funds. We compare the interest rate you locked in to the equivalent current interest rate based on the time remaining in your *fixed rate period*.

**Warning – making prepayments, paying out a fixed rate loan early or switching from fixed rate to variable rate during a fixed rate period could result in a high prepayment or break cost fee. Contact us if you're considering doing any of these things and we'll give you an estimate of the prepayment fee or break cost fee.**

### 16 Redraw facility

- 16.1 You can redraw (or reborrow) amounts you've prepaid if:
- the *loan agreement* states that redraw is available
  - you're not in *default* under this *contract*,
  - you have a deposit account with us; and
  - if we require it, each *security provider* has approved the redraw.
- A fee may be payable for redraw.
- 16.2 You can request a redraw by visiting a branch, through *internet banking*, through *phone banking* or by any other method we approve.
- 16.3 The amount of the redraw must not be less than the minimum amount specified by us, and must not be more than the 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 in the current month.
- 16.4 We'll make the additional funds available in the deposit account held with us specified by you.
- 16.5 We may review, suspend or cancel the redraw facility at any time acting reasonably. We'll notify you if we do.

### Part C: Additional requirements if your loan is a construction loan

Part C of these *terms and conditions* sets out additional requirements that apply if your loan is a construction loan.

### 17 Construction loans

- 17.1 If your loan is a construction loan, then we'll progressively lend you the *amount of credit* through progress payments. The time and amount of the payments will be in accordance with the builder's progress payment schedule that you provide to us, or as otherwise determined by us acting reasonably. Payments will normally be made directly to the builder, subject to us holding a progress payment authority from you.
- 17.2 Progress payments are only made at our discretion, and will only be made after we've received all documents and approvals in a form satisfactory to us.
- 17.3 You must undertake the construction in accordance with any special conditions in the *loan agreement*.
- 17.4 You must advise us immediately if your builder requests a progress payment that is to be made by us.
- 17.5 Unless otherwise agreed by us, you must use a licensed builder.
- 17.6 The construction works must only be built on the property for which the works have been formally approved and in accordance with applicable laws, and the requirements of any entity responsible for administering those laws.

- 17.7 Within 12 months (or longer if we both agree) of the date you enter into this *contract* you must complete the construction works specified in the plans and specifications you provided to us.
- 17.8 If the *amount of credit* payable to your builder stated in the *contract* is less than the full construction cost detailed in your construction *contract* then the difference that you're contributing is what we call the *customer contribution amount*. Before we advance any loan funds to the builder we require evidence satisfactory to us that you've paid the *customer contribution amount* in full.
- 17.9 If you vary your construction contract in a way that increases the *customer contribution amount*, you'll need to pay the shortfall immediately and provide us with evidence that you have.

#### Before you begin construction

- 17.10 You must not begin construction until all our requirements for the first progress payment are met (see clause 17.11) and we tell you that you can start construction.
- 17.11 We won't make the first progress payment available unless:
- your builder has builders' insurance for the construction work for its full insurable value, which covers the period until completion, and (unless we allow otherwise) is expressed to insure our *security interest*. You agree to provide proof of the insurance to us when we request it
  - you provide us with a certificate from the relevant authority proving that your builder is licensed
  - you provide us with a copy of the building contract in relation to the construction between you and the builder, including all variations
  - you provide us with council approved plans and specifications to a valuer nominated by us
  - if we request, you provide a survey showing that the construction works are correctly sited on the land and will conform with the relevant government regulations, and
  - if we request, you arrange for your builder to provide a certificate from a licensed pest exterminator showing that the building site has been treated for pests in accordance with the relevant Australian standard.

#### Ongoing requirements

- 17.12 You must ensure the insurance required under clause 17.11(a) is maintained.
- 17.13 You must not have any changes made to the council approved plans and specifications without our consent.
- 17.14 You and your builder must allow us or our agents to inspect the property where construction is taking place at any time we require, acting reasonably.
- 17.15 We may require at any stage that a valuer or quantity surveyor selected by us, inspects the construction site and certifies that the construction works have been satisfactorily completed to the agreed extent and in accordance with the approved plans and specifications provided to us (you must provide any additional information or documentation reasonably required by the valuer or quantity surveyor). We aren't required to make any progress payment (including the first and the final progress payments) unless the valuer or quantity surveyor makes the required certification.

- 17.16 We may refuse to make any further progress payments at any time if you have not satisfied the conditions in this part or are in *default*.

#### Before we make the final progress payment available

- 17.17 We need not make the final progress payment unless:
- we receive a copy of an insurance policy (or certificate of currency) satisfactory to us noting our *security interest*, which shows that the property is insured on a replacement and reinstatement basis
  - a valuer or quantity surveyor nominated by us inspects the construction site and certifies that the construction works have been satisfactorily completed in accordance with the council approved plans and specifications provided to us, and
  - if we request, you provide a certificate of compliance or occupancy or similar certificate in relation to the completed construction works.

#### Part D: Default and what happens if you default

Part D of these *terms and conditions* sets out:

- when you are in *default* under this *contract*; and
- what happens when you're in *default*.

## 18 Default

### When there's a default

- 18.1 There's a default if:
- you don't pay on time any amount payable under this *contract*
  - you or a *security provider* become *insolvent*
  - another creditor takes *enforcement proceedings* against you or a *security provider* (or any of your or their assets) and it has a *material impact*
  - we exercise a right we have against you or a *security provider* (such as calling for early repayment of money owing) in relation to a separate financing arrangement you or a *security provider* have with us because:
    - an event of default (however described) occurs under that arrangement, and
    - the event or circumstance giving rise to the default is of a type permitted under Part 6 of the *Banking Code of Practice*
  - we believe on reasonable grounds that you or a *security provider* don't comply with the law or any requirement of a statutory authority and it has a *material impact* (unless the breach can be remedied and it is remedied within 10 days after we ask you to do so)
  - it becomes unlawful for you or us to continue the facility provided under this *contract*
  - you or a *security provider* give us materially incorrect, incomplete or misleading information (including through declarations to us) and it has a *material impact*
  - you use funds provided under this *contract* for a purpose which we haven't approved and it has a *material impact* (unless the breach can be remedied and it is remedied within 10 days after we ask you to do so)

- (i) you or a security provider deal with, or attempt to deal with, secured property in breach of an arrangement with us and it has a material impact (unless the breach can be remedied and it is remedied within 10 days after we ask you to do so)
- (j) you or a security provider don't comply with any obligation to maintain the insurance we require and it has a material impact (unless the breach can be remedied and it is remedied within 10 days after we ask you to do so)
- (k) you or a security provider don't give us copies of your or their financial statements in the form we require and within the period you're required to give them to us and it has a material impact (unless the breach can be remedied and it is remedied within 10 days after we ask you to do so)
- (l) you or a security provider don't maintain any licence necessary to carry on your or the security provider's business and it has a material impact (unless the breach can be remedied and it is remedied within 10 days after we ask you to do so)
- (m) there is a change in ownership or any other change in control of you or a security provider or your or their business (without our consent) and it has a material impact (unless the breach can be remedied and it is remedied within 10 days after we ask you to do so)
- (n) your or a security provider's status, capacity or composition changes without our consent (eg if you're a partnership and it is dissolved or there is a change in partners, you're a joint venture partner and the joint venture ends or you're a trustee and there is a change in the trustee or that trust ends) and it has a material impact (unless the breach can be remedied and it is remedied within 10 days after we ask you to do so).

#### Our powers on default

- 18.2 If there's a *default*:
  - (a) the *total amount owing* is payable when we ask for it
  - (b) we can take any of the actions set out in clause 18.5.
- 18.3 Subject to clause 18.6 before we require immediate payment or take any of the actions set out in clause 18.2, you will be given 30 days notice to allow you an opportunity to remedy the *default*.
- 18.4 If you don't remedy the *default* within the time set out in the notice, then:
  - (a) at the end of that period and without further notice to you, the *total amount owing* is payable when we ask for it
  - (b) we may take any of the actions set out in clause 18.5.
- 18.5 After a *default* has occurred, we may do one or more of the following in addition to anything else the law allows us to do as a secured party:
  - (a) no longer provide you with the facility provided under this *contract*
  - (b) sue you for the *total amount owing*
  - (c) do anything an owner of the *secured property* could do, including selling or leasing the *secured property* on terms we choose
  - (d) enter any place we believe the *secured property* is held, in order to do any of the above

- (e) appoint one or more receivers to do any of these things.

The receivers alone or together may do anything we can do as set out above or anything else a receiver may do at law. To the extent the law permits, a receiver will be your agent unless we notify you that the receiver is to act as our agent, and need not comply with requirements imposed on secured parties.

- 18.6 We do not need to give you a notice or wait until the end of any period given in a notice if:
  - (a) we have made reasonable attempts to locate you or a security provider but without success
  - (b) we reasonably believe that we were induced by fraud by you or a security provider to enter into this *contract* or a security
  - (c) a court authorises us to begin *enforcement proceedings*, or
  - (d) we reasonably believe that urgent action is necessary to protect the *secured property*.

#### Investigation of default

- 18.7 If we reasonably believe that a *default* is, or may be, continuing, we may:
  - (a) appoint a person to investigate and report to us on your affairs, financial condition, assets or business
  - (b) inspect your records and assets during normal business hours, and
  - (c) conduct all searches and enquiries that person considers appropriate in connection with you and your assets.

You agree to co-operate with the person and comply with every reasonable request they make (and ensure that your officers, employees, agents and attorneys do the same). This includes giving them access to all records and assets during normal business hours and giving them any document or other information that they reasonably request.

- 18.8 If it is shown that there is a *default* or circumstances exist that could lead to their being a *default*, you agree to pay or reimburse us our costs in connection with the investigation.

### Part E: General and administrative matters

Part E of these *terms and conditions* sets out:

- how we communicate with each other
- how we can change the terms of your *contract*
- how we can disclose information in relation to this *contract*
- other general terms that apply to your loan

## 19 Communications

### Electronic communications

- 19.1 You consent to us sending communications to you by email, to the email address last notified to us by you (or by any other method of electronic communication permitted by law), and we may do this unless otherwise required by law. Giving this consent means that:
  - (a) paper documents may no longer be given
  - (b) your electronic communications must be regularly checked for documents, and

(c) this consent may be withdrawn at any time by providing notice to us.

19.2 We may still choose to give you notice in paper form.

**Form**

19.3 All communications in connection with this contract must be in writing. Communications from you must be signed by you, or if you're a corporation, by an *authorised person*.

19.4 Email communications must state the first and last name of the sender and are taken to be signed by the named sender.

**Delivery**

19.5 Communications must be:

- (a) given personally (to you if they're for you and you're an individual or if you're a corporation, to an *authorised person*; if they are for us, to one of our employees at any office we tell you)
- (b) left at the address last notified
- (c) left at the address the subject of a *security* is usually located
- (d) sent by prepaid ordinary post to the address last notified
- (e) sent by fax to the fax number last notified, or
- (f) sent by email to the email address last notified.

However, communications from us may also be given in any other way permitted by law.

19.6 Communications take effect from the time they're received or taken to be received (whichever happens first) unless a later time is specified in the communication.

**When taken to be received**

19.7 Communications are taken to be received:

- (a) if sent by post, 6 *business days* after posting
- (b) if sent by fax, at the time shown in the transmission report as the time that the whole fax was sent, or
- (c) if sent by email:
  - (i) when the sender receives an automated message confirming delivery, or
  - (ii) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the recipient is out of office or delivery failed,

whichever happens first.

**20 Changes**

We can make changes to this contract without your consent. If we're required to give you notice of a change, that notice will be provided in writing to you either personally or by advertisement in the national or local media.

The changes we can make and the notice we'll provide is set out in the table below.

Type of change	Notice we'll provide
<b>Interest rates</b>	
We change the <i>annual percentage rate</i>  (we won't change a <i>fixed rate</i> during the <i>fixed rate period</i> )	If the change is made on an <i>individual basis</i> , 30 days.  Otherwise, no later than the day on which the change takes effect.
Change the basis on which interest, or fees in the nature of interest, are calculated.	30 days
Change the method or frequency with which interest, or fees in the nature of interest, are debited.	30 days
<b>Our fees and charges</b>	
We introduce a new fee or charge or change an existing fee or charge.	30 days
<b>Government fees and charges</b>	
A new fee or charge set by the government is introduced or there is a change to an existing fee or charge set by the government.	No later than the day on which the change takes effect, unless it's publicised by the government – in which case we don't need to notify you.
<b>Repayments</b>	
Changes to how repayments are calculated, or the amount of, or frequency of, or payment dates for, repayments.	30 days
<b>Other terms and conditions</b>	
In addition to our ability to change terms set out above, we can change any term of your <i>contract</i> :	30 days, unless:
<ul style="list-style-type: none"> <li>• to comply with any law, standard, regulator guidance, decision of a court or AFCA.</li> <li>• if we consider it reasonably necessary to manage our regulatory, credit or security risk</li> <li>• if the change is administrative or minor, or to correct a mistake, inconsistency, ambiguity or omission</li> <li>• if the change reflects changes to our business or technological systems</li> <li>• if a product or service has been discontinued, to provide you with a product or service which is substantially similar to the discontinued product or service</li> <li>• to protect us or any other person from the risk of fraud or illegal activity.</li> </ul>	<ul style="list-style-type: none"> <li>• we reasonably consider that the change isn't adverse to you, in which case we'll notify you with your next statement</li> <li>• the law doesn't require us to provide you with notice and we reasonably consider urgent action is necessary to avoid or reduce a material increase in our credit, security, regulatory or reputational risk, in which case we'll notify you after we've made the change unless it's not reasonable to.</li> </ul>

## 21 General matters

### Prompt performance

- 21.1 You have to do everything you're required to do promptly unless a specific time for performing it is set out in an *arrangement with us*.

### Further steps

- 21.2 If you fail to do anything required under this *contract* or any insurance policy required under this *contract*, we may do that thing in your name at your expense. We'll debit your *account* for any expenses so incurred.

### Valuations and inspections

- 21.3 We agree to give you a copy of any non-confidential report we obtain from an *adviser* if you ask us to. However, the report is for our use only and you can't rely on it.

### Set-off

- 21.4 We can set-off any amount we owe you (whether or not due for payment) against any amount due for payment by you to us in connection with an *arrangement with us*.
- 21.5 You can't set-off any amount we owe you against an amount you owe us.

### Right to combine accounts

- 21.6 If you owe us an amount, we may choose to transfer money from any account you have with us to pay off all or some of the amount owing.

### Adjustments

- 21.7 We may subsequently adjust debits and credits to the *account* to accurately reflect the legal obligations of you and us (for example, because of an error or a dishonour). If we do this we may make consequential adjustments (including to interest charges).

### How we can exercise our rights

- 21.8 Our rights, powers or remedies under this *contract* are in addition to other rights, powers or remedies given by law and:
- (a) we may exercise our rights, powers and remedies in any way we consider appropriate (including by imposing conditions on any consent, approval or waiver)
  - (b) if we don't exercise a right, power or remedy in connection with this *contract* fully or at a given time, we may still exercise it later
  - (c) we may exercise our rights, power and remedies in connection with this *contract* even if it involves a conflict of duty or we've a personal interest in their exercise, and
  - (d) any person we authorise as our representative may exercise our rights, powers or remedies.

This clause also applies if a *receiver* exercises rights, powers or remedies under this *contract*.

- 21.9 Unless this *contract* expressly states otherwise, neither we nor a *receiver* is liable for any loss, liability or costs arising in connection with the exercise (or failure to exercise) a right, power or remedy in connection with this *contract* except to the extent caused by the fraud, negligence or wilful misconduct of us, a *receiver* or our agents.

### Effective date of transactions

- 21.10 We may assign a date on which credit is provided to you under this *contract* that is on or after the date the transaction takes place.

## Indemnities and reimbursement obligations

- 21.11 Any indemnity, reimbursement or similar obligation in this *contract* by you:
- (a) is a continuing obligation despite any intervening payment, settlement or other thing
  - (b) is independent of your other obligations under this *contract*, and
  - (c) survives the termination or discharge of this *contract* and the satisfaction of any payment or obligation secured by this *contract*.

It's not necessary for us to incur expense or make payment before enforcing a right of indemnity in connection with this *contract*.

### Statements

- 21.12 We'll give you a statement for your *account* every six months, or more often than that if required by law.

### Severability

- 21.13 If:
- (a) a law would otherwise make a provision of this *contract* illegal, void or unenforceable, or
  - (b) a provision of this *contract* would otherwise contravene a requirement of a law or impose an obligation or liability which is prohibited by a law,

this *contract* is to be read as if that provision were varied to the extent necessary to comply with that law, or, if necessary, omitted.

### Waivers

- 21.14 Unless otherwise agreed, a provision of this *contract*, or a right created under it, may not be waived except in writing signed by the party or parties to be bound.

### Assignment or other dealings

- 21.15 We may assign, novate, or otherwise deal with our rights under this *contract* in any way we consider appropriate. If we do this, you may not claim against any assignee (or any other person who has an interest in this *contract*) any right of set-off or other rights you have against us. You must execute all documents which in our opinion are reasonably necessary for these purposes.
- 21.16 You must not assign, novate, transfer, or deal with your rights or obligations under this *contract*.

### Disclosure of information

- 21.17 Information you give us and any other information in connection with this *contract* may be disclosed:
- (a) if they are publicly available
  - (b) to any person in connection with the exercise of rights or obligations in connection with an *arrangement with us*
  - (c) to any assignee, transferee or potential assignee or potential transferee of us
  - (d) to any of our related bodies corporate
  - (e) to any official or authority (including any Federal, State or local government official, authority, statutory body or enforcement agency) that gives us an order or request for the information to our officers, employees, agents, contractors or advisers
  - (f) to you or a *security provider*
  - (g) with your consent (such consent not to be unreasonably withheld)

- (h) if we reasonably believe the disclosure is required by any law, securities exchange or rating agency (except this paragraph doesn't permit the disclosure of any information under section 275(4) of the *PPSA* unless section 275(7) of the *PPSA* applies), and
- (i) if we otherwise consider the disclosure appropriate in connection with the operation or administration of an *arrangement with us*.

#### Disclosure of information to security provider

- 21.18 You agree that we may provide copies of the following documents to anyone who is a *security provider*:
- a copy of any notice, including correspondence, to us or to you
  - any credit report received in relation to you
  - any financial statements you've given us
  - any notice of demand, or information regarding a dishonour, on any loan with us
  - information on any excess or overdrawing
  - a copy of your *account* statement, and
  - any other information about you and your accounts with us.

#### Your details and information

- 21.19 You must tell us as soon as practicable if any of your details change, including your residential or your email address.
- 21.20 You must also tell us as soon as practicable of any other matter which may affect your ability to comply with your obligations under this *contract*.
- 21.21 You must provide us with any information we require about you, including anything required by the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth)*, and about beneficial owners of you or anyone authorised to act on your behalf.
- 21.22 You must provide us with any information about your financial affairs as soon as practicable after requested by us.

#### Joint liability

- 21.23 You're liable for all your obligations under this *contract* both separately on your own and jointly with each other person identified in the *loan agreement*.
- 21.24 Unless you've notified us otherwise, you agree that each of you can bind each other person identified in the *loan agreement* under this *contract*. For example, one of you could authorise a transaction in respect of your loan and that transaction would bind every person identified in the *loan agreement*, even if those parties didn't know or didn't agree to the transaction.
- 21.25 This means that each of you can be required to pay the *total amount owing* individually, despite any other arrangement you may have in place.

#### GST

- 21.26 If any payment made to us in relation to this *contract* is subject to *GST*, the amount to be paid will be increased so the amount retained by us after the payment of *GST* is the same as it would be if no *GST* were payable in respect of the payment.

#### Governing law

- 21.27 This *contract* is governed by the law in force in New South Wales. Each party submits to the non-exclusive jurisdiction of the courts there.

## Customer Owned Banking Code of Practice

- 21.28 The Customer Owned Banking Code of Practice may apply to your *contract*.

## 22 Definitions

The meaning of words printed *like this* and other important words used in this *contract* have the following meanings:

**account** means an account we establish in your name for recording all transactions in connection with this *contract*.

**account and payment facility terms** means the terms and conditions that apply to your *account* and any *payment facility* and are available on our website at [www.greater.com.au/legal/disclosure-documents](http://www.greater.com.au/legal/disclosure-documents) under the heading 'Deposit and Credit Accounts'.

**adviser** includes lawyers, financial advisers, valuers, real estate agents and other consultants.

**AFCA** means the Australian Financial Complaints Authority.

**amount of credit** is the amount of money we lend to you under this *contract*, and is stated in the *loan agreement*.

**annual percentage rate** means the per annum rate of interest applicable to your loan. The *annual percentage rate* at the *disclosure date* is stated in the *loan agreement*.

**arrangement with us** means any document, agreement or arrangement under which you or a *security provider* has or could in the future have obligations to us (or any of our related entities). It includes each document under which we provide finance to you or a *security provider* and each *security interest* or guarantee given to us in connection with finance (including this *contract*).

**authorised person** means the person or people listed as 'Authorised Person' in the business term *loan agreement* (if any). An authorised person can be any person you authorise to act on your behalf in giving instructions or other communications and to perform any acts under this *contract*, by notice (including a copy of the person's signature) and for which we haven't received notice of revocation of the appointment. You may authorise a person to act alone or jointly with others.

**balance owing on your account** means, at any time, the difference between all amounts credited and all amounts debited to your *account* under this *contract* at that time. When this amount is to be calculated at the end of a day, it includes all debits and credits assigned to that day.

**Banking Code of Practice** means the Australian Banking Association's Banking Code of Practice.

**business day** means a day (not being a Saturday, Sunday or public holiday in that place) on which we're open for business in New South Wales.

**change in control** for you or a *security provider*, includes a change (for any reason) in the person or persons who have the power to directly or indirectly do any of the following:

- determine the management or policies of the entity
- control the membership of the board or other governing body of the entity, or
- control the casting of more than one half of the maximum number of votes that may be cast at a general meeting of the entity.



**contract** means the loan agreement, these terms and conditions and the account and payment facility terms.

**Corporations Act** means the Corporations Act 2001 (Cth).

**costs** includes costs, charges and expenses, including those incurred in connection with advisers and any legal costs on a full indemnity basis.

**customer contribution amount** has the meaning given in 17.8 and includes any increase to the *customer contribution amount* that arises because you vary the construction *contract* after we advance the *amount of credit* to you.

**default** means any event or circumstance so described in clause 18.

**default interest rate** means the per annum rate of interest applicable to overdue payments. The *default interest rate* is stated in the *loan agreement*.

**disclosure date** is the date stated in the loan agreement.

**enforcement proceedings** means a person:

- (a) starting proceedings in a court to recover a debt or to recover possession of property subject to a *security interest*
- (b) otherwise enforcing a *security interest* by taking possession of property (or taking steps to do so) or exercising a power of sale, appointing a controller or voluntary administrator
- (c) applying to a court to appoint a provisional liquidator or a trustee in bankruptcy, or
- (d) enforcing a judgment against another person (including you or a *security provider*) or their assets.

**final repayment date** means the last day of your loan *term*, the date on which your last repayment is due as a result of *default*, or such other date we agree with you.

**fixed rate period** has the meaning given in the loan agreement.

**GST** has the same meaning as in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

**individual basis** means a change that only applies to you.

A person is **insolvent** if:

- (a) they're unable, or state they're unable, to pay their debts when they fall due, they enter into any assignment, arrangement or composition with any creditors or are otherwise taken to have committed an act of bankruptcy
- (b) they're in liquidation, in provisional liquidation, under administration or wound up or have had a controller appointed to their assets
- (c) they're subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute, or dissolved (except to carry out a solvent reconstruction or amalgamation)
- (d) they're taken to have failed to comply with a statutory demand
- (e) an authority has appointed an administrator or investigator to them or their assets, or
- (f) something having a substantially similar effect to any of the things described above happens to that person.

**internet banking** is a platform we provide that allows you or a person who call tell us to do things in connection with your account to access and use your account. The things that can be done using *internet banking* may change from time-to-time and depend on what type of *account* you have with us. Generally *internet banking* can be used to:

- (a) make payments (using *electronic payment methods* that are available with your account)
- (b) view the transaction history of your account
- (c) activate cards.

**licence** means any licence, permit, entitlement or authorisation (including to sell liquor, to discharge hazardous waste, to draw water or manage water rights, to keep gaming or poker machines or to develop and use property) issued by any authority or other person which allows activity to be carried out, on or in connection with property.

**loan agreement** means the document titled "Business Loan Agreement" provided to you with these *terms and conditions*.

An event has a **material impact** if we reasonably consider that the event has had, or is likely to have, a material impact on:

- (a) your ability to comply with your financial obligations under an *arrangement with us*, or
- (b) our ability to fully recover from the *secured property* everything you or a *security provider* owe us.

**payment date** means the date in each month on which repayments are due and is set out in the *loan agreement*.

**payment facility** means *internet banking* and/or a *payment method*.

**payment method** means a method you can use to make payments from your account. The *payment methods* that are available with your account are set out in the *account and payment facility terms* or other terms that apply to your account.

**person who can tell us to do things in connection with your account** means an *authorised person*, authorised signatory, benefactor, additional cardholder or any other person who is authorised to do things in connection with your account.

**phone banking** allows you or a person who can tell us to do things in connection with your account to access and use your account by calling us. The things that can be done using phone banking may change from time-to-time but generally *phone banking* can be used to:

- (a) check your *account* balance
- (b) check the last 10 transactions on your *account*
- (c) transfer money between *accounts* you have with us
- (d) make BPAY payments (if BPAY is available with your *account*).

**PPSA** means the Personal Property Securities Act 2009 (Cth).

**receiver** includes receiver, or receiver and manager.

**secured property** means property the subject of a *security*.

**security** means each *security interest* described in the *loan agreement* under "Security", and any substitute

or additional *security interest* given in connection with this *contract*.

**security interest** means any charge, security interest, mortgage, lien, pledge, trust, power or other rights given as or in effect as security for the payment money or performance of obligations. Security interest also includes a guarantee or an indemnity.

**security provider** means each person (other than you) who gives a *security*.

**term** means the term of your loan as set out in the *loan agreement*. The *term* commences on the day we first pay any of the *amount of credit* in accordance with the *loan agreement*.

**terms and conditions** means this document.

**total amount owing** means the *balance owing on your account*, plus all accrued interest charges, and other amounts which you must pay under this *contract* but which haven't been debited to your *account*.

**we /us/our** means Greater Bank Limited (ABN 88 087 651 956) Australian credit licence 237476 and its successors and assigns.

**you/your** means the person or persons identified as such in the loan agreement.

(k) a reference to any thing (including an amount) includes the whole and each part of it

(l) if a party has agreed to do something under an *arrangement with us* on by a given day and it's done after 5:00pm on that day, it's taken to be done on the next day, and

(m) a reference to the following terms have the meaning given in the *Corporations Act*:

- (i) subsidiary
- (ii) control
- (iii) controller
- (iv) related body corporate.

## 23 General interpretation

Headings are for convenience only and don't affect interpretation. Unless the contrary intention appears, in this *contract*:

- (a) the singular includes the plural and vice versa
- (b) a reference to a document includes any variation, replacement or novation of it
- (c) a reference to a guarantee includes an indemnity
- (d) a reference to own, when used in relation to land, means being the registered proprietor, the registered holder, the registered Crown lessee, or the holder of an estate in fee simple, and owner has the corresponding meaning
- (e) a reference to a document includes any variation, replacement or novation of it
- (f) the meaning of general words isn't limited by specific examples introduced by "including", "for example", "such as" or similar expressions
- (g) a reference to a particular person includes the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns
- (h) a reference to "**law**" includes the general law and legislation (including regulations)
- (i) a reference to legislation includes regulations under it and any consolidations, amendments, re-enactments or replacements of any of them
- (j) a reference to "**regulations**" includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations)