



## Loan Contract Terms and Conditions

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- Mortgage conditions; and
- Direct Debit Request Service Agreement

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UBANK

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[ubank.com.au](http://ubank.com.au)

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This booklet contains some of the terms and conditions that apply to a *loan* we offer Borrower(s) named in the *schedule* we give the Borrower(s) with this booklet. Other terms and conditions are in the *schedule*.

The *schedule* and *Loan Contract Terms and Conditions* make up the contract for *your loan*. The contract for *your loan* is created on the date *our* settlement agent receives a copy of the *schedule* signed by *you*.

We recommend that *you* seek legal and financial advice before *you* decide whether to enter into the contract for *your loan*.

## How we contact you

Where we can, we will send you notices and documents electronically.

We will send you notices and documents in writing to the address including an electronic address that you have nominated. In some instances (for example, changes to interest rate and fees and charges) we may notify you by publication in a newspaper circulating generally throughout Australia.

Please see clauses 8.1 and 8.4 of these terms and conditions.

If you have not nominated an address, we may send you a notice or document to your last known residential address. You may consent in writing to us giving you notices electronically. If you give us that consent:

- we may no longer give you paper documents;
- you must check electronic communications regularly for documents; and
- you may withdraw your consent at any time by notice to the loan servicer.

You must notify us if you change your name, residential or electronic address.

## UBank is your mortgage manager

UBank can discuss with you any question you have about your loan.

We offer competitive and innovative loan products. During the loan term, you may decide that another product is better for you or that you wish to seek changes to your loan, like fixing the interest rate on a facility account. You can talk to UBank about this.

Also, you can talk to UBank if you wish to sell a security property, but wish to retain your loan to assist you to purchase a new property.

UBank's particulars are in the schedule (under mortgage manager).

## Part 1

## Standard terms

Generally, the terms in this Part 1 apply to your loan. Please read the terms carefully. You will note that some terms do not apply to:

- fixed rate facilities.

Please see Part 2 for terms that apply only to those facilities.

### 1. Your Loan

#### 1.1 The contract for your loan

The schedule and these terms and conditions make up the contract for your loan. The contract for your loan takes effect on the date our settlement agent receives a copy of the schedule signed by you.

#### 1.2 Facility accounts

If we make your loan available on one account only, that account is a facility account.

We may have agreed to your request to divide the total amount of your loan into separate accounts. If so, the schedule sets out the particulars for each account.

Each account is a facility account.

We will assign an account number to each facility account.

We will notify you in writing of each facility account number for a facility account after the settlement date for the account.

#### 1.3 What you must do before we give you your loan

Before we make your loan available, you must:

- give us all the security set out in the schedule;
- give us evidence (like the policy document) of current insurance over the security property as required by the terms of the security over the security property; and
- comply with any other requirements notified to you by us, our solicitors or our settlement agent.

We will not make *your loan* available if:

- information has come to *our* attention that leads us to believe, acting reasonably, that:
  - the granting of the *loan* may be prejudicial to *our* interests;
  - *you* may not be able to meet *your* obligations under the contract for *your loan* or the *security*;
  - any guarantor may not be able to meet his or her obligations under a guarantee of *your* obligations under the contract for *your loan* or the *security*;
  - the information we received about *you* or any guarantor is incomplete or inaccurate; or
  - the value of the *security property* has reduced since we valued it and that reduction may affect *our* ability to recover the *loan*; or
- *you* are in *default*. Please see clause 10.1 for when *you* may be in *default*.

#### 1.4 Security for the loan

*Your* obligations under the contract for *your loan* are secured by the *security*.

#### 1.5 When your loan is not regulated by credit law

If *you* are a company, or if *your loan* is predominantly for business purposes or investment purposes (except for investment in residential property), *your loan* will not be regulated by the National Credit Code, despite any statement in the contract for *your loan* that the National Credit Code may apply.

#### 1.6 Code of Conduct

*Our* rights under the terms of the Loan Contract and these Terms and Conditions shall be subject to the provisions of each applicable *Code of Conduct*.

## 2. Drawdown

This clause 2 does not apply to a *facility account* that is:

- a *fixed rate facility*. Please see clause 15 for more details on drawing down a *fixed rate facility account*.

We will make the *facility amount* available to *you* by one or more drawdowns. The sum of drawdowns on a *facility account* must not exceed the *facility amount*. We will make the first drawdown on a *facility account* on *your* written instructions or those of *your* conveyancer or solicitor.

*You* can make other drawdowns by using *StarNet* or *StarCall* via *My UHomeLoan* or by making a written request to *us* or to *UBank*. *You* must make a drawdown on *your loan* within 90 days of the disclosure date set out in the *schedule* or we may cancel *your loan*. *You* can make drawdowns on *your loan* by making a written request to *us* or to *UBank*. We may make other drawing methods available to *you* like direct debits. Please ask *UBank* for details of drawing methods that may be available on *your loan*.

If *you* wish to make a drawdown on a *facility account* after the *settlement date* for the account by making a written request to *us* or through *UBank*, *your* request must be received at least two *business days* before the date *you* want the funds. We may charge *you* a fee for a drawdown that *you* make by a written request to *us*. *You* can ask *your* mortgage manager for the details of the most current fee on *your loan*.

## 3. When your loan term ends

*Your loan* term ends on the *final repayment date*. *You* must pay *us* the *total owing* by no later than the *final repayment date*. That means *you* must repay each *facility account* in full by no later than the *final repayment date*.

## 4. Interest

### 4.1 When you pay interest

*You* must pay interest on the *balance owing* on each *facility account*. We do not pay interest on credit balances in any *facility account*.

### 4.2 How interest is calculated

We calculate interest on a *facility account* daily by applying the *daily percentage rate* for the account on that day to the *balance owing* on the *facility account* on that day. On the date we debit accrued interest to a *facility account* (see clause 4.4), we calculate interest on the *balance owing* on the account prior to debiting the accrued interest to the account.

### 4.3 Default interest on unpaid amounts

If *you* fail to make a payment on a *facility account*, *you* must pay interest at the *default rate* on the unpaid amount.

We calculate that interest daily by applying the *daily default rate* for a *facility account* on that day to any unpaid amount on the *facility account* on that day.

#### 4.4 Debiting interest

We accrue interest on a *facility account* daily and debit the accrued amounts to the *facility account*:

- on the last day of the month following the date you first make a drawdown on the *facility account*;
- from then on, on the last day of each month; and
- on the date you repay the *facility account* in full.

In some cases, you may pay interest on interest because we debit interest on the last day of each month.

### 5. Payments

#### 5.1 Paying your loan

You must pay all amounts we lend you and all interest, fees and charges we can charge under the contract for your loan when they are due until you repay your loan in full.

You will repay your loan in full when you pay us the total owing. You must pay us the total owing by no later than the final repayment date.

#### 5.2 Minimum monthly payments

The *schedule* sets out the *minimum monthly payments* you must make on each *facility account*.

Please see clause 5.5 about changing the frequency of your *minimum monthly payments*.

#### 5.3 Interest only facilities

We may agree to open a *facility account* on which the *facility amount* does not reduce for a period (the *interest only period*). The *schedule* sets out whether an *interest only period* applies to a *facility account*.

The *schedule* sets out the payments you must make on the *facility account* during the *interest only period*. We will give you at least 20 days prior notice of the payments you must make from the end of the *interest only period*.

**If you are considering opening a *facility account* with an *interest only period*, we recommend that you seek financial advice to ensure that the *facility account* would be suitable for your requirements and objectives.**

#### 5.4 Payment due dates

The first *minimum monthly payment* on a *facility account* is due one month after the *settlement date* on the account.

For example, if the *settlement date* on a *facility account* is 21 February, you must make your first payment on the account on 21 March.

Then, each payment on a *facility account* is due on the same day of each month until the *facility account* is repaid in full.

If a payment is due on a day that is not a *business day*, you must make the payment on the previous *business day*. For example, if a payment is due on Sunday 20 February, you must make the payment on Friday 18 February.

If a payment is due and there is no corresponding day in a month because the *settlement date* was the 29th, 30th, or 31st of a month, the payment is due on the last *business day* of the month.

#### 5.5 Changing the payment frequency

After you make the first *minimum monthly payment* on a *facility account*, you may request us to change the payments on the account to:

- weekly payments (each weekly payment being the *minimum monthly payment* multiplied by 12 and divided by 52); or
- fortnightly payments (each fortnightly payment being the *minimum monthly payment* multiplied by 12 and divided by 26), provided that the sum of the payments in any month on the *facility account* are at least equal to the *minimum monthly payment* on the account.

We do not have to agree to your request. Also, we may set conditions if we agree to your request.

#### 5.6 Making payments

You must give us an authority, in the form we require, and maintain that authority to debit payments you must make from an account you nominate. Please refer to Part 5 for the conditions relating to the authority you give us.

We may debit a *facility account* instead of the *nominated account* with fees and charges you must pay under the contract for *your loan*. Please see clause 7.1 for more details.

You may change the *nominated account* by completing another authority in the form we require.

You must ensure that the *nominated account* has sufficient cleared funds to meet payments you must make under the contract for *your loan*. If you have insufficient cleared funds available in the *nominated account* to make a payment, you may be in *default* of the contract for *your loan*. Please see clause 10 for when you may be in *default* and the consequences of being in *default*.

You can make *additional payments* by any other payment method we may make available like, BPAY® and salary crediting. Please ask UBank for details of payment methods that may be available on *your loan*.

## 5.7 Crediting of payments

We will seek to debit each payment you must make under the contract for *your loan* from the *nominated account* before 4:00pm Melbourne time on the day that the payment is due.

If we receive a payment after 4:00pm Melbourne time, we will credit that payment to the *facility account* on the next *business day*.

We apply each payment on a *facility account* to amounts comprising the *balance owing* on the account in any order we consider appropriate. We may apply payments you wish to make on a particular *facility account* to another *facility account* or other *facility accounts*.

## 5.8 If a payment is dishonoured

If any payment we seek to debit from the *nominated account* is dishonoured, we will treat the payment as not having been made and we may charge you a fee.

You can ask your mortgage manager for the details of the most current fees on *your loan*.

## 5.9 Additional payments

Subject to this clause, you may make *additional payments* to a *facility account*, or repay your *facility account* in full, at any time.

If the *facility account* is a *fixed rate facility*, you may make *additional payments* up to a total of \$20,000 during the *fixed rate term* without incurring *break costs*. We may, at our discretion, return any *additional payments* over the total of \$20,000 to your *nominated account*, or to your *facility account*. We may charge you *break costs* on the *additional payments* credited to the *facility account*.

Please refer to clause 15.3 for more details on *additional payments* to *facility accounts* that are *fixed rate facilities*.

*Additional payments* may not reduce the term of a *facility account*. You can ask us to reduce the term of a *facility account*. Please see clause 5.11 for details.

## 5.10 How we apply additional payments

When a variable rate applies to a *facility account*, we apply each *additional payment* you make on a *facility account* to the *minimum monthly payment* due on the account in the next month. For example, if you make an *additional payment* in September, that payment is applied towards the payment due in October, but not payments due in any later month.

If you ask us to draw an *additional payment* from your *nominated account*, you can arrange with us or UBank for us not to apply the *additional payment* to the *minimum monthly payment* due in the next month.

Unless we return an *additional payment* under clause 5.9, we credit *additional payments* immediately to the *facility account* and the *balance owing* on the account is reduced accordingly.

We do not apply each *additional payment* you make on a *fixed rate facility* to the *minimum monthly payment* due on the account in the next month. For example, if you make an *additional payment* in September, you must also make the *minimum monthly payment* for September.

## 5.11 Reducing the term of a facility account

When a variable rate applies to a *facility account*, you may ask us to:

(a) increase the *minimum monthly payment* on that *facility account* at all times during the term of that *facility account* by a particular amount to assist in ensuring that *facility account* is paid in full prior to the *final repayment date*; or

(b) reduce the term of that *facility account* by bringing forward the *final repayment date*. After we action your request, we will set *minimum monthly payments* on that *facility account* under clause 8.2 to ensure you pay the *total owing* on that *facility account* by its new *final repayment date*.

If you reduce the term of a *facility account*, you may need to make higher repayments to ensure you repay the *facility account* by its new *final repayment date*.

Otherwise, in accordance with clause 8.2, we will set *minimum monthly payments* on a *facility account* to ensure you pay the *total owing* on any *facility account* by the *final repayment date* set out in the *schedule* whether or not you have made *additional payments* on that *facility account*.

## 6. Redraw

Clause 6 does not apply to a *facility account* that is a:

- *fixed rate facility*.

### 6.1 Requesting redraw

If you make *additional payments* on a *facility account* and the *annual percentage rate* on the account is a variable rate of interest, you may request to redraw from the account. We will agree to your request unless:

- the amount you request is more than the *available credit* on the *facility account*;
- we reasonably believe that you are unable to repay your *loan* in accordance with the contract for your *loan* or may be unable to do so if we make the redraw available to you;
- we reasonably believe that the information given to us about you is misleading or false;
- we reasonably believe that we are unable to enforce a *security*;
- you are in *default*. Please see clause 10.1 for when you may be in *default*; or
- the *loan servicer* does not consent to the redraw request.

**Redraws on a *facility account* will increase the amount you owe on the account. Please consider carefully the financial consequences of a redraw before you request a redraw.**

### 6.2 How to redraw

You can redraw by:

- making a request through *StarNet* (including via *My UHomeLoan*) or *StarCall*; or
- making a written request to *UBank*; or
- making a written request to us.

If we agree to your request to redraw an amount, we will credit the amount to the *nominated account*. We will seek to do so within two *business days* of receiving your redraw request.

### 6.3 Other redraw methods

We may make other redraw methods available to you like direct debits. Please ask *UBank* for details of redraw methods that may be available on your *loan*.

### 6.4 Redraw fee

We may charge you a fee for a redraw.

You can ask *UBank* for the details of the most current fees on your *loan*.

## 7. Fees and charges

### 7.1 Payment of fees and charges

You must pay:

- the fees and charges when they are payable as set out in the *schedule*;
- any new fees and charges we introduce in accordance with the contract for your *loan*; and
- government fees, charges and taxes relating to your *loan* or *security*.

You must pay us any fee or charge due before the *settlement date* for a *facility account* even if you do not draw down on the account. You must pay those fees or charges when we demand.

Also, if we are liable to pay GST or any similar tax on a supply (“the supply”) made in connection with the contract for *your loan* or a *security*, you must pay us an amount equal to the consideration payable for the supply multiplied by the prevailing rate of GST.

We may debit fees and charges from the *nominated account*, including if you discharge *your loan* and there are unpaid fees or charges relating to the *loan*.

## **7.2 Fees or charges increase the balance owing**

When we debit a fee or charge to a *facility account*, that fee or charge is added to the *balance owing* on the account and will attract interest accordingly.

# **8. Changes to your loan**

## **8.1 Changes to interest rates for variable rate loans**

When a variable rate applies to a *facility account*, we may vary the *annual percentage rate* and the *default rate* on the account at any time to reflect *our* view of market conditions. We will notify you no later than the date the rate increase applies to the *facility account* or we may publish that notice in a newspaper circulating generally throughout Australia.

You can find out the *annual percentage rate* or the *default rate* for a *facility account* by contacting us or UBank.

## **8.2 Changes to payments**

When a variable rate applies to a *facility account*, we may vary the *minimum monthly payments* on the account at any time to ensure you pay the *total owing* by the *final repayment date*.

If we increase *minimum monthly payments* on a *facility account*, we will notify you at least 20 days before the increase takes effect. If we decrease *minimum monthly payments* on a *facility account*, we will notify you no later than when you receive your first statement for the account after the decrease takes effect.

## **8.3 Changes to payment frequency or period**

We may change:

- the frequency of payments;

- when payments are due; and
- the manner in which we require a payment to be made.

We will notify you at least 20 days before the charge takes effect.

## **8.4 Introducing and changing fees and charges**

We may:

- introduce new fees or charges;
- change the amount and frequency of a fee or charge;
- change the due date of a fee or charge; and
- change the manner in which any fee or charge is to be paid.

We will notify you at least 20 days before any increase in a fee or charge or new fee or charge takes effect. We may publish that notice in a newspaper circulating generally throughout Australia. You can ask UBank for details of the most current fees on *your loan*.

## **8.5 Changes to redraw provisions**

We may cancel or vary your ability to redraw *additional payments* at any time. We will notify you at least 20 days before the change takes effect.

## **8.6 Other changes to the contract for your loan**

Acting reasonably, we may make changes to any other term of the contract for *your loan* because of:

- changes in the cost of providing credit to you;
- changes in legal or other regulatory requirements affecting us;
- changes to *our* systems or products;
- updates to *our* general terms and conditions;
- any errors in the contract for *your loan*; or
- changes to industry practice.

We will notify you at least 20 days before any of those changes take effect.

## **8.7 Electronic notice**

Unless you have requested otherwise, we may give you notice of changes to *your loan* by electronic means.

## 9. Operating your facility accounts

### 9.1 Operating instructions

You authorise us to allow any one of you to operate your facility accounts by written instructions to use *StarNet* or *StarCall*. Please see clause 12 for more details on operating your facility accounts by using *StarNet* or *StarCall*.

**You agree that any one of you can bind all of you. For example, any one of you can ask us to debit a facility account or to make any other transaction in respect of a facility account. Each of you will be liable even if any of you did not know about or did not agree to the transaction.**

### 9.2 Giving written instructions

For any transaction you wish to make by written instructions, you must clearly identify the *facility account* on which you wish to operate by name and number and the transaction you wish to carry out. You must give us all information reasonably necessary for us to act on your instructions.

### 9.3 We may not act on written instructions

We may not act on written instructions from you if:

- the instructions are inconsistent with the contract for your *loan*;
- we reasonably believe that an instruction you give us may result in loss to you or us; or
- your instructions are not clear or conflict with another instruction or with an obligation that we owe.

We may refuse to act on a written instruction until we have confirmation from you regarding the instructions.

Also, we may not act on the instructions you give us after we become aware of a dispute between you, or that any of you has died, become *insolvent*, or become mentally incapacitated.

## 10. Default and enforcement

### 10.1 Default

You are in *default* if:

- you do not make a payment on any *facility account* on time;
- you do not comply with any other obligation you owe under the contract for your *loan*;
- there is a *default* under any *security* or other agreement with us;
- there is insufficient *available credit* in the *facility accounts* to pay fees and charges when they are due and we are unable to debit the *nominated account* with the amount of those fees and charges;
- you are an individual and you die or are *insolvent* or are jailed;
- you are a company and you are *insolvent* or there has been a change of control of you that we consider, acting reasonably, affects our ability to recover the *loan*;
- any action is commenced or threatened to confiscate any *security property* under any legislation relating to the proceeds of crime;
- any insurer, who has provided title insurance in respect of the *loan*, cancels, suspends or limits that insurance; or
- we reasonably believe that any information given to us about you or the *security property* is misleading or false.

### 10.2 Consequences of default

If you are in *default*, we may refuse to give you further credit and cancel your access to *StarNet* or *StarCall* or *My UHomeLoan*. Also, we may take any action available to us to protect our interests and recover the *total owing* including:

- enforcing the *security*. We may take action against you to recover the *loan* whether or not we enforce the *security*;
- paying insurance premiums and outstanding rates and taxes in relation to the *security property*; and
- giving you notice requiring you to fix the *default*.

We will give you at least 30 days written notice to fix a *default*. If you do not fix the *default* as the notice requires, the *total owing* will become immediately payable.

We will not give you notice of a *default* and the *total owing* will become immediately payable if:

- we reasonably believe that we were induced to enter into the contract for your loan by your fraud;
- we have made reasonable attempts to locate you without success; or
- a court authorises us to do so.

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.

### 10.3 Enforcement expenses

You must pay the reasonable expenses which we reasonably incur in enforcing or preserving our rights under the contract for your loan or a security including our reasonable internal costs.

Enforcement expenses are payable by you when we incur them.

We may debit enforcement expenses to any *facility account*. Then, they become part of the *balance owing* on that *facility account* and will attract interest accordingly.

## 11. Resolving disputes

### 11.1 What to do if you have a complaint

We have internal and external dispute resolution processes available to assist with resolving complaints. If you have a complaint about your loan to access the internal dispute resolution process, please gather all relevant supporting documents about the complaint and send them to UBank in the first instance:

#### Customer Resolutions Officer

UBank  
PO Box 1466  
North Sydney NSW 2059  
Website: ubank.com.au

For some complaints, for example those relating to hardship applications or the *default* process, UBank may refer your complaint to the *loan servicer*:

#### Complaints & Disputes Resolution Officer

Advantagedge Financial Services Pty Ltd  
Level 10, 101 Collins Street  
Melbourne VIC 3000  
Email: complaints@advantagedge.com.au  
Tel: (03) 9322 6965  
Fax: (03) 8618 4464  
Website: www.advantagedge.com.au

### 11.2 If you do not agree with our proposed resolution

We aim to resolve your dispute or complaint within 45 days. If the matter is more complex, it may take longer to resolve. We will keep you informed of the progress of the matter.

If you do not agree with our proposed resolution or the time taken to resolve your dispute, please contact the External Disputes Resolution Scheme:

#### Australian Financial Complaints Authority

GPO Box 3  
Melbourne VIC 3001  
Email: info@afca.org.au  
Telephone: 1800 931 678 (free call)  
Website: www.afca.org.au

\*AFCA is the external dispute resolution (EDR) scheme to deal with complaints from consumers. AFCA replaces the three existing EDR schemes of the Financial Ombudsman Service (FOS), the Credit and Investments Ombudsman (CIO), and the Superannuation Complaints Tribunal (SCT) so that consumers have access to a single EDR scheme.

## 12. Using StarNet and StarCall and My UHomeLoan

### 12.1 Safeguarding your facility account

You can assist in safeguarding your *facility account* if you:

- (a) memorise your *access code* and/or your *password* and do not keep a written record of the *access code* and/or your *password*;
- (b) never tell anyone your *access code* or *password*;

- (c) try to prevent anyone seeing *you* enter *your access code* or *password* when *you* use *your access code* or *password*;
- (d) if *you* suspect *your access code* or *password* is known by someone else or there is any transaction *you* have not authorised on *your facility account*, immediately report it to UBank on 13 30 80 for the cost of a local call;
- (e) keep a record of these telephone numbers with *your* usual list of telephone numbers; and
- (f) check the statement of *your facility account* as soon as *you* receive it to identify and report, as soon as possible, any instances of unauthorised use of *your access code* or *password*.

These guidelines for safeguarding *your facility account* are the minimum security measures we suggest *you* take. *Your* liability for losses occurring as a result of unauthorised use of *your access code* or *password* will be determined in accordance with the Code. Please read clause 12.9.

In this clause 12, "Code" means the ePayments Code of Conduct September 2011, issued by the Australian Securities and Investments Commission, as amended from time to time.

## 12.2 Giving you access

We will give *you* an *access code* you can use with *your facility account* number to access *StarNet* or *StarCall*.

For access to *My UHomeLoan*, *you* will need to generate a *password*.

Any person holding an *access code* or *password* may alter it at any time.

*You* can cancel *your access code* or *password* by notifying *us* in writing. Please see clause 12.7.

Please contact *us* or UBank if *you* do not want *us* to issue *you* with an *access code*.

## 12.3 Using your access code

*You* may use *your access code* and *facility account* number to:

- request advances or redraws on a *facility account*;
- transfer *available credit* on one *facility account* to other *facility accounts*, in accordance with the contract for *your loan*.

*You* can make enquiries on the *available credit* on a *facility account*, through *StarNet* or *StarCall* using *your access code* or through *My UHomeLoan* using *your password*.

Each *facility account* is a credit account.

*StarNet* or *StarCall* or *My UHomeLoan* may not be available during maintenance of *our* systems or *our loan servicer's* or UBank's systems due to circumstances beyond *our* control.

## 12.4 Authority

When *you* use *StarNet* or *StarCall* or *My UHomeLoan*, *you* authorise any one of *you* to give *us* instructions. *You* authorise *us* to debit a *facility account* with the value of all transactions carried out using *your access code* on that *facility account*. *You* cannot withdraw that authority.

## 12.5 Statements and receipts

- (a) A transaction record will be available for each financial transaction carried out with *your access code*, unless *you* indicate that a receipt is not required.
- (b) *You* should obtain, check and retain all transaction records issued to *you* for checking against statements for *your facility account*.
- (c) If an *access code* is issued to *you*, *you* may request that we give *you* more regular statements for a *facility account* or a copy of a statement of a *facility account* at any time by using *StarNet* or *StarCall* or by contacting UBank.

## 12.6 Transaction limits

(a) *You* must not seek to make a transaction on a *facility account* by use of *your access code* where the transaction would exceed the *available credit* balance on the account. If *you* make any *access code transaction* on a *facility account* for an amount that exceeds the *available credit* balance on the account, *you* are in *default* of the contract for *your loan* and *you* must repay the excess immediately without demand from *us*.

(b) *Your available credit* balance may change from time to time. *You* can use *your access code* and *facility account* number to enquire about the *available credit* balance on a *facility account* as at the time of the enquiry.

(c) *We* may set limits on the minimum and maximum amounts on the advances or redraws *you* may make from a *facility account* by use of *your access code* and *facility account* number on any one day through *StarNet* or *StarCall*. At the date *we* gave these conditions of use to *you*, the minimum *access code transaction* amount is \$100 and the maximum *access code transaction* amount on a *facility account* is the *available credit* on that *facility account*. *You* may apply to *us* or through *UBank* for a lower limit.

## 12.7 Cancelling your access code

*Your access code* or *password* may be cancelled if:

- *we* become aware of a dispute between *you*;
- *you* become mentally incapacitated;
- for security reasons; or
- if *you* are in *default*. Please see clause 10.1 for when *you* may be in *default*.

At any time, any one of *you* may cancel *your access code* or *password* by notifying *UBank* in writing. *You* must not use or seek to use *your access code* or *password* after it is cancelled.

## 12.8 Protecting your access code and password

(a) *You* must:

- not voluntarily disclose *your access code* or *password* to anyone;
- not write or indicate *your access code* or *password*, without making any reasonable attempt to disguise the *access code* or *password*, on any article or on several articles that could be lost or stolen at the same time; and

- not act with extreme carelessness in failing to protect the security of *your access code* or *password*.

(b) If *we* let *you* change *your access code* or *password*, *you* must not select:

- a numeric code which represents *your* birth date; or
- an alphabetical code which is a recognisable part of *your* name.

If *you* select an *access code* or *password* that represents *your* date of birth or a recognisable part of *your* name, *you* may be liable for *unauthorised transactions* by use of *your access code* or *password*. Please read clause 12.11.

(c) *You* must provide correct details (including the BSB and account number) for all *access code transactions*. *We* cannot stop or alter any *access code transaction* after *you* give *us* your instructions. Please record the confirmation number *we* give *you* for an *access code transaction* and quote it to *us* if *you* have any queries.

## 12.9 Your liability for losses due to unauthorised transactions

*Your* liability for losses occurring as a result of unauthorised use of *your access code* or *password* will be determined in accordance with the Code.

## 12.10 When you are not liable for unauthorised transactions

*You* are not liable for losses:

- that are caused by the fraudulent or negligent conduct of *our* employees or of agents or companies involved in networking arrangements, or of any merchants or of their agents or employees;
- arising because an *access code* or *password* is forged, faulty, expired, or cancelled;
- that arise from *access code* transactions which required the use of the *access code*, but occurred before *you* received the *access code*;
- that are caused by the same *access code transaction* being incorrectly debited more than once to the same *facility account*;
- resulting from unauthorised use occurring after *you* notify *us* that the security of the *access code* or *password* is breached; or
- resulting from unauthorised use where it is clear that *you* did not contribute to the losses.

## 12.11 When you are liable for unauthorised transactions

You will be liable for losses resulting from *unauthorised transactions* where:

- we can prove on the balance of probability that you contributed to the losses through your fraud or because you breached your responsibilities in clauses 12.8(a) or 12.8(b). Then, you are liable for the actual losses which occur before we are notified that the security of the *access code* or *password* has been breached; or
- we can prove on the balance of probability that you contributed to losses resulting from unauthorised use because you unreasonably delayed notifying us after you became aware that the security of the *access code* or *password* was breached. Then, you will be liable for the actual losses which occur between the time you became aware and when we were actually notified.

Even then, you will not be liable for any of the following amounts:

- the portion of losses incurred on a day which exceeds any daily transaction limit;
- the portion of losses incurred in a period which exceeds any other transaction limit for that period;
- the portion of the total losses incurred on any *facility account* which exceeds the *available credit* on the account; or
- any losses incurred on any *facility account* which we agreed could not be accessed by the *access code* or *password*.

## 12.12 Limited liability for unauthorised transactions

If there are *unauthorised transactions* on a *facility account* by use of the *access code* or *password* and it is unclear whether or not you contributed to any loss caused by the unauthorised use of your *access code* or *password*, you are liable for the lesser of:

- \$150;
- the *available credit* on the *facility account*; or
- the actual loss at the time we were notified that the *access code* or *password* has become known to someone else (excluding that portion of the losses incurred which exceeds any daily transaction or other transaction limit(s) on the *facility account*).

In determining your liability under this clause, we will consider all reasonable evidence including all reasonable explanations for unauthorised use having occurred.

The fact that a *facility account* is accessed with the correct *access code* or *password*, while significant, is not of itself conclusive evidence that you have contributed to the loss.

## 12.13 Resolving disputes

(a) If you believe a transaction is wrong or unauthorised or the statement of your *facility account* contains any instances of unauthorised use or errors, you must immediately notify the phone number(s) provided in clause 12.15. Then, you will be requested to give us details, relating to your *facility account*, to assist our investigations.

(b) If your complaint cannot be settled immediately to your satisfaction, we will inform you in writing of the procedures for further investigation and resolution and may request further relevant details from you.

(c) Within 21 days after receiving your complaint, we will:

- inform you in writing of the results of our investigation; or
- inform you in writing that we require further time (not exceeding a further 24 days) to complete our investigation. There may be different reasons for us requiring further time to complete our investigation. One of those reasons may be that we are waiting on a response from you.

(d) Where an investigation continues beyond 45 days, you will be informed of the reasons for the delay and given monthly updates on the progress of the investigation and a date when a decision can be reasonably expected, unless we are waiting for a response from you. If we find that an error was made, we will arrange to make the appropriate adjustments to the *facility account* including interest and charges (if any) and will inform you in writing of the amount of the adjustment.

(e) If:

- we are a party to an industry dispute resolution scheme; and
- that scheme provides a matter can be heard under the scheme if we do not give a final decision on the matter within a specified time, we will inform you in writing, about the option of taking the matter to the scheme, within five *business days* after the specified time period expires.

(f) When we inform you of the outcome of our investigation, we will:

- give you reasons, in writing, for our decision by reference to this clause 12 and the Code;
- inform you of any adjustments we have made to the *facility account*; and
- inform you in writing of other avenues of dispute resolution (including Consumer Affairs Agencies, external dispute resolution schemes and Small Claims Courts), if you are not satisfied with our decision.

(g) If we decide that you are liable for all or any part of a loss arising out of unauthorised use of your *access code* or *password*, we will:

- give you copies of any documents or other evidence on which we relied; and
- inform you whether or not there was any system malfunction at the time of the transaction you complained about.

(h) If we fail to carry out these procedures or cause unreasonable delay, we will be liable for a part or all of the amount of the disputed transaction where our failure or delay has prejudiced the outcome of the investigation.

#### **12.14 Malfunction**

We are liable to you for losses you suffer caused by the failure of our systems to complete a transaction, by use of your *access code* or *password*, accepted by the system in accordance with your instructions. However, we will not be liable for consequential losses where you should have been aware that the system was unavailable for use or malfunctioning. In this case, we will have a limited responsibility to correct any error in your *facility account* and the refund of any charges or fees imposed on you as a result relating to the transaction that was not completed. We are not liable for any loss caused by the failure of our systems to accept the transaction.

#### **12.15 Notifying breaches of security**

If you believe the security of your *access code* or your *password* has been breached, please call UBank on 13 30 80.

We will acknowledge receipt of any report of an *unauthorised transaction* or *access code* or *password* security breach you make to the phone number(s) provided. Please retain that acknowledgment as evidence of the date and time of your report.

If the phone number is not operating when you try to use it to notify us that someone else knows your *access code* or *password*, you will not be liable for any losses occurring due to not notifying that event, but only if you contact the phone number(s) within a reasonable time after it is operative again.

### **13. Other terms**

#### **13.1 Assignment**

We may assign our rights and interests in your *loan*. We may not give you notice of an assignment unless we are required by law or there is an important reason to notify you. You will have the same rights against an assignee at law as you do against us.

Your rights are personal to you and may not be assigned without our consent.

#### **13.2 Information we request**

We may ask you to give us information about you or your circumstances. You must give us that information within a reasonable time.

#### **13.3 Information we may disclose**

You consent to us disclosing any information we have about you to any person who acquires our rights or interests in the *loan* or is considering doing so, or to any guarantor, or to anybody else having an interest in the *security*.

#### **13.4 Joint and separate liability**

If we enter into the contract for your *loan* with more than one person, each person is liable individually for the whole of the *loan*. Also, every two or more persons are liable together for the whole of the *loan*.

#### **13.5 Exercising our rights**

We will act reasonably and in accordance with our business needs when we exercise any of our rights in the contract for your *loan*. Also, we will ensure any person exercising our rights acts reasonably. 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.

We use the *loan servicer* to administer *your loan*. You may deal with the *loan servicer* when you wish to correspond with us. The *loan servicer*, our solicitors, contractors or agents may exercise our rights.

### 13.6 Trusts

This clause applies if you enter into the contract for *your loan* as trustee of a trust whether we know about the trust or not.

You agree that you are liable both in your own right and as trustee of the trust. You declare or undertake to us that:

- you enter into the contract for *your loan* for a proper purpose of the trust;
- you have the power and authority under the trust to enter into the contract for *your loan* and, if the *security* is over the property of the trust, to mortgage the trust property;
- you have the right to be indemnified fully out of the trust property, before the beneficiaries of the trust, for all liabilities that you incur under the contract for *your loan*;
- you are the only trustee of the trust and no steps have been taken to remove you as trustee of the trust;
- you are not in *default* under the terms of the trust;
- you have told us about each trust of which you are a trustee;
- you have given us a copy of all terms that apply to the trust;
- the trust deed establishing the trust will not be amended without our prior consent;
- you will not resign or be removed as trustee of the trust without our prior consent;
- the trust has not vested;
- you will not take action to terminate the trust without our prior consent;
- no distribution of any capital of the trust will be effected without our prior consent; and
- if the trust is a unit trust, no units will be redeemed without our prior consent.

You must tell us immediately if, at any time, anything happens that would prevent you from truthfully repeating the declarations or giving the undertakings in this clause.

### 13.7 This clause has been left intentionally blank

### 13.8 Read down clause

(a) If the contract for *your loan* is regulated under consumer legislation (for example, the National Credit Code) or any other law, any provisions in the contract which do not comply with that law have no effect, but only to the extent of the non-compliance.

(b) There may be some laws passed by parliament or other laws (usually called common law) which lessen, modify, or restrict a lender's rights. None of those laws will operate to limit our rights under the contract for *your loan* unless, by their operation, the laws cannot be negated.

(c) If any term of the contract for *your loan* is illegal or becomes illegal at any time, that term will cease to have effect, but only to the extent of the illegality. The balance of the contract for *your loan* will remain in full force and effect.

(d) If any term of the contract for *your loan* is found to be unjust or unconscionable, the term will be read down so that it is no longer unjust or unconscionable.

### 13.9 Our liability

If we make *your loan* available in our capacity as trustee of a trust, our liability to you is limited to the assets of that trust which are available to us to satisfy that liability. This does not avoid or modify the effect of *credit law* or limit your rights under *credit law*.

Only the parties to the contract for *your loan* are liable for any breach of the contract. The contract for *your loan* can only be enforced by the parties, their agents or their assignees.

### 13.10 Statements

We will give you separate statements for each *facility account* every six months.

Please check your statements for errors or *unauthorised transactions*. If you consider there are errors or *unauthorised transactions*, please notify us immediately.

### 13.11 Priority of terms

If there is an inconsistency between any of the *schedule*, these terms and conditions and the terms of a *security*, the inconsistency will be resolved by giving priority to the *schedule*, then these terms and conditions, then the *security*.

## 13.12 Property reports

From time to time, we may arrange a valuation of, or other inspection relating to, a *security property*. We may charge you a fee for the valuation or other inspection we require. You can ask your mortgage manager for the details of the most current fees on your loan. Any valuation or report we obtain about the *security property* under these terms and conditions is for our purposes and you should not rely on it, even if you find out the value assessed by the valuer or the details of the report. If you wish to have a valuation or undertake an inspection for your own purposes, you should organise it separately.

## Part 2

## Terms applying to particular facilities

The terms in this Part 2 apply to particular *facility accounts*. If any term in this Part 2 is inconsistent with a term in Part 1, the term in Part 2 applies to the extent of the inconsistency.

### 14. This clause has been left intentionally blank

### 15. Fixed rate facilities

#### **Warning about fixed rate facilities -**

**If you repay all or any part of the fixed rate facility (including after we take enforcement action), or you request a change to a variable interest rate before the end of the fixed rate term, you must pay break costs in accordance with clause 15.4. If money market rates of interest fall, break costs may be substantial.**

You can ask us at any time for an estimate of the *break costs* that may apply under clause 15.4 to a *fixed rate facility account*.

We recommend that you obtain independent advice about the benefits and risks of fixed rate borrowing before you ask us for a *fixed rate facility*.

#### **When this clause applies**

Clause 15 applies only to a *facility account* on which you have asked us to fix the interest rate.

#### **15.1 One drawdown only**

You must drawdown the *facility amount* on the *facility account* in full when you drawdown on the account.

#### **15.2 Requesting a variable rate during a fixed rate term**

You may request us to change the rate applying to the *facility account* during the *fixed rate term* to a variable rate or another fixed rate. If we agree to your request, you must pay us the *break costs* we calculate in accordance with clause 15.4.

### 15.3 Additional payments on fixed rate facilities

If the *facility account* is a *fixed rate facility*, you may make *additional payments* up to a total of \$20,000 during the *fixed rate term* without incurring *break costs*. We may, at our discretion, return any *additional payments* over the total of \$20,000 to your *nominated account*, or to your *facility account*. We may charge you *break costs* on the *additional payments* credited to the *facility account* in accordance with clause 15.4.

You cannot redraw *additional payments* we credit to the *facility account* during a *fixed rate term*.

You must pay us *break costs* we calculate in accordance with clause 15.4 on repayment of the *facility account* in full (including where the facility is repaid in full after we take enforcement action), at the same time the *additional payment* is made.

### 15.4 Calculation of break costs

*Break costs* are the amount we determine acting reasonably which represents our loss and costs arising from an event set out in clause 15.2 or 15.3. Each of those events is a break event. This loss or cost usually arises because of changes in money market rates of interest between the start of the *fixed rate term* and when the break event occurs.

We may calculate the *break costs* for a *fixed rate facility*, depending on the arrangements we entered to fund your *fixed rate facility*:

- (a) as our costs of breaking any related fixed rate funding agreement with another party. That party will tell us of what those costs will be when we request it. We do not have to provide you with any funding agreement, or details of any funding agreement, between us and another party; or
- (b) by calculating the amount representing the difference between our cost of funds at the start of the fixed rate period and our cost of funds on the date of the break event over the remainder of that period. This is then discounted back to the present value at the rate equivalent to our cost of funds at that date.

We will not pay you any benefit we receive from a break event.

### 15.5 When a fixed rate term ends

We will convert the *annual percentage rate* on the *facility account* to a variable rate at the end of the *fixed rate term*. Then, this clause 15 no longer applies to the *facility account*.

## Part 3

## Key words and interpretation

### Key words

The meaning of words that are printed in *italics* in the contract for your *loan* are set out below:

Word	Meaning
<i>access code</i>	the identification number we give you to access <i>StarNet</i> or <i>StarCall</i> .
<i>access code transaction</i>	means an electronic funds transfer to or from a <i>facility account</i> using an <i>access code</i> and <i>StarNet</i> or <i>StarCall</i> .
<i>additional payment</i>	on a <i>facility account</i> , means a payment on the account in addition to the <i>minimum monthly payments</i> you are required to make on the account.
<i>annual percentage rate</i>	for a <i>facility account</i> , is the rate identified as the <i>annual percentage rate</i> for that <i>facility account</i> , set out in the <i>schedule</i> as varied from time to time in accordance with the contract for your <i>loan</i> .
<i>available credit</i>	For a <i>facility account</i> , at any time means the difference between: <ul style="list-style-type: none"><li>• the amount that would have been the <i>balance owing</i> on the <i>facility account</i> at that time if the <i>facility amount</i> had been fully drawn on the <i>settlement date</i> and if you had only paid the <i>minimum monthly payments</i> on the <i>facility account</i> under the contract for your <i>loan</i> on the due date required and no <i>additional payments</i> had been made; and</li><li>• the <i>balance owing</i> on the <i>facility account</i> at that time.</li></ul>

Word	Meaning
<i>balance owing</i>	on a <i>facility account</i> means, at any time, the difference between all amounts debited and credited to the account at that time.
<i>break costs</i>	is the loss we reasonably incur that we may charge on a <i>facility account</i> in accordance with clause 15.4.
<i>business day</i>	means any day other than a Saturday or a Sunday or a public holiday in Melbourne, Victoria.
<i>code of conduct</i>	means any <i>code of conduct</i> to which we, UBank or the <i>loan servicer</i> subscribe.
<i>credit law</i>	means any law relating to the provision of consumer credit which applies to <i>your loan</i> , including the National Consumer Credit Protection Act 2009 (Cth) and any regulations and instruments made under that Act.
<i>daily percentage rate</i>	for a <i>facility account</i> , means the <i>annual percentage rate</i> for the <i>facility account</i> divided by 365.
<i>daily default rate</i>	for a <i>facility account</i> , means the <i>default rate</i> for the account divided by 365.
<i>default</i>	means any of the events set out in clause 10.1.
<i>default rate</i>	for a <i>facility account</i> , means the <i>annual percentage rate</i> for the account plus 4% per annum.
<i>facility account</i>	has the meaning set out in clause 1.2.
<i>facility amount</i>	for a <i>facility account</i> , is the maximum amount of credit we may make available to <i>you</i> on the account as set out in the <i>schedule</i> as varied from time to time.
<i>final repayment date</i>	is the date identified by that name in the <i>schedule</i> .

Word	Meaning
<i>fixed rate facility</i>	means a <i>facility account</i> which has an <i>annual percentage rate</i> that is a fixed rate.
<i>fixed rate lock fee</i>	means the fee payable from time to time where <i>you</i> request a <i>fixed rate facility</i> .
<i>fixed rate term</i>	for a <i>facility account</i> , means the term, set out in the <i>schedule</i> , during which the <i>annual percentage rate</i> on the account is a fixed rate.
GST	has the meaning given in A New Tax System (Goods and Services Tax) Act 1999.
<i>insolvent</i>	for: <ul style="list-style-type: none"> <li>an individual, means when the individual is declared bankrupt or enters into an arrangement with creditors;</li> <li>a body corporate, means when an external administrator is appointed to the body corporate or when the body corporate is wound up or deregistered.</li> </ul>
<i>interest only period</i>	has the meaning set out in clause 5.3.
<i>loan</i>	means all the <i>facility accounts</i> we make available to <i>you</i> under the contract for <i>your loan</i> .
<i>loan servicer</i>	means Advantedge Financial Services Pty Ltd ACN 130 012 930 Australian Credit Licence number 391202, the servicer of <i>your loan</i> as set out in the <i>schedule</i> and any successors and assigns.
<i>minimum monthly payments</i>	for a <i>facility account</i> , means the payments <i>you</i> must make on the account as set out in the <i>schedule</i> as varied from time to time.

Word	Meaning
<i>My UHomeLoan</i>	is an automated internet service provider <i>UBank</i> makes available to you to view <i>facility accounts</i> , and to manage <i>facility accounts</i> using <i>StarNet</i> , in accordance with the contract for <i>your loan</i> .
<i>nominated account</i>	means the account you nominate under clause 5.6 or any replacement of that account.
<i>password</i>	means a string of characters used for authentication to access <i>My UHomeLoan</i> .
<i>schedule</i>	means that part of the contract for <i>your loan</i> entitled “ <i>schedule</i> ” that: <ul style="list-style-type: none"> <li>names you as the borrower for the <i>loan</i>; and</li> <li>a signed copy of which our settlement agent has received from you.</li> </ul>
<i>security</i>	means any mortgage set out in the <i>schedule</i> or that we require from time to time.
<i>security property</i>	means any property that is the subject of a <i>security</i> .
<i>settlement date</i>	for a <i>facility account</i> means the first to occur of the date you first make a drawdown on the <i>facility account</i> or the date we create the <i>facility account</i> on our systems.
<i>StarCall</i>	is the telephone system we make available to you to manage <i>facility accounts</i> in accordance with the contract for <i>your loan</i> .
<i>StarNet</i>	is an automated internet service system we make available to you to manage <i>facility accounts</i> in accordance with the contract for <i>your loan</i> .

Word	Meaning
<i>total owing</i>	at a particular time, means the total of the <i>balance owing</i> on each <i>facility account</i> at that time plus all accrued interest, default interest and other amounts which you must pay under the contract for <i>your loan</i> , whether or not they have been debited to a <i>facility account</i> at that time.
<i>unauthorised transaction</i>	means any <i>access code transaction</i> you did not authorise.
<i>UBank</i>	means <i>UBank</i> , a division of National Australia Bank Limited ABN 12 004 044 937 Australian Credit Licence 230686 and any successors and assigns. <i>UBank</i> is your mortgage manager (as set out in the <i>schedule</i> ).
<i>we, us, lender, credit provider</i>	means the <i>lender</i> set out in the <i>schedule</i> being AFSH Nominees Pty Ltd ABN 51 143 937 437 Australian Credit Licence number 391192 and any successors and assigns and our has a corresponding meaning.
<i>you</i>	means the person or persons named in the <i>schedule</i> as the borrower and your has a corresponding meaning.

### Interpretation

A reference in the contract for *your loan* to:

- a word importing the singular, includes the plural and vice versa;
- a word importing any gender includes the other genders;
- a reference to a person includes the legal personal representatives, successors and permitted assigns of that person;
- a reference to a clause is a reference to a clause of these terms;
- a reference to a month is to a calendar month;
- the word ‘include’ or ‘including’ are not words of limitation; and
- a reference to a day is a calendar day (unless otherwise stated).

**Information Statement – things you should know  
about your proposed credit contract**

This information statement only applies to your loan if credit law to the loan applies. This statement tells you about some of the rights and obligations of yourself and the credit provider. It does not state the terms and conditions of your contract.

If you have concerns about your credit 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 pre-contractual statement containing certain information about your contract. The pre-contractual statement, and this document, must be given to you before:

- your contract is entered into; or
- you make an offer to enter into the contract; whichever happens first.

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

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

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

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

**3 Can I terminate the contract?**

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

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

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

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

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

However, if your facility is within a fixed rate period you will have to pay any additional charges applicable for early termination of 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 the credit provider to charge one) and other fees.

**7 Can my contract be changed by us?**

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; or
  - a change in credit fees and charges; or
  - any other changes made by your credit provider, except where the change reduces what you have to pay or the change happens automatically under the contract.

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

Yes. You should first talk to your credit provider. Discuss the matter and see if you can come to some arrangement. If that is not successful, you may contact the AFCA\* scheme. The AFCA scheme is a free service established to provide you with an independent mechanism to resolve specific complaints.

The AFCA scheme can be contacted at:

### **Australian Financial Complaints Authority**

GPO Box 3

Melbourne VIC 3001

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

Telephone: 1800 931 678 (free call)

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

\*AFCA is the external dispute resolution (EDR) scheme to deal with complaints from consumers. AFCA replaces the three existing EDR schemes of the Financial Ombudsman Service (FOS), the Credit and Investments Ombudsman (CIO), and the Superannuation Complaints Tribunal (SCT) so that consumers have access to a single EDR scheme.

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

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

## **Insurance**

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

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

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

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

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

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

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

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

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

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

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

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

## Mortgages

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

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

### 16 Should I get a copy of my mortgage?

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

However, you need not be given a copy if your 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 the property?

See the answers to questions 20 and 21. Otherwise you may:

- 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 the credit provider take or sell the mortgaged property?

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

## General

### 20 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.

### 21 What if the credit provider and I can not agree on a suitable arrangement?

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

If the credit provider still refuses your request you can complain to the AFCA scheme. Further details about this scheme are set out below in question 23.

### 22 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.

### 23 Do I have any other rights and obligations?

Yes. The law will give you other rights and obligations. You should also **read your contract carefully**.

If you have any complaints about your credit contract, or want more information, contact your credit provider.

You must attempt to resolve your complaint with your credit provider before contacting the AFCA scheme.

If you have a complaint which remains unresolved after speaking to your credit provider you can contact the AFCA scheme or get legal advice.

The AFCA scheme is a free service established to provide you with an independent mechanism to resolve specific complaints.

The AFCA scheme can be contacted at:

**Australian Financial Complaints Authority**

GPO Box 3

Melbourne VIC 3001

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

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\*AFCA is the external dispute resolution (EDR) scheme to deal with complaints from consumers. AFCA replaces the three existing EDR schemes of the Financial Ombudsman Service (FOS), the Credit and Investments Ombudsman (CIO), and the Superannuation Complaints Tribunal (SCT) so that consumers have access to a single EDR scheme.

Please keep this information statement.

You may want some information from it at a later date.

## Part 5

## Direct debit request service agreement

This Part 5 and the *direct debit request* set out the terms of the direct debit agreement between *us* and *you*.

Please see the Glossary at the end of this agreement for the meaning of words in this Part 5. Each of the words printed in italics is defined.

### 1 Debiting your account

**1.1** By signing a *direct debit request*, *you* authorise *us* to arrange for *us* to debit funds from the *nominated account*.

**1.2** *We* will arrange for funds to be debited from the *nominated account* on each *debit day*.

**1.3** If the *debit day* falls on a day that is not a *business day*, *we* may direct the *financial institution* to debit the *nominated account* on the previous *business day*. If *you* are unsure about which day the *nominated account* has or will be debited, *you* should ask the *financial institution*.

**1.4** In the event of a *direct debit request* not being honoured, *we* may seek to debit the *nominated account* again for the failed payment and related costs at *our* discretion.

### 2 Changes by us

*We* may vary any details of this agreement or a *direct debit request* at any time by giving *you* at least 14 days written notice.

### 3 Changes by you

**3.1** Subject to 3.2 and 3.3, *you* may change the arrangements under a *direct debit request* by contacting *UBank* on 13 30 80 or *us* on 1300 300 989.

**3.2** If *you* wish to stop or defer a *debit payment*, *you* must notify *UBank* or *us* in writing at least three days before the next *debit day*.

**3.3** You may also cancel *your* authority for *UBank* or *us* to debit the *nominated account* at any time by giving *us* 15 days notice in writing before the next *debit day*.

**3.4** We may direct requests to stop or cancel a *debit payment* to the *financial institution*.

## **4 Your obligations**

**4.1** You must ensure that there are sufficient clear funds available in the *nominated account* to allow a *debit payment* to be made in accordance with the *direct debit request*.

**4.2** If there are insufficient clear funds in the *nominated account* to meet a *debit payment*:

- (a) you may be charged a fee and/or interest by the *financial institution*;
- (b) you may also incur fees or charges imposed or incurred by *us*; and
- (c) you must arrange for the *debit payment* to be made by another method or arrange for sufficient clear funds to be in the *nominated account* by an agreed time so that *we* can process the *debit payment*.

**4.3** You should check the *nominated account* statement to verify that the amounts debited from the *nominated account* are correct.

## **5 Dispute**

**5.1** If you believe that there has been an error in debiting the *nominated account*, you should notify *UBank* on 13 30 80 and confirm that notice in writing as soon as possible so that *we* can resolve *your* query more quickly.

**5.2** If *we* conclude as a result of *our* investigations that the *nominated account* has been incorrectly debited *we* will respond to *your* query by arranging for the *financial institution* to adjust the *nominated account* (including interest and charges) accordingly. *We* will also notify *you* in writing of the amount by which the *nominated account* has been adjusted.

**5.3** If *we* conclude as a result of *our* investigations that the *nominated account* has not been incorrectly debited *we* will respond to *your* query by providing *you* with reasons and any evidence for this finding.

**5.4** Any queries you may have about an error made in debiting the *nominated account* should be directed to *UBank* or *us* in the first instance so that *we* can attempt to resolve the matter between *us* and *you*. If *we* cannot resolve the matter you can still refer it to the *financial institution* which will obtain details from *you* of the disputed transaction and may lodge a claim on *your* behalf.

## **6 Accounts**

You should check:

- (a) with the *financial institution* whether direct debiting is available from the *nominated account* as direct debiting is not available on all accounts offered by *financial institutions*;
- (b) the details of the *nominated account* which you have provided to *us* are correct by checking them against a recent account statement; and
- (c) with the *financial institution* before completing the *direct debit request* if you have any queries about how to complete the *direct debit request*.

## **7 Confidentiality**

**7.1** We will keep any information (including *your* account details) in *your direct debit request* confidential.

**7.2** We will only disclose information that *we* have about *you*:

- (a) to the extent specifically required by law; or
- (b) for the purposes of this agreement (including disclosing information in connection with any query or claim).

## **8 Notice**

If you wish to notify *us* in writing about anything relating to this agreement, you should write to:

**UBank**  
Reply Paid 1466  
North Sydney NSW 2059

OR

**Advantedge Financial Services Pty Ltd**  
PO Box 626 Collins Street West  
Melbourne VIC 8007

We will notify *you* by sending a notice in the ordinary post to the address you have given *us* in the *direct debit request*.

## Glossary

*business day* means any day other than a Saturday or a Sunday or a public holiday in Melbourne, Victoria.

*debit day* means the day that a payment by *you* to *us* is due.

*debit payment* means a particular transaction where a debit is made.

*direct debit request* means the form we give *you* to sign called *Direct Debit Request*.

*financial institution* is the financial institution where the *nominated account* is held.

*nominated account* means the account with a *financial institution* from which we are authorised to debit funds.

*UBank* means *UBank*, a division of National Australia Bank Limited ABN 12 004 044 937 Australian Credit Licence 230686

*you* means the customer who signed a *direct debit request*.

*we* or *us* means the *lender you* have authorised to debit the *nominated account* identified in the *direct debit request* being AFSH Nominees Pty Ltd ABN 51 143 937 437 Australian Credit Licence number 391192 of Level 10, 101 Collins Street, Melbourne telephone (03) 8616-1000 and *our* has a corresponding meaning.

## Part 6

## Mortgage conditions

This Part 6 forms part of Your Mortgage, and sets out the registered terms and conditions of Your Mortgage. There are three different versions of Mortgage terms. These terms are registered in the relevant titles office in each state as a memorandum of common provisions and allocated a registered number as follows:

State or territory	Version 1	Version 2	Version 3
Australian Capital Territory	1381182	1689600	1722860
New South Wales	AA832323	AF543292	AG1537
Queensland	707918723	713278081	713631019
South Australia	10048399	11403297	11511492
Tasmania	M272	M405	M431
Victoria	AA840	AA1494	AA1627
Western Australia	I965277	L332636	L511060
Northern Territory	371969	372106	372132

For the purpose of this Part 6, each different version of the Mortgage terms will be referred to as a "Version". Please refer to Your Mortgage Form for the Version that applies to Your Mortgage.

Most terms in each Version are the same. Small differences exist between each different Version. This Part 6 sets out the Mortgage terms and the differences between the Versions.

# 1 Understanding the Mortgage

## 1.1 Definitions

In the Mortgage, the following expressions have the following meanings:

“Authorised Officer” means any of our employees and any principal of the firm of solicitors retained by Us and anyone else appointed by Us.

Note: If Your Mortgage is Version 1, the following definition of “Credit Law” applies:

“Credit Law” means any applicable law relating to the provision of consumer credit, including any law that implements, or contains provisions contemplated by, the Uniform Credit Laws Agreement 1993.

Note: If Your Mortgage is Version 2 or 3 the following definition of “Credit Law” applies:

“Credit Law” means any applicable law relating to the provision of consumer credit, including the National Consumer Credit Protection Act 2009 (Cth) including the National Credit Code in Schedule 1 and any regulations and instruments made under that Act.

“Crown Land” means any Crown Lease under which You derive an interest in the Land.

“Default Notice” means a notice informing You of Your default and given by Us in accordance with clause 7.2.

“Enforcement Expenses” means all reasonable amounts that We reasonably incur in relation to:

- seeking possession of the Property or taking any other action to enforce the Mortgage after an Event of Default, or
- in preserving or maintaining the Property (including paying insurance, rates and taxes) after an Event of Default.

“Event of Default” means any of the events set out in clause 7.1.

“Governing Body” means any entity that administers any subdivision affecting the Property.

“Guarantor” means any person other than You who guarantees the payment of the Secured Money to Us.

“Improvements” means the building and any structure, fence and improvement of any nature at any time erected or standing upon and forming part of the Property.

“Insolvent” has the meaning provided by Credit Law.

“Land” means the land described as the Land in the Mortgage Form, or so much of that land as remains subject to the Mortgage.

“Mortgage” means the Mortgage Form including all schedules and annexures and this document.

“Mortgage Form” means the form of mortgage that You have executed that refers to and incorporates this document.

“Property” means the Land and all rights relating to the Land and includes the Improvements.

“Secured Agreement” means:

- any present or future agreement between Us, and You or any of You that You acknowledge in writing to be an agreement secured by the Mortgage, and
- an agreement that varies such an agreement.

“Secured Money” means:

- all amounts that are payable at any time or are contingently owing or payable to Us under a Secured Agreement, and
- Enforcement Expenses.

“Security” means any present or future mortgage, charge, guarantee or other security for the payment of the whole or any part of the Secured Money.

“We” means the person or persons named in the Mortgage Form as the Mortgagee and “Us” has a corresponding meaning.

“Works” includes excavation and earth works, demolition and construction works.

“You” means the person or persons named in the Mortgage Form as the Mortgagor and “Your” has a corresponding meaning.

## **1.2 Interpretation**

In the Mortgage unless the context otherwise requires:

- a word importing the singular includes the plural and vice versa,
- a word importing any gender includes the other genders,
- a reference to a person includes corporations, firms, authorities and government bodies,
- a reference to a person includes the legal personal representatives, successors and permitted assigns of that person,
- a reference to a statutory law or code includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them,
- a reference to any thing (including without limitation, to the Secured Money or to the Property) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them, and
- headings must be ignored in construing the Mortgage.

## **1.3 Credit Law**

This clause applies where Credit Law applies to the Mortgage.

Where Credit Law would make a provision of the Mortgage illegal or void the Mortgage is to be read down (if possible) to the extent needed to prevent it having any of those effects. If this cannot be done, the Mortgage is to be read as if that provision were omitted.

Where the Mortgage is inconsistent with Credit Law, the Credit Law prevails to the extent of the inconsistency. The Secured Money does not include any amount that is not permitted to be secured under Credit Law.

## **1.4 Inconsistency between the Document and the Mortgage Form**

Unless clause 1.3 applies, if there is any inconsistency between the provisions of this document and the Mortgage Form, the provisions of the Mortgage Form prevail.

## **2 Mortgage Obligations**

### **2.1 The Mortgage**

You acknowledge that by the Mortgage You mortgage the Property to Us and give Us Security over:

- the Property, and
- Your right to receive any money or compensation for the Property.

### **2.2 Pay Secured Money**

The Mortgage is Security for payment to Us of the Secured Money and for the performance of all of Your obligations under the Mortgage. You agree to pay the Secured Money as and when the Secured Money becomes due and payable in accordance with the provisions of each Secured Agreement or the Mortgage.

### **2.3 Not breach the Mortgage, a Secured Agreement or any other Security**

You must ensure that You are not in default under the Mortgage. You must also observe and perform on time all of Your obligations under every Secured Agreement and any other Security for the Secured Money that You are a party to.

### **2.4 Pay Enforcement Expenses**

You must pay all Enforcement Expenses on demand.

### **2.5 Perfect the Security**

You must, if We request, sign and do such further things or provide or obtain such things to obtain registration of the Mortgage Form and any other associated dealings or more effectively secure our rights or interests over the Property for payment of the Secured Money. You must make sure

that anyone else who has or claims to have an interest in the Property does the same. You also authorise Us and any Authorised Officer to fill in any blanks or make any alterations to the Mortgage Form and any other associated dealings to enable the registration of the Mortgage Form.

## **2.6 Power of Attorney**

For valuable consideration, You irrevocably appoint Us and each Authorised Officer severally to be Your attorney.

At any time, each attorney may:

- complete and sign all documents and deeds and do all acts matters deeds and things as the attorney considers appropriate to ensure the stamping and registration of the Mortgage Form,
- after an Event of Default occurs, do anything You can do as owner of the Property,
- after an Event of Default occurs, do anything You could do, or ought to have done, under the Mortgage, and
- after an Event of Default occurs, do anything We could do under the Mortgage.

The attorney may exercise the power even if this involves conflict of duty or interest.

You must, if We request, confirm anything an attorney does under this clause.

## **2.7 Trustee**

This clause applies if You enter into the Mortgage as trustee of a trust, whether or not We know about the trust.

You agree that You are liable both in a personal capacity and as trustee of the trust.

You promise Us that:

- You enter into the Mortgage for a proper purpose of the trust,
- You have the power under the trust to enter into the Mortgage and to use the trust property as security,
- You have the right to be indemnified fully out of the trust property, before the beneficiaries of the trust, for the

Secured Money,

- the trust deed establishing the trust must not be amended without our previous written consent,
- You must not resign or be removed as trustee of the trust without our previous written consent,
- no distribution of any capital of the trust may be effected without our previous written consent, and
- in the event that the trust is a unit trust, no units may be redeemed without our previous written consent.

## **3 Title and Information**

### **3.1 Absolute and unchallengeable title**

You promise Us that You have an absolute and unchallengeable title to the Property, or that You will have such title on completion of Your purchase of the Property, subject only to any rights that appear on the title to the Property or that You have previously notified to Us in writing.

### **3.2 Land not subject to any other rights**

You promise Us that:

- the Property is not subject to any right under any:
  - option to purchase or contract of sale,
  - lease, licence or tenancy,
  - adverse possession claim,
  - public or private right of way or easement, or
  - mortgage, charge or other security,
- except as appears on the title to the Property or which You have previously notified to Us in writing,
  - no part of the Property is reserved for the purpose of a roadway or road-widening or for the purpose of existing or proposed public open space or public purposes,
  - to the best of Your knowledge no person claims or has threatened to make any claim to any interest in the Property, and
  - You are not breaching any obligation to any other person by signing the Mortgage.

### **3.3 All information given to Us is true**

You promise Us that all information given to Us in connection with each Secured Agreement and the Mortgage remains true and correct in every respect. In particular You promise that all

answers or statements given by You or on Your behalf to any requisitions or enquiry made by Us or on our behalf before You signed the Mortgage in relation to:

- the Property,
- Your interest in the Property, and
- Your capacity and financial position,

remain true and correct in every particular.

### **3.4 Improvements**

You promise Us that all Improvements comply with all applicable laws and the requirements of all relevant authorities.

### **3.5 Contamination of the Property**

You promise Us that, to the best of Your knowledge and belief, at the time You enter the Mortgage the Property is free from pollutants and is not contaminated. You must inform Us as soon as reasonably practicable if You have reason to believe that the Property is polluted or contaminated.

### **3.6 Title documents**

You will immediately deliver to Us all documents of title relating to the Property and permit Us to retain these during the continuance of the Mortgage.

## **4 Leasehold Title**

### **4.1 Crown Lease**

This clause applies if the Property is leased to You under a Crown Lease.

### **4.2 Your title**

You promise Us that:

- the Crown Lease is valid and current in accordance with its terms,
- You have complied with all of the lessee's obligations under the Crown Lease, and
- You have obtained all required consents to mortgage the Crown Lease.

### **4.3 Your obligations under the Crown Lease**

You must:

- pay on time the rent and other money payable by the lessee pursuant to the Crown Lease,
- comply with all of the lessee's obligations under the Crown Lease,
- on the expiry of the Crown Lease use Your best endeavours to obtain a new lease and grant a new mortgage, in the form We require, over the new lease immediately when You acquire the new lease,
- You must promptly advise Us in writing of any dispute in relation to the Crown Lease,
- You must promptly provide Us with any notice You receive from the Lessor in relation to the Crown Lease, and
- not alter the use of the Land under the Crown Lease unless We consent.

### **4.4 Where the Crown Lease can be converted to freehold title**

If You have or obtain the right to obtain freehold title to the Property:

- You must promptly notify Us in writing, and
- if We ask You, You must acquire the freehold title and grant to Us a new mortgage, in the form We require, over the acquired freehold title and deliver the further title documents to Us as soon as You acquire the freehold title.

## **5 Obligations Regarding The Land**

### **5.1 Sell or deal with the Property**

You must not, without our prior written consent:

- sell or transfer the Property,
- lease or allow a surrender or variation of any lease of the Property,
- give any mortgage, charge or other security over the Property,
- subdivide or consolidate the Property,
- part with possession of the Property, or
- create, vary or terminate any easement, covenant,

licence or other right affecting the Property.

## **5.2 Permit charges on the Property**

You must not, without our prior written consent, allow any charge or liability to be imposed on the Property.

## **5.3 Pay rates and taxes for the Property**

You must pay on time all rates taxes and outgoings of any kind at any time payable in respect of the Property. If We request, You must provide Us with the receipts for such payments.

## **5.4 Keep Improvements in good repair and order**

You must put into and keep the Improvements in good substantial and tenable repair order and condition.

## **5.5 Structural changes**

You must not demolish or make structural alterations to the Improvements without our prior written consent. You must not do or permit any thing that reduces the value of the Property.

## **5.6 Property part of a subdivision**

This clause applies if the Property is part of a plan under any law that provides for the subdivision or development of land or buildings or the management of subdivided land or buildings.

Note: If Your Mortgage is Version 1 or 2, clause 5.6 continues as follows:

You must:

- comply with all rules of the Governing Body,
- pay on time all amounts that are payable at any time to the Governing Body,
- attend and vote at all meetings of the Governing Body in accordance with our direction,
- not without our prior written consent, agree or permit any dealing with the common property of the plan of which the Property is part,
- not, without our prior written consent, agree to any resolution that adds to, amends or repeals any of the rules of the Governing Body, and

- notify Us in writing if the Governing Body does not comply with all of its obligations.

Note: If Your Mortgage is Version 3, clause 5.6 continues as follows:

You must take all reasonable steps to:

- comply with all rules of the Governing Body,
- pay on time all amounts that are payable at any time to the Governing Body,
- attend and vote at all meetings of the Governing Body in accordance with our direction,
- not without our prior written consent, agree or permit any dealing with the common property of the plan of which the Property is part, and
- not, without our prior written consent, agree to any resolution that adds to, amends or repeals any of the rules of the Governing Body.

## **5.7 Observe all statutes, regulations and orders**

You must comply with or ensure the compliance with all laws relating to or affecting the Property or the use of the Property.

## **5.8 Permit inspection**

You must permit Us, our Authorised Officers and agents to enter at all reasonable times into the Property to view the condition of the Property.

## **5.9 Compulsory acquisition**

Note: If Your Mortgage is Version 1 or 2, clause 5.9 states as follows:

If the Property is being resumed or acquired by compulsory process, You must join with Us in making claim for money that may become payable by way of purchase, money or compensation in respect of the Property.

You must not without our prior consent compromise agree or settle on the purchase money or compensation in respect of any such resumption or acquisition.

Note: If Your Mortgage is Version 3, clause 5.9 states as follows:

You must notify Us as soon as You become aware if the Property or any part of the Property is being resumed or acquired by compulsory process.

You must not compromise agree or settle on the purchase money or compensation in respect of any such resumption or acquisition without allowing Us an opportunity to review the purchase money or compensation.

You must join with Us in making claim for money that may become payable by way of purchase money or compensation in respect of the Property.

### **5.10 Protect the Property**

You must:

- keep the Property in good condition and maintain its value and Your and our respective interests in the Property, and
- if the Property is or becomes contaminated remove any pollutant and clean up the contamination promptly.

### **5.11 Information**

You must promptly:

- give Us any information about the Property or anything happening on or to it that We reasonably request,
- notify Us in writing if the Property becomes contaminated or if the Improvements become defective or seriously damaged, and
- give Us any notice or order (other than usual rate notices or land tax notices) affecting the Property on becoming aware thereof.

### **5.12 Building and other Works**

You must obtain our prior written consent and all necessary approvals from authorities and, if applicable, the Governing Body before carrying out any Works to or at the Property.

Any Works must:

- comply with the terms included in our consent and any requirements of any authority,
- be done properly by competent persons, who are licensed where necessary, and be completed within a reasonable time.

We may require or obtain an inspection or valuation of the Property before or after Works are carried out. We are not liable for Works carried out by a third party even where We require or obtain an inspection or valuation of the Property before or after those Works are carried out.

You must, if We require, for the purpose of further securing to Us the payment of the Secured Money, transfer to Us all of Your rights under any warranty, guarantee or builder's insurance relating to the Property or any Works carried out before or after the Mortgage is signed.

### **5.13 Other mortgage**

You must observe and perform on time all of Your obligations under any other mortgage over the Property. You must produce to Us payment receipts, statements and such other evidence that You have complied with Your obligations under any other mortgage as We may at any time reasonably require.

### **5.14 Caveats**

You must do everything necessary to remove any caveat placed on the title to the Property without our consent.

## **6 Insurance**

### **6.1 Maintain insurance**

You must maintain insurance over the Property, including the Improvements, against loss or damage by fire, storm and other usual risks. The insurance must be for the full reinstatement value of the Property, including Improvements. You must also maintain insurance against public liability risk and any other risk We reasonably require.

## **6.2 Insurance to note our interest and be with an acceptable insurer**

Insurance referred to in clause 6.1 must note our interest as Mortgagee. The insurance must be with an insurer You nominate and We approve.

## **6.3 Keep insurance valid**

You must pay on time all premiums and sums necessary to take out and maintain the insurance. If We request, You must produce the insurance policy and receipts for premiums. You must not do or fail to do anything that would make any insurance invalid or that would result in the insurance cover being reduced or cancelled. If You fail to perform Your obligations pursuant to this clause, We may take out or renew any insurance at our expense without prior notice.

## **6.4 Insurance where there is a subdivision**

If the Property is part of a plan under any law that provides for the subdivision or development of land or buildings or the management of subdivided land or buildings, You must ensure that the Governing Body maintains all of the insurances that are required to be effected by law.

## **6.5 Insurance claims**

You must notify Us in writing if an event occurs that could give rise to a claim under the insurance and also if the insurer refuses or reduces a claim.

You will, if We require, transfer to Us all of Your rights under any insurance. We may pursue or settle any insurance claim as We decide.

You will hold any money paid under an insurance claim on trust for Us. We are entitled to the money up to the amount of the Secured Money. You must use the money received from the insurer, either:

- to rebuild or reinstate the Improvements under the supervision of a person approved by Us, or
- to pay Us the Secured Money.

You must comply with our direction as to the way that the money is to be applied.

## **7 Default**

### **7.1 Events of Default**

Each of the following is an Event of Default:

- You do not pay any of the Secured Money on time,
- You fail to comply on time with any of Your obligations under the Mortgage,
- You or a Guarantor breach any term or condition of any Secured Agreement or any Security,
- You or a Guarantor become Insolvent,
- You or a Guarantor die or become mentally incapacitated, or if a corporation, are dissolved,
- You give any mortgage or charge over the Property without our consent,
- You default under any other mortgage or charge over the Property,
- any creditor of yours commences any form of recovery action affecting the Property, or
- Note: If Your Mortgage is Version 1 or 2, this bullet point applies and forms part of clause 7.1: any information supplied to Us in connection with a Secured Agreement or the Mortgage is false or misleading.
- Note: If Your Mortgage is Version 3, this bullet point applies and forms part of clause 7.1: any information supplied to Us in connection with a Secured Agreement or the Mortgage is false or, in our reasonable opinion, misleading.

### **7.2 Notice of default**

Note: If Your Mortgage is Version 1, clause 7.2 states as follows:

When an Event of Default occurs and We choose to exercise our rights under the Mortgage then We will give You a Default Notice requiring You to remedy the Event of Default. You must have been in default for one day or more before We may do this. The Default Notice will allow a period of at least thirty days (calculated as provided by Credit Law) to remedy the default unless:

- We believe on reasonable grounds that We were induced by fraud to enter into a Secured Agreement or the Mortgage,
- We have made reasonable attempts to locate You but without success,
- a court so authorises Us, or
- We believe on reasonable grounds that urgent action is necessary to protect the Property,

in which case the Default Notice will allow the minimum period allowed by law (and having regard to clause 7.4) to remedy the default. Any Default Notice in accordance with this clause may include such information as is required by any statute law governing the exercise of our power of sale as Mortgagee.

Note: If Your Mortgage is Version 2 or 3, clause 7.2 states as follows:

When an Event of Default occurs and We choose to exercise our rights under the Mortgage then We will give You a Default Notice requiring You to remedy the Event of Default. You must have been in default for one day or more before We may do this. The Default Notice will allow a period of at least thirty days (calculated as provided by Credit Law) to remedy the default unless We are otherwise entitled under Credit Law to exercise our rights under the Mortgage without allowing such period to remedy the default in which case the Default Notice will allow the minimum period allowed by law (and having regard to clause 7.4) to remedy the default. Any Default Notice in accordance with this clause may include such information as is required by any statute law governing the exercise of our power of sale as Mortgagee.

### **7.3 No action taken about an Event of Default**

If an Event of Default occurs and We do not give You a Default Notice in respect of that Event of Default, this does not mean that We have given up our rights relating to that Event of Default or our right to issue a Default Notice relating to that Event of Default at a later date.

### **7.4 Variation of statutory rights**

If notice or lapse of time is required under any law other than Credit Law (whether before or after the giving of any notice) before We can exercise our power of sale or other rights, then,

if permitted by such law, that notice or lapse of time is dispensed with.

If any such law does not allow notice or lapse of time to be dispensed with, but allows it to be shortened, then for the purpose of the Mortgage, the period of notice or lapse of time is one day.

## **8 Our Powers**

### **8.1 We may exercise rights if there is an Event of Default**

In the event that You fail to rectify the Event of Default in compliance with any Default Notice under clause 7.2, We may then or at any later time exercise all of Your powers as owner of the Property and all powers vested in mortgagees by any applicable law. By way of example We may:

#### **Possession**

- Enter on and take possession of the Property and manage or use the Property.

#### **Obtain income from Property or make the Property saleable**

- Do all things that We consider appropriate for the efficient management or use of the Property or for obtaining income from the Property or to make the Property more saleable or otherwise to improve the Property.

#### **Lease the Property**

- Lease the Property either separately from or together with any other property mortgaged by You to Us as We may determine in our absolute discretion.

#### **Sell the Property**

- Exercise any power of sale conferred on a mortgagee by any applicable law. By way of example, We may sell the Property or any part of the Property or any interest in the Property for cash or on terms and either separately or together with any other property included in any other mortgage to Us (whether such property is general law land or otherwise) securing the Secured Money with power to apportion the purchase money and expenses of sale between the Property and the other property in any manner that We think fit.

### **Build or rebuild Improvements**

- Pull down rebuild alter or add to the Improvements and erect or make any new Improvements.

### **Amend the title or subdivide the Property**

- Apply for and obtain an amendment of the title to the Property and do any thing appropriate for perfecting Your title to the Property or subdivide the Property.

### **Acquire additional rights**

- Acquire any rights of way or drainage or other easements over the Property or any nearby land and lay out and construct such roads and drains as We consider are necessary.

### **Surrender or dispose of rights**

- Surrender to the Crown all or any part of or any interest in the Property or exchange with the Crown or with any person all or any part of or any interest in the Property for other land of any tenure either with or without giving or receiving any money or other consideration. Any land so acquired may then be held by Us on Your account as further Security for the Secured Money and the power of sale and all other rights or remedies conferred on Us under the Mortgage or by any statute will apply to and be capable of being enforced in respect of such land.

### **Compromise**

- Compromise with anyone, or make concessions or arrangements with anyone, about the Property.

## **8.2 We may withdraw from possession of the Property**

After We exercise any powers conferred by the Mortgage or by any applicable law We may at any time suspend the further exercise of any of our powers or withdraw from possession without restricting our future exercise of such powers and without being responsible for any loss or damage to the Property.

## **8.3 Remove things from the Property, if asked**

When We have taken possession of the Property, You must remove anything on the Property that is not covered by the Mortgage, if We ask You to do so.

If You do not remove the things We ask You to remove within 14 days of being asked:

- those things will be treated as abandoned by You, and
- We may dispose of them in any way We decide.

We will not be liable for any claim by You for any loss of or damage to, anything that We dispose of under the authority of this clause.

## **9 Money We receive**

### **9.1 Payments**

All payments by You under the Mortgage are to be made directly to Us or to any other person as directed by Us and paid by such payment method and to such account or address as may be specified in the applicable Secured Agreement or as otherwise advised to You.

You must make all payments under the Mortgage:

- without deduction or withholding for tax unless the law requires You to make the relevant deduction or withholding; and
- without set-off or counterclaim.

If You pay an amount less than that required to be made under the Mortgage, You may be in default. If You dispute the amount You must pay under the Mortgage, You must contact Us before the amount falls due under the Mortgage.

### **9.2 Credit only for money actually received**

In applying any money towards satisfaction of the Secured Money Your account must be credited only with so much of the money available for that purpose as We actually receive, such credit to date from the time of receipt.

### **9.3 Money to be applied toward payment of the Secured Money**

All money received as a result of exercising any of our powers under the Mortgage or any applicable law or received from any receiver appointed pursuant to any power vested in Us

by statute or by the Mortgage may be applied in or towards satisfaction of the Secured Money in such order and in such manner as We determine.

#### **9.4 Money received as compensation**

All money that may be payable by way of purchase money or compensation for the Property must be paid to Us and be dealt with by Us as if paid by You pursuant to the Mortgage. We may sign any document in respect of such money or the Property in Your name and on Your behalf.

#### **9.5 Surplus money**

If at any time after payment of all the Secured Money there is in our hands any surplus money payable to You such surplus money will not carry interest. We may, but are not obliged, pay the same to the credit of a deposit account with any financial institution.

### **10 Notices**

#### **10.1 Statement of amount of the Secured Money**

A written statement by Us or by any Authorised Officer as to the amount of the Secured Money is sufficient evidence of that fact, unless You prove the statement is wrong.

#### **10.2 Method of service**

We may give You notice by delivering it to You personally or by leaving it at or by sending it by post, facsimile or similar facility to Your residential or business address or the Property. For this purpose We may use the last address recorded for You.

#### **10.3 Several persons**

If You are comprised of more than one person, any notice will be given to each one of You.

#### **10.4 Signing of notices**

If the notice is a demand for payment, it can be signed by Us or by any Authorised Officer. Any other form of notice need not be signed, unless required by law.

#### **10.5 Receipt of the notice**

If the notice is delivered personally, it will be deemed to be given on the later of the date it bears or the date it is received. If the notice is left at Your address, it will be deemed to have been given on the later of the date delivered or the date it bears. If the notice is sent by post, it will be deemed to have been given on the later of the date it bears or the date it would have been delivered in the ordinary course of post. If the notice is sent by facsimile, it will be deemed to have been given on the later of the date it bears or the date the transmitting machine reports it was sent.

#### **10.6 Change of name or address**

If You change Your name or address, You must notify Us in writing immediately specifying details of the change.

### **11 General matters**

Note: If Your Mortgage is Version 1 or 2, clause 11 states as follows:

#### **11.1 Secured Money does not merge in any judgment**

The Mortgage does not merge with or adversely affect any judgment We obtain against You for the Secured Money. In these situations We may exercise rights under the Mortgage and also under the judgment.

#### **11.2 Set-off**

The Mortgage and the right to receive the Secured Money may be assigned by Us free from any equity or cross-claim that, but for this provision, You could establish against Us or any intermediate holder.

#### **11.3 Applicable law**

The Mortgage must be construed in accordance with the law of the State or Territory where the Property is located. You submit to the jurisdiction of the courts of that place.

#### **11.4 Severance**

If any provision of the Mortgage (whether contained in a separate clause or not) is illegal or void the provision is to be read down (if possible) to the extent needed to prevent it having any of those effects. If this cannot be done, the provision is to be severed from the remaining provisions of the Mortgage, that must be interpreted without reference to such illegal or void provision.

#### **11.5 Assignment of Mortgage**

We may assign or otherwise dispose of or deal with our rights or interests under the Mortgage at any time without telling You and without getting Your consent.

You consent to the disclosure by Us of any information that We have about You or Your obligations under the Mortgage (including a copy of the Mortgage or the Secured Agreement) to any person who is a Guarantor of Your obligations and any other person who has acquired our rights or interests under the Mortgage or is considering doing so.

Where this Loan is governed by Credit Law, You will have the same rights against an assignee at law as You do against Us.

#### **11.6 Exercise of our discretion**

Except where the Mortgage or Credit Law provides otherwise, where our consent is sought, We may give or withhold the consent at our absolute discretion and may also give consent subject to such conditions as We think fit.

#### **11.7 Joint and several liability**

If You are comprised of more than one person, each person will be liable individually, and every two or more persons are liable jointly, for all promises and obligations under the Mortgage.

#### **11.8 Discharge of Mortgage**

The Mortgage is a continuing security for the Secured Money and continues until the Mortgage is finally discharged.

#### **11.9 Deed**

The Mortgage is a deed.

Note: If Your Mortgage is Version 3, clause 11 states as follows:

#### **11.1 Secured Money does not merge in any judgment**

The Mortgage does not merge with or adversely affect any judgment We obtain against You for the Secured Money. In these situations We may exercise rights under the Mortgage and also under the judgment.

#### **11.2 Applicable law**

The Mortgage must be construed in accordance with the law of the State or Territory where the Property is located. You submit to the jurisdiction of the courts of that place.

#### **11.3 Severance**

If any provision of the Mortgage (whether contained in a separate clause or not) is illegal or void the provision is to be read down (if possible) to the extent needed to prevent it having any of those effects. If this cannot be done, the provision is to be severed from the remaining provisions of the Mortgage, that must be interpreted without reference to such illegal or void provision.

#### **11.4 Assignment of Mortgage**

We may assign or otherwise dispose of or deal with our rights or interests under the Mortgage at any time without telling You and without getting Your consent. We will not give You notice of that assignment, disposition or dealing unless that notice is required by law or We reasonably consider that there is an important reason to notify You.

#### **11.5 Exercise of our discretion**

Except where the Mortgage or Credit Law provides otherwise, where our consent is sought, We may give or withhold the consent at our absolute discretion and may also give consent subject to such conditions as We think fit.

### **11.6 Joint and several liability**

If You are comprised of more than one person, each person will be liable individually, and every two or more persons are liable jointly, for all promises and obligations under the Mortgage.

### **11.7 Discharge of Mortgage**

The Mortgage is a continuing security for the Secured Money and continues until the Mortgage is finally discharged.

### **11.8 Deed**

The Mortgage is a deed.

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