Mortgage Terms and Conditions.

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Mortgage Terms and Conditions.

Contents.

Why read this document?

This mortgage agreement, and the loan agreement that goes with it, tell you what rules apply to you, and what can happen if you don't follow them.

They're designed to protect both you and us, especially if things don't go as expected.

What's the difference between the loan and the mortgage?

People often talk about 'paying off their mortgage,' when really, they're paying off their home loan.

The loan and the mortgage are two separate agreements.

A loan is an agreement between the borrower and the bank, in which the bank lends the borrower money that is often 'secured' by a property (in many cases, it is secured by the property that is being purchased). If the borrower doesn't make the loan repayments, the bank can sell the security property to recover the money lent to the borrower under the loan agreement.

The bank is only able to do this because, through the mortgage, you grant them a security interest in your property. Once the loan has been paid off, you can end the mortgage, and the bank will no longer have a security interest in your property.

This is why this mortgage agreement is mostly about the property and what you can and can't do with it, while the loan agreement is mostly about money (interest rates, repayments, loan terms and so on).

About your mortgage

Your mortgage is made up of two documents:

- these mortgage terms and conditions, and
- the mortgage form that incorporates these conditions (and any other terms and conditions incorporated into this mortgage under that form).

Before you sign anything

This document explains the rules for the mortgage, while the loan agreement explains the rules for the loan.

Before you sign your loan and/or mortgage documents, it's important that you fully understand what you're agreeing to in both agreements, so you don't get any surprises later.

About the National Credit Code and the Banking Code of Practice

In some sections of this document you'll see the abbreviations 'NCC/BCOP.' You should read these sections if the National Credit Code (NCC) and the Banking Code of Practice (BCOP) apply to your loan.

The National Credit Code (NCC) is a national law designed to protect consumers and ensure ethical and professional standards in the finance industry. The code applies if you're a natural person or strata corporation, and you're borrowing:

- for personal, domestic or household purposes, or
- to buy, renovate or improve residential property for investment purposes, or
- to refinance credit previously provided for this purpose.

The Banking Code of Practice (BCOP) is an industry code which sets standards of good banking conduct for bank staff and representatives. BCOP applies if you're an individual or a small business (as defined in BCOP), and to certain guarantors of individual or small business customers.

1 Nature of this mortgage

1.1 What you undertake in this mortgage

By signing this mortgage you:

- agree to a set of obligations, and
- give us rights that concern you and the property.

For example, if you don't meet your obligations, we can take possession of the property, sell or otherwise deal with it, and sue you for any money you owe us.

Under this mortgage you must:

- ensure that you are not in default
- carry out on time all your obligations to us under every agreement covered by this mortgage, including paying any amounts you're required to pay under that agreement.

Separate and joint obligations

You're liable for all your obligations under this mortgage, both separately as an individual, and jointly with anyone else named in this mortgage as a mortgagor.

Continuing obligations

All your personal obligations under this mortgage continue even if we release the property from this mortgage.

1.2 Your promises to us

Except for things you've told us about in writing that we've accepted, you represent to us that:

- you own the property, or will buy it using part of the amount we lend you, or if leasing the property, you are or soon will be the tenant
- you've told us about all rights that affect or could affect the property (such as easements, leases, securities, the rights of a beneficiary under a trust or proposals to compulsorily acquire the property)
- you've told us of any claim under any law relating to Native Title
- by signing this mortgage you're not breaching any law or any obligation to any other person (including, if you are a corporation, under your constitution)
- your obligations under this mortgage are valid and binding and enforceable in accordance with its terms
- all the information you've given us is to the best of your knowledge and belief correct and not misleading
- you haven't withheld any information that might have caused us not to enter into this mortgage or any agreement covered by this mortgage
- you don't need any consents to allow you to own the property or to enter into this mortgage
- you've told us about any structure on adjoining land that encroaches on the property and any structure on the property that encroaches on adjoining land
- you've told us about any contaminant on, in, under or migrating to or from the property
- you are not, and will not become a proscribed person
- you are not in default (see 12 When you are in default).

Leasing

Note: This section only applies if this mortgage is over a lease.

If leasing the property, except for things you've told us about in writing that we've accepted, you represent to us that:

- no other party to the lease has any right to end or change it, or refuse to perform any of their obligations under the lease without your consent
- you have the written consent of the landlord and any other relevant person to grant and exercise our rights in relation to this mortgage
- you've met the requirements of any consent you've obtained
- you've told us about any occupants of the land and the terms of occupancy.

You agree to tell us if anything happens, or has happened, that prevents you from repeating any one or more of these declarations.

1.3 Mortgage

You mortgage the property to us, and accept the rights and obligations of the mortgage, as security for payment of the total amount owing.

Releasing the mortgage

Once you've repaid the total amount owing you can require us to release the property from this mortgage.

Until we actually release the property, it remains mortgaged to us, even if you've repaid the total amount owing.

2 Looking after the property

You agree to:

- protect the property from damage and keep it in good condition
- correct any defect
- not do, or allow anyone to do, anything that might lower the value of the property or affect our rights
- ensure that the purpose the property is used for doesn't materially change without our prior consent.

Obeying the law

You agree to:

- comply with all laws and requirements of authorities and your other obligations relating to the property
- ensure that anyone who uses or occupies the property also complies.

Keeping us informed

You agree to:

- tell us if the property is defective or seriously damaged
- get our consent before you do major works relating to or on the property, or enter into a contract to do them
- give us a copy of any order or notice you receive from anyone about the property, which could materially affect your use of the property or its value, as soon as you become aware of it
- give us details about all land and interests in land (such as leases) you acquire that may be relevant to your use of the property or its value.

Paying rates and taxes

You agree to pay on time all amounts you owe as owner (or tenant) of the property, including rent, rates, taxes, registration fees and licence fees.

Contaminants

You agree to:

- tell us if there is a contaminant on, in, under or migrating to or from the property
- not have a contaminant on the property, release a contaminant, or allow a contaminant to escape or migrate to or from it
- immediately remove any contaminant and make good any damage caused by the contaminant or its removal
- if a contaminant is released, escapes or migrates from the property, minimise its impact on the environment and make good any damage it causes
- not do anything that increases the risk of harm from any contaminant.

2.1 The property and adjoining land

If any part of a structure on the property encroaches onto adjoining land, then, if we ask, you agree to:

- correct the encroachment
- obtain an easement or other permission we accept to allow it to continue, or
- buy the encroached land.

If we ask, you agree to remove any encroachment on the property from adjoining land.

Under a lease, if we ask you to do any of these things you must do your best to get the landlord's consent if it's required.

Any restraint in this clause will only be exercised by us for a valid collateral purpose.

2.2 Caveats, notifications or dealings

You agree to do everything necessary to remove any caveat, notification or dealing placed on the title to the property without our consent. Any restraint in this clause will only be exercised by us for a valid collateral purpose.

3 The lease

Note: This section only applies if this mortgage is over a lease.

3.1 What you agree to do

You agree to:

- comply on time with your obligations under the lease
- do your best to ensure that the landlord complies with its obligations in relation to the lease and the land, and tell us if they don't
- tell us of anything that could cause the lease to end, including any breach or default under the lease by you or the landlord
- do everything required to enforce all sub-leases, licences and other arrangements in connection with the lease.

Rights and remedies

You agree to allow us to take over your rights and remedies under the lease, at our request, if:

- you're in default under the lease, or
- we can enforce this mortgage, or
- if we reasonably consider we need to do this to protect our interest as mortgagee.

If we take on these rights and remedies, we can exercise them however we reasonably choose, without this imposing an obligation on us as tenant. We can only exercise your right to possession if you're in default.

3.2 What you agree not to do

You agree not to:

- do anything that could cause the lease to end, change or become unenforceable
- do anything, or allow anything to be done, that could cause you to abandon, settle, compromise, discontinue or become non-suited in any proceedings against any person over any right you have in relation to the lease
- fail to exercise an option to renew or extend the lease without first consulting with us; if we ask, you must exercise on time any option under the lease.

You also agree that, without our consent, you won't:

- apply under any law to shorten, postpone, extinguish or suspend rights over the lease

- enter into any agreement, or give any consent in connection with the lease or the land that could materially affect our interest as mortgagee
- remove tenants' fixtures from the land, or
- fail to dispute any notice reviewing the rent, or agree to any rent review, in circumstances that could materially affect our interest as mortgagee.

You acknowledge that despite this mortgage:

- you remain liable to perform your obligations under the lease, and
- we have no obligations under the lease and no liability under the lease if you're in default under it.

4 Insurance

You agree to maintain insurance over the property against fire and other usual risks.

The insurance must be for the full insurable value of the property and any works on a replacement and reinstatement basis (if the property can be replaced or reinstated), unless the property and the works are insured by a governing body as part of a shared scheme.

4.1 Shared schemes

If the property is part of a shared scheme, you must do everything reasonably practicable to ensure that the governing body maintains whatever insurance it is required to by law. You must also tell us if you become aware that this insurance has not been maintained.

Shared schemes in Victoria

If:

- the property is part of a shared scheme in Victoria, and
- the governing body has insured the property and the shared property,

then you only need insurance for any amount you owe us over the amount of the governing body's insurance.

Shared schemes elsewhere

If a governing body has insured the property and the works as part of a shared scheme in anywhere but Victoria, you must insure the total amount secured by all mortgages and charges over the property.

4.2 Risks

You must maintain insurance over the property against common risks, including:

- public liability risk
- workers' compensation
- loss of rent and other income
- any other risks we reasonably specify in any other agreement covered by this mortgage or document related to paying the total amount owing.

4.3 Our interest

Your insurance policy must:

- note our interest as mortgagee
- be on terms and for an amount we agree to
- be with an insurer we've approved.

4.4 Evidence

You must give us satisfactory evidence of current insurance cover whenever we ask for it.

4.5 Cancelling or declining insurance

You must ensure that:

- the insurance cover is not reduced or cancelled, and you must tell us if it is or could be
- nothing happens that could allow an insurer to decline a claim, and you must tell us if anything would allow an insurer to do this.

These obligations apply to insurance that either you or a governing body take out.

4.6 Insurance claims and compensation claims

You must tell us if you make, or have a right to make an insurance or compensation claim, and report the progress of the claim to us.

If we're entitled to enforce this mortgage, or we reasonably believe we need to do so to protect our interest as mortgagee, we can take over your rights to make, pursue or settle a claim. We can exercise those rights however we reasonably choose.

Claim proceeds

You must do your best to ensure that we receive the proceeds of any insurance claim or compensation claim of more than $5,000 that relates to the property. We will use this money as described in 15.5 Accounts and set-off.

You must hold or use any other insurance claim proceeds to reinstate the property, as we direct.

5 Dealing with the property

5.1 Changes to the property

You can't do, or agree to do, any of the following without our prior consent:

- sell, transfer or dispose of the property
- lease or licence the property, or allow a surrender or change of any lease or licence
- part with possession of the property
- subdivide or consolidate the property
- create, release or vary an easement, covenant or public right that relates to the property, or allow one to arise
- waive any of your rights or release any person from their obligations in connection with the property
- create or allow to exist another encumbrance on the property
- create any trust, power or lien on the property, or allow one to arise
- deal in any other way with the property or any interest in it, or allow any interest in it to arise or be changed
- in the case of a lease, sub-lease the land or agree to surrender or change any sub-lease we agree to.

Any restraint in this clause will only be exercised by us for a valid collateral purpose.

Crown lease

You must comply with all conditions in the crown lease, and exercise any option or right to extend or renew the crown lease.

6 Other securities

6.1 Giving us notice

If a law allows you to create another security in connection with the property (or any related property) without our consent, you must tell us at least seven days before you propose to create the security.

6.2 Priority agreement

If we ask, you must do everything that is reasonably practicable for you to do to get an agreement that we accept regulating the priority between this mortgage and any other security over, or proposed to be created over, the property. You may be required to sign this priority agreement.

You should obtain independent legal advice about any obligations you may have under such an agreement.

If we request a priority agreement and you haven't provided it by the time the other security is created:

- we don't have to allow you to draw down any further credit (including by allowing you to access any redraw facility, if applicable) under any loan contract that is an agreement covered by this mortgage; and
- we can exercise any other rights that arise because you haven't provided the agreement (see 12 When you are in default).

6.3 Increases

You must not increase the amount secured under any other security over the property without our written consent, unless a priority agreement allows it.

You must comply on time with any obligation relating to any other security over the property.

6.4 Security over related property

If we ask, you must secure to us on terms we reasonably require:

- your rights to insurance proceeds and insurance contracts over the property and any shared property
- your rights under any contract to do works and under any warranty, guarantee or builders' insurance over the property or any works (whether done before or after you signed this mortgage)
- any encroached land you buy
- any further estate or interest you acquire in the property
- any stock, clip or crop produced on the property to the extent that we need this to efficiently and effectively exercise our rights over the property
- any rights over water that are relevant to your use of the property, including licences and entitlements
- any compensation agreement relating to mining on the property
- any cash received from a compensation agreement or mining on the property.

Any restraint in this clause will only be exercised by us for a valid collateral purpose.

7 Licences

If you need a licence for any activity done on or relating to the property, you must:

- carry out that activity in a proper and orderly way
- comply with all the laws and requirements of authorities relating to the licence
- obtain and renew on time the licence and each authorisation needed
- oppose any application to restrict or cancel the licence
- give us a copy of each notice, order, summons or conviction relating to the licence.

Without our written consent you must not:

- remove, or apply to remove, the licence from the property
- surrender, or try to surrender, the licence
- deal in any way with any interest in the licence
- change the licence
- do anything that could cause the licence to be forfeited or cancelled
- allow any security to arise over the licence.

If you're not the holder of the licence, you must ensure that:

- the holder complies with these obligations as if it were you
- the holder gives us an authority to apply for information from authorities and a power of attorney relating to the licence, each in a form satisfactory to us.

You acknowledge that, despite this mortgage:

- you're liable to perform your obligations under the licence
- we have no obligations under the licence and no liability under the licence if you're in default under it.

Licences after default

After a default has occurred, if we ask, you must do your best to transfer the licence to us or our nominee.

8 Building and other work

Before doing or allowing works, or signing a contract to do them, you must:

- get our consent
- get all necessary approvals from authorities (including any governing body of a shared scheme)
- give us full details of the work, including any plans and specifications we ask for.

You must:

- comply with all laws, requirements of authorities, easements and covenants that affect any works
- conduct all works actively and continuously
- ensure that all works are done competently and completed within a reasonable time, according to any plans and specifications we've approved
- give us any certificates we reasonably require (such as certificates of satisfactory completion)
- pay the people doing the works
- ensure that any contract to do the works is not materially changed
- perform your obligations under the contract and tell us if any default occurs.

Taking over works

If we think you're not proceeding with works satisfactorily, and we've become entitled to enforce this mortgage, we can take them over at your cost, including by changing, demolishing or stopping them as we or the receiver (if applicable) reasonably see fit.

We're not liable for any loss:

- from works that we consent to (including loss from plans or specifications we may approve)
- that arises because we don't finish works we take over,

except to the extent that we, one of our agents or a receiver we've appointed caused the loss through mistake, error, fraud, negligence or wilful misconduct.

Monitoring

If we monitor works (such as inspecting or accepting any part of their construction or approving plans), we will be doing this for our own purposes.

We don't have to:

- exercise care or skill in monitoring the works
- tell you the results of any inspection.

9 Business on the property

Note: This section only applies if this mortgage is over a lease.

- If a business is operating on the property, you must ensure that:
- the business is carried on properly (including maintaining accurate books and records)
- the business is not changed or closed down without our consent
- no business equipment is removed, without our consent, unless it is replaced with similar or better equipment
- the business doesn't disturb neighbours or interfere with their enjoyment of their land
- any authorisation needed for the business (such as a licence) is not changed, taken away from the property, sold or otherwise dealt with or reduced in value, without our consent.

If we enforce this mortgage you must do your best to transfer any authorisation for the business to anyone we tell you.

10 Specific types of property

10.1 Shared schemes

If the property is part of a shared scheme (for example, a townhouse or home unit), you must:

- give us copies of any documents that you receive about the shared scheme or the property
- comply with the by-laws, rules, service agreement or articles of the shared scheme
- vote at any governing body meeting following any reasonable directions we give you after considering your and our legitimate interests
- ensure that the governing body complies with its obligations (such as keeping the shared property in good condition)
- tell us if the governing body doesn't meet its obligations (including insurance)
- ensure that your rights under the shared scheme are not changed without our prior consent
- tell us of any proposal to substitute, end or materially change the shared scheme or its by-laws, rules, service agreement or articles.

10.2 Crown land

If the property is held under law relating to crown land:

- you mustn't allow your existing estate or interest in the property to change without our consent
- you must get our consent before applying to convert any existing estate or interest
- if we've become entitled to enforce this mortgage, we can pay any purchase money or other amount in connection with the property (and if we do this, you must reimburse us when we ask).

10.3 Rural land

If any of the property is used for grazing, farming, horticultural or agricultural purposes, you must manage and preserve it properly and efficiently, including by taking reasonable action (such as fencing and spraying) to keep it free from disease, pests and harmful vegetation.

Without our consent you must not:

- give any other security over any stock on the property
- give any right over water, including licences and entitlements
- give any right over any clip or crop produced on the property
- deal with any quota or contract for producing or selling crops or produce
- do anything that could cause a quota or contract to be forfeited or cancelled.

10.4 Mining

Unless we consent, you must not:

- mine or allow mining on the property
- enter into any compensation agreement relating to mining on the property.

11 Amounts you must pay

11.1 The total amount owing

You must pay us the total amount owing in accordance with the terms of any agreement covered by this mortgage, or as otherwise required by this mortgage.

11.2 Costs

You must pay us any costs we reasonably incur to enforce our rights under this mortgage.

These can include the costs of:

- any receiver or attorney appointed under this mortgage
- our staff and facilities
- expenses we incur to maintain the property after you've defaulted (including insurance, rates and taxes).

You must also pay our reasonable costs for:

- giving and considering consents, variations, discharges and releases
- producing title documents.

You must pay these costs when we reasonably ask you to.

You must also pay any taxes on this mortgage or any transaction related to it.

Currency

If a judgement, order or proof of debt is expressed in a different currency, then you must pay the costs of converting the amount to Australian dollars at the market exchange rate available to us at the time of conversion.

You must also pay any difference if the exchange rate we use to convert the currency is less favourable to us than the rate used for the judgement, order or acceptance of proof of debt.

12 When you are in default

A default occurs if a monetary default occurs or a non-monetary default occurs.

Monetary defaults

A monetary default occurs if you, a borrower or a guarantor doesn't pay any amount required under this mortgage or an agreement covered by this mortgage when it's due.

Non-monetary defaults

A non-monetary default occurs if:

- you, a borrower or a guarantor becomes insolvent
- early repayment is required under another arrangement you, a borrower or a guarantor has with us, or we take default-based action against you, a borrower or a guarantor due to a default of a type described in this clause 12
- a person or another creditor takes enforcement proceedings against you, a borrower or a guarantor (or your or their assets)
- we believe on reasonable grounds that you haven't complied with the law or any requirement of a statutory authority that relates to the property
- it becomes unlawful for you or us to continue with this mortgage or an agreement covered by this mortgage
- you, a borrower or a guarantor gives us information or makes a representation or warranty to us in relation to this mortgage or an agreement covered by this mortgage which is materially incorrect or misleading (including by omission), and which has materially increased or may materially increase our risk under this mortgage
- you or a borrower uses a facility under an agreement covered by this mortgage for a purpose not approved by us
- you, a borrower or a guarantor doesn't give us financial information required by this mortgage or an agreement covered by this mortgage
- you, a borrower or a guarantor doesn't maintain any insurance required under this mortgage or an agreement covered by this mortgage
- if an agreement covered by this mortgage relates to a facility provided for business purposes
- you, a borrower or a guarantor doesn't maintain a licence or permit necessary to conduct the business, or
- legal or beneficial ownership, or management control of you, a borrower or a guarantor (or your or their business) changes without our consent
- you deal with, or try to deal with, the property in breach of this mortgage, without our consent
- if this is a mortgage of a lease, the lease ends before the end of the agreed term (or the landlord takes any steps to bring it to an end)
- you fail to complete any works we have approved in respect of the property, in accordance with the plans and specifications we've approved, within any period we've agreed with you in writing
- if a caveat, dealing, writ or notice is registered against any title for the property without our prior written consent.

13 What happens when you are in default

13.1 Before we act

We will only act on a non-monetary default if it is material or we reasonably consider it has or will have a material effect on:

- your, a borrower's or a guarantor's ability to meet your or their financial obligations to us (or our ability to assess this)
- our security risk (or our ability to assess this), or
- our legal or reputational risk if the default is of a type referred to in the 4th, 5th, 6th and 7th bullet points under 'Non-monetary defaults' in clause 12.

13.2 If the NCC applies

If we decide to act and the NCC applies to this mortgage, we will give you a default notice unless:

- we reasonably believe that we were induced by fraud to enter into this mortgage or an agreement covered by this mortgage
- we have made reasonable attempts to locate you, without success
- a Court authorises us to begin enforcement proceedings, or
- we reasonably believe that urgent action is necessary to protect the property.

The default notice will specify the default, include any other information required by the NCC, and give you at least 30 days to fix the default (if it can be fixed).

Other laws may require us to give you certain information before enforcing this mortgage. We may include that information in the default notice under this clause or in another notice.

13.3 If the NCC doesn't apply

If we decide to act, and the NCC doesn't apply to this mortgage (for example, because the mortgage relates to a loan to a business), we will:

- give you a default notice specifying the default, and
- give you a reasonable time to fix the default (if it can be fixed).

We will give you at least 30 days to fix the default, unless it's reasonable for us to act more quickly to manage a material and immediate risk relating to:

- the nature of the relevant default
- your particular circumstances, or
- the value of the property.

Other laws may require us to give you certain information before enforcing this mortgage. We may include that information in the default notice under this clause or in another notice.

13.4 If you don't fix the default

If you don't or can't fix the default, then at the end of the period specified in any default notice we've given you we can immediately:

- require you to pay the total amount owing, and
- enforce this mortgage.

Enforcing the mortgage means we can do one or more of the following (as well as anything else the law allows us to do as mortgagee):

- sue you for the total amount owing
- take or give up possession of the property as often as we choose
- sever, remove and sell fixtures and fittings
- remove personal possessions from the property and either store them at your risk and cost, or dispose of them (and apply any proceeds to your liability under this mortgage) if we reasonably believe removing or storing them will cost more than they are worth. If we do this we will give you a reasonable opportunity to collect your possessions first.
- collect as your agent any rent and other amounts owing to you in relation to the property
- appoint one more receivers
- anything else the law allows an owner or receiver of the property to do, including improving, selling or leasing it.

If we take possession of the property, we are not liable as an owner-builder unless required by law.

13.5 If you're a guarantor

If you've entered into this mortgage as a guarantor, we won't enforce it unless we have first enforced any mortgage or other security that the borrower has provided for the total amount owing.

The exceptions to this condition are if:

- the guaranteed liability arises under a standard margin loan
- you agree in writing to us enforcing this mortgage, after we have given you a default notice and told you the limitations upon our enforcement rights under the BCOP
- we reasonably expect that the net proceeds of enforcing the mortgage or other security that the borrower has provided won't repay a substantial portion of the total amount owing, or
- we can't reasonably assess whether enforcing the mortgage or other security that the borrower has provided will repay a substantial portion of the total amount owing, because the borrower hasn't given us information, documents or access to premises that we need.

13.6 Disposal of the property is final

You agree that if we or a receiver sell or otherwise dispose of the property:

- you won't challenge the acquirer's right to acquire the property (including on the ground that we or the receiver weren't entitled to dispose of the property or that you didn't receive notice)
- you won't try to reclaim that property
- the person who acquires the property doesn't need to check whether we or the receiver had the right to dispose of the property or exercised that right properly.

14 Receivers

When we're entitled to enforce this mortgage we can appoint a receiver. In doing this we can:

- appoint any receiver to all or any part of the property or its income
- set a receiver's payment at any amount
- remove a receiver and appoint a new or additional receiver.
- If we appoint more than one receiver, they can act independently unless we say they must act together.

The receiver is your agent

The receiver is your agent unless we tell you that the receiver is our agent. You are solely responsible for anything a receiver does or doesn't do, and for paying the receiver's costs.

However, you're not liable for any costs due to the receiver's or their agent's mistake, error, fraud, negligence or wilful misconduct.

Rights of the receiver

Unless the terms of appointment restrict a receiver's powers, it can:

- take or give up possession of the property as often as it chooses
- sever, remove and sell fixtures and fittings
- remove personal possessions from the property and either store them at your risk and cost, or dispose of them (and apply any proceeds to your liability under this mortgage) if the receiver reasonably believes removing or storing them will cost more than they are worth. If the receiver does this the receiver must give you a reasonable opportunity to collect your possessions first.
- anything else the law allows an owner or a receiver of the property to do, including improving, selling or leasing it.

The receiver can exercise its powers without your consent and without giving you notice.

15 General conditions

15.1 Consents

Whenever you need our consent under this mortgage, we will act reasonably and without unreasonable delay when deciding whether to give that consent. We won't unreasonably withhold our consent, but we can impose reasonable conditions on any consent we give under this mortgage. Our consent is only effective if it is in writing.

You must comply with all conditions and requirements in any consent we give, and we can charge a reasonable fee for giving our consent.

15.2 Things we can do

We can do anything which you should have done under this mortgage, but which you have either not done or in our reasonable opinion have not done properly. If we do this you must pay our reasonably incurred costs.

Entering property

We can enter the property to:

- inspect the property or any works
- find out whether you are complying with this mortgage
- carry out our rights under this mortgage.

Unless there is an emergency, we will give you reasonable notice before doing this, but you must help us to enter, such as by getting any consent necessary.

For these purposes you must also obtain for us the right to enter land and buildings that another person has a security over or owns.

By entering a property or exercising our rights we do not become a mortgagee in possession, and are not responsible for any loss you or a third party suffer by us entering, except to the extent that we, our agent or a receiver we've appointed caused the loss through mistake, error, fraud, negligence or wilful misconduct.

Rent

If we have become entitled to enforce this mortgage, you must pay any rent and other income from the property to us. If they are paid to you, you must pay them to us. In each case, we must then use the money we receive as described in 15.5 Accounts and set-off.

15.3 Disclosing your information

We can disclose information you give us if:

- you consent (unless you are an individual, you can't unreasonably withhold your consent)
- required by any stock exchange or if allowed or required by law
- we think it is necessary to protect our position
- the information is generally and publicly available.

Who we can disclose it to

We can disclose information you give us to:

- any of our related entities
- any other borrower or guarantor
- our officers, authorised agents and employees, receivers and legal advisers, auditors and other advisers
- any person in the business of loan and mortgage broking or other introducer who has introduced a borrower to us
- any person for the purposes of securitising this mortgage and any security
- any person in connection with exercising our rights or dealing with rights or obligations.

What we can disclose

For calculating and tracking commissions, information we disclose can include:

- the approval or non-approval of your loan application
- the financial particulars relating to your account
- the lending date
- the amount of credit, your loan, and our product name or description for your loan
- the end-of-month balances on your account
- the account name and number
- the date your loan is paid out
- the details of any default of your loan
- any other information about your account that could affect paying a commission.

As well as the consents described in 15.1 Consents you agree to us giving any other borrower or guarantor who's a signatory on the loan, a copy of:

- this mortgage (or a summary)
- all securities given in connection with your loan
- any formal demand we've sent to you

- any relevant statements of account we've given you
- any relevant financial accounts or statements of financial position you've given us
- your credit reports from credit reporting agencies
- any other financial information about you that a guarantor asks for, or that the BCOP requires us to provide, including notices of demand and any current credit-related insurance contracts.

Disclosure and PPSA

We and you agree not to disclose any information of the kind referred to in section 275(1) of the *Personal Property Securities Act 2009 (Cth)* (PPSA) that is not publicly available, unless section 275(7) of the PPSA applies.

You agree not to authorise the disclosure of any information as contemplated under section 275(7)(c) of the PPSA.

15.1 Consents does not prevent us disclosing information under section 275 of the PPSA because of section 275(7) of the PPSA.

15.4 Currency

Unless an agreement covered by this mortgage provides otherwise, you must make repayments and any other payments in Australian dollars.

If we receive an amount in another currency we can convert it into Australian dollars on the day and at the rates we consider appropriate (if necessary through a third currency).

We can deduct our usual costs for this conversion.

If the amount we receive after the conversion and after deducting costs is less than your required payment amount, you must pay us the difference.

15.5 Accounts and set-off

Setting off money

You must pay the total amount owing in full, without setting off amounts you believe we owe you.

This applies except to the extent that you have a right of set-off, granted by a law such as the NCC, that we can't exclude by agreement.

Unless there is a genuine dispute, we can set-off any money we owe you against the total amount owing.

What happens to money we receive?

We will use money we receive under this mortgage to pay the total amount owing unless we have to pay it to someone with a prior claim. We can use money from an insurance claim to reinstate or replace the property or carry out other work on it.

We can use any money we receive to pay any part of the total amount owing we choose, such as by applying the payment to one agreement covered by this mortgage before another.

Once we've received the total amount owing we must pay any money remaining either to you or to another person entitled to it (such as someone with a security over the property). We can choose to pay it to a person we consider has a subsequent registered or unregistered security.

We don't pay interest on any money remaining after the total amount owing is paid.

We will credit payments as soon as practicable after we receive them (including payments from receivers) and we don't have to refund any payment to you.

Multiple accounts

We can use any money in any of your accounts with us to pay any amount you owe that is due and payable under this mortgage that you haven't paid.

We don't have to do this, and we don't have to tell you in advance if we do. We will give you details of the amounts if you ask for them.

15.6 Rights and obligations

These rights apply to us and our receivers.

Dealing with rights under this mortgage

We can assign or otherwise deal with our rights or remedies under this mortgage in any way we consider appropriate as long as this doesn't materially prejudice your rights or obligations under this mortgage.

If we do this:

- we don't have to tell you
- you can't claim any right of set-off (or other rights you have against us) against any assignee, or any other person who has an interest in this mortgage
- you agree that you are still liable for the total amount owing under this mortgage.

Your rights are personal to you and you can't assign them without our written consent.

How we can exercise our rights

We can exercise a right in any way we consider appropriate, acting reasonably. If we don't exercise a right fully or at a given time, we can still exercise it later.

We can exercise our rights under this mortgage even though:

- we could have exercised those or other rights before but didn't, or were slow in doing so
- we've tried to exercise the rights before (in whole or in part)
- we've exercised other rights before, or
- we hold other security interests for payment of the total amount owing.

We're not liable for loss because we:

- exercise
- try to exercise
- fail to exercise
- delay in exercising

a right or remedy, except to the extent that we, one of our agents or a receiver we've appointed caused the loss through mistake, error, fraud, negligence or wilful misconduct.

If we exercise any right to enter or take possession of the property, we:

- have complete discretion over how to manage the property, within the obligations of the law on mortgagees
- only have to account for rents and profits we have actually received
- can lease the property for any period.

Our rights and remedies under this mortgage:

- are in addition to other rights and remedies given by law independently of this mortgage or by any security
- can be exercised even if this involves a conflict of duty, or we have a personal interest in exercising them.

Any of our directors, employees or any other person we authorise can exercise our rights and remedies.

Liability

Neither we nor any receiver are responsible for any loss arising in connection with us exercising (or not exercising) our rights, powers or remedies, except to the extent that we, one of our agents or a receiver we've appointed caused the loss through mistake, error, fraud, negligence or wilful misconduct.

Your agreement to this is subject to any warranties implied by the law that we can't exclude (for example, the statutory warranties that services will be rendered with due care and skill and will be fit for their purpose).

Your obligations and our rights are unaffected

This mortgage does not merge with or adversely affect, and is not adversely affected by:

- a security or right or remedy we're entitled to, or
- a judgement or order which we obtain against you for any of the total amount owing.

We can still exercise our rights under this mortgage as well as under the judgement, order, other security, right or remedy.

This mortgage binds each person who signs it, even if another person who was intended to sign doesn't sign it or is not bound by it.

Reinstatement of rights in insolvency

Under a law relating to insolvency a person may claim that a transaction (including a payment) in connection with this mortgage is void or voidable.

If a claim is made and upheld, conceded or compromised, then:

- we are immediately entitled, as against you, to the rights for the total amount owing to us immediately before the transaction, and
- you agree to do anything we request to restore to us any security we held from you immediately before the transaction.

Your obligation under this clause is a continuing obligation. It continues even after you've repaid the total amount owing, and after we've released the property from this mortgage.

15.7 Power of attorney

You appoint as your attorney, each of our directors, solicitors and employees whose job title includes the word 'manager'.

You also appoint as your attorney any other person we authorise separately.

You can't revoke these appointments and if we ask, you must formally approve anything an attorney does.

Powers of the attorney when we're entitled to enforce this mortgage

If we're entitled to enforce this mortgage each attorney can:

- do anything you can lawfully authorise an attorney to do in connection with this mortgage, the property or an arrangement with us
- do anything they believe is necessary to exercise any of our or a receiver's rights
- delegate their powers (including this power) and revoke a delegation
- exercise their powers, even if this involves a conflict of duty or they have a personal interest in doing so.

The attorney can do any of these things in your or their name. Examples include:

- signing and delivering deeds
- selling, transferring or leasing the property
- selling, transferring or surrendering any lease
- lodging or withdrawing caveats
- otherwise dealing with the property
- starting, conducting and defending legal proceedings.

If the law allows it, the attorney can exercise their powers without your consent and without giving you notice. The attorney's rights don't limit any legal obligations we have as a mortgagee exercising a power of sale.

Documents as evidence

You acknowledge that any person can rely on a document the attorney has executed as conclusive evidence that:

- the person holds the power described in the document
- the power of attorney has come into effect and hasn't been revoked
- the right or power being exercised is properly exercised and that the circumstances have arisen to authorise the exercise of that right and power.

You acknowledge that the person relying on the document doesn't have to make any enquiries for any of these matters.

'Any person' includes all registration authorities in Australia or elsewhere dealing with any attorney under this power.

15.8 Partnership

If this mortgage is given to secure the total amount owing by a firm or partnership or joint venture:

- this mortgage continues in full force and effect despite any changes to members or participants, even if the firm, partnership or joint venture no longer carries on business
- this mortgage is binding on you even though you are not (or are no longer) a member or participant in the firm or partnership or joint venture.

15.9 Strata Corporations

Strata corporations provisions

If you are a strata corporation you must:

- conduct your affairs in a proper, orderly and efficient manner
- obtain, renew on time and comply with the terms of each authorisation this mortgage requires
- comply with the obligations of each authorisation and allow it to be enforced
- comply with the legislation under which you are incorporated.

Conducting your affairs properly includes:

- collecting levies and other amounts your members or shareholders have to pay
- maintaining accounting and other records
- only incurring debts and liabilities with the approval of the committee, board of directors or other body responsible for controlling your day-to-day management
- paying these debts and liabilities on time in accordance with their terms.

15.10 Trustee declarations

By entering into any arrangement with us, or by owning any of the property as trustee of any trust or settlement, you make the following declarations:

- any arrangement with us is for the benefit of the trust
- any arrangement with us does not conflict with the operation or terms of the trust
- you are the sole trustee of the trust
- you have the power as trustee of the trust to enter unconditionally into this mortgage and perform your obligations under it
- the trust has not been terminated and no beneficiary is presently entitled to any assets of the trust
- you have the right to be fully indemnified out of the trust assets for obligations incurred under any arrangement with us
- no action has been taken or proposed to terminate the trust
- you've given us true copies of the trust deed and other documents relating to the trust that disclose all the terms of the trust
- you haven't delegated any of your powers as trustee or exercised any power of appointment
- no property of the trust has been resettled or set aside or transferred to any other trust
- the trust documents comply with all applicable laws
- by entering into any arrangement with us and performing your obligations under it you are properly performing your obligations to the beneficiaries of the trust
- you have taken all steps necessary to allow you to enter into and perform your obligations under any arrangement with us
- no action has been taken to remove you as trustee or to appoint an additional trustee
- you have not breached your obligations as trustee.

This applies unless you've told us in writing, before entering into this mortgage, that you can't make one or more of the declarations, and we've agreed to waive the requirement for those declarations.

You must tell us whenever anything happens which would mean you could not truthfully repeat all these declarations (unless we consent to that thing happening).

Trustee actions

Unless we've consented in writing, as a trustee you must not:

- do anything in connection with the trust
- deal with any property of the trust, or
- otherwise act in connection with the trust
- in any way that adversely affects your ability to pay the total amount owing. This includes making any distribution of capital or resigning as trustee.

As a trustee, any arrangement with us binds you in your personal capacity and in your capacity as trustee of the trust.

If you are a trustee and you default, you:

- must not exercise your powers or discretions under the trust unless we have consented in writing
- must not exercise your right to be paid from the assets of the trust on demand.

15.11 Administration

You must do anything we reasonably ask to:

- provide more effective security over the property
- enable us to register any security with the agreed priority (and renew its registration if required)
- perfect any security over personal property under this mortgage in accordance with the PPSA
- ensure that each agreement which is intended to be covered by this mortgage becomes an agreement covered by this mortgage
- enable us to register our power of attorney or a similar power
- enable us to exercise our rights in connection with the property
- protect the property or fix any defect in it
- show whether you are complying with this mortgage
- ensure that any arrangement with us is binding on you.

Examples include obtaining consents, signing and producing documents, replying to questions, producing receipts and getting documents completed and signed.

Providing documents

If we reasonably ask, you must supply us with any information or documents about or affecting:

- the property, any works or any licence
- the shared scheme, if the property is part of a shared scheme
- any lease, tenancy or other arrangement connected with the property
- this mortgage
- you, the financial position of any borrower/guarantor or the property
- a valuation or other expert report about the property from an expert we nominate
- proof that you have observed your obligations.

You must pay for anything that you must do under this mortgage.

You agree that we can make any changes to this mortgage or any related document (such as an acknowledgment) for the purposes of stamping or registering the documents with a government authority, as long as these changes don't change its meaning.

Filling in the blanks

You agree that we can fill in any blanks in this mortgage or in any related document (such as an acknowledgment) to reflect what is intended or agreed between you and us.

Prompt performance

If this mortgage specifies when you must perform an obligation, you must perform it by the time specified. You must perform all other obligations promptly.

15.12 Insurance

Any obligation in this mortgage about insurance is a continuing obligation until this mortgage is discharged. If you don't provide the insurance this mortgage requires, you authorise us to do this on your behalf.

15.13 Other parties

Manager

We can appoint a person to manage this mortgage and any securities for us. We will tell you if we do this.

We authorise a manager to exercise all of our rights under this mortgage and any securities. Until we tell you otherwise, you must deal with that manager for everything in connection with this mortgage and any securities.

Valuers and consultants

Any valuer or consultant we use is an independent contractor and is not our agent or employee. We're not responsible for any representation, action or inaction by them.

Relying on valuations

Any report we obtain from a valuer or consultant is for our use only. Even if we give you a copy of the report, you can't rely on it, and neither we, the valuer nor the consultant has any liability to you if you do rely on it and the report is wrong.

You must get your own valuation report if you want to rely on it.

15.14 Notices

Notices, other communications and service of documents

Notices, certificates, consents, approvals and other communications relating to this mortgage must be in writing, unless we agree otherwise.

Any of our employees or authorised agents can sign communications from us.

Communications from us to you

We can give communications to you:

- in person (if you are a corporation, to one of your directors)
- by delivery or post to your last-known residential or business address
- by publishing them in any way allowed by law and any applicable code of practice at any time (for example, we could give you a notice by publishing it in a national newspaper, or electronically on a website, if the law and any applicable code allowed that)
- in any other way the law allows
- if you're not a resident of Australia, by delivery to you by any of these methods, or by delivery to your appointed agent in Australia by:
- giving the communication to your agent personally emailing the communication to your agent at any email address you give us.

Communications from you to us

You must give communications to us:

- in-person to one of our employees at our registered address or at one of our branches
- by prepaid post to our registered address and no other place
- by any other method the law allows.

If you are a corporation, a director or another person we approve must sign communications from you.

Definition of delivery

We consider that we've given you a communication (whether or not you actually receive it) if it's:

- given personally – on the date it bears or the date the person it's addressed to receives it, whichever is later
- sent by post – on the date it bears or the date it would have been delivered in the ordinary course of post, whichever is the later
- by email – on the date it bears
- by publication (for example, in a newspaper or on a website) - the date it's first published.

If we deliver it to your appointed agent in Australia:

- personally – on the date it is delivered
- by email – on the date of the email transmission
- by post – on the date it bears or the date it would have been delivered in the ordinary course of post, whichever is the later.

If you change your address, you must promptly tell us in writing.

Certificates

We can rely on certificates provided by any other person with a security interest over the property about a matter or an amount, in the absence of a clear error.

15.15 Applicable laws

Depending on your loan, some or all of these laws and codes may apply:

- the NCC
- the unfair contract terms provisions in the ASIC Act
- the BCOP.

If these apply and any term in this mortgage:

- contravenes any aspect of these Acts or codes
- would be illegal or unenforceable under them, or
- would impose a prohibited obligation or liability,

then this mortgage is to be interpreted and applied as if that term were omitted, or varied to make it comply with those Acts and codes.

Total amount owing

To the extent that the National Credit Code applies to this mortgage, the total amount owing does not include any amount which exceeds the sum of:

- the amount of your liabilities under each agreement covered by this mortgage, and
- any expenses we reasonably incur to enforce this mortgage.

Rights and remedies

If the National Credit Code, the Banking Code of Practice or other code or legislation applies to this mortgage:

- our rights to demand any amounts from you and to exercise our rights and remedies against you are subject to the limitations on enforcement of this mortgage imposed by the code or legislation, and
- our rights and remedies under this mortgage are in addition to those given to a credit provider under the code or legislation.

Inconsistent law

To the extent permitted by law, this mortgage prevails to the extent it is inconsistent with any law.

15.16 Governing law and serving documents

Governing law

The law in force in the state or territory where the property is situated applies to this mortgage. You and we submit to the non-exclusive jurisdiction of the courts of that place.

Delivery of service

You acknowledge and agree that we can serve on you any document in a court action started in any courts in Australia by:

- mailing a copy of the document by prepaid registered airmail postage to your last known residential or business address
- giving the documents personally to any agent you appoint
- emailing or posting the document to your agent at any address you provide.

This includes a claim, writ of summons, other originating process or third or other party notice.

Effect of service

You acknowledge and agree that any court document (including any originating process) has been served:

- if mailed to your last known residential or business address – on the date on which the document is sent or the date it would have been delivered in the ordinary course of post, whichever is the later
- if given to your agent
  - personally – on the date the document is given by email
  - on the date of transmission of that email by post
  - on the date of posting or the date it would have been delivered in the ordinary course of post, whichever is later.

Nothing in this mortgage affects the right to serve process in any other manner permitted by law.

PPSA law

If we ask, you must promptly do anything (including obtaining consents or executing a new document) to:

- ensure that any security interest through any arrangement with us:
  - attaches to the collateral it is intended to cover
  - is enforceable, perfected and otherwise effective
  - has the priority we require
- enable us to prepare and register a financing statement or financing change statement
- enable us to exercise any of our rights or powers in connection with any such security interest
- provide any information we ask for about any arrangement with us to enable us to exercise any of our rights or powers or perform any of our obligations under the PPSA law.

You must take any action necessary to register, perfect, preserve and maintain any security interest you hold under and in accordance with the PPSA law.

To the extent the law permits, you:

- agree that we need not comply with, and you may not exercise rights under, any provisions of Chapter 4 of the PPSA that may be contracted out of, and
- waive your rights to receive any notice required by the PPSA, including a notice of verification statement (but this does not prohibit us from giving any such notice).

You agree that if we exercise a right, power or remedy over a security, we are not doing so under the PPSA unless we state otherwise at the time of exercise, or the right, power or remedy can only be exercised under the PPSA.

If the PPSA is amended after the date of this mortgage to permit us to agree with you to exclude other provisions of the PPSA, we can notify you that we need not comply with any of those provisions, as specified in the notice.

If any part of this mortgage is unenforceable

If a court decides that any clause or part of a clause of this mortgage is illegal or void, then the rest of this mortgage is to be interpreted as if that clause or that part of the clause is not part of this mortgage.

15.17 Enforceability and invalidity

This mortgage is enforceable against each party signing it even if:

- one or more persons named as a party doesn't execute this mortgage, or
- this mortgage is not enforceable against another person named as a party for any reason.

If any provision of this mortgage:

- is unenforceable at law
- doesn't comply with a law, or
- imposes an obligation or confers a right prohibited by law,

the term is omitted or varied to the extent necessary to comply with that law.

15.18 Property in Victoria

If the property is in Victoria, these mortgage general conditions contain references to agreements covered by this mortgage referred to in Victoria as 'off-Register' documents (that is,documents which are not registered under the *Transfer of Land Act 1958 (VIC)*).

The provisions of those off-Register documents don't affect any of the essential terms (land, parties or term) of the mortgage into which these mortgage general conditions are incorporated.

16 Terms which apply for a large business transaction

Note: This clause only applies in the circumstances described below in 16.1 When this clause applies.

16.1 When this clause applies

The terms in this clause 16 only apply if:

- in the Terms and Conditions of this mortgage section of the mortgage form you execute it says that clause 16 applies, and
- neither the NCC, the BCOP, nor the unfair contract terms protections in the ASIC Act applies to this mortgage.

16.2 These terms prevail if the clause applies

If this clause 16 applies, the terms in it prevail to the extent that they are inconsistent with any other terms in these mortgage general conditions.

16.3 Insurance claims – Right to claim against us

You agree that you don't have any right to a claim against us in relation to:

- any insurance or compensation claim
- the way we deal with a claim
- insurance of the property generally.

16.4 Indemnity for our costs

You must pay for any liability, direct loss or reasonable costs we incur:

- if you don't comply with your obligations to us
- if there is a default under this mortgage (including any loss if we demand early repayment of the total amount owing)
- relating to us (or anyone acting on our behalf or instruction) exercising, or not exercising, rights under this mortgage
- relating to the property, the monitoring of works or this mortgage
- under any indemnity we give a controller or administrator appointed over you or any of the property.

This includes liability, costs or loss incurred by:

- any receiver or attorney appointed under this mortgage
- any of our employees, officers, agents, or contractors
- any lessee, purchaser or occupier of the property,

except to the extent caused by our or their mistake, error, fraud, negligence or wilful misconduct.

We don't need to incur an expense or make a payment before enforcing this right of indemnity.

You must pay these amounts within ten business days after we ask for them.

16.5 Interest on overdue amounts

You must pay interest on any part of the total amount owing which is due for payment but which is not otherwise incurring interest.

The interest accrues daily from (and including) the due date up to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days (in a leap year, a year of 366 days). You must pay interest owing on demand.

Each month (or any other period we choose) we can add any overdue interest you haven't paid to the amount you owe us. You will then have to pay interest on the total amount.

16.6 Interest covered by a court order

If any amount you owe becomes covered by a court judgement or order, you must pay interest on that amount as a separate obligation.

The rate of interest is the higher of:

- the rate applying to any of the total amount owing under an agreement covered by this mortgage, and
- the rate in the court order.

16.7 When you are in default

A default occurs if:

Your financial circumstances

- a person is appointed to investigate or manage your or a guarantor's affairs
- anything happens that we reasonably believe affects your or a guarantor's ability to pay us the total amount owing or meet your or their obligations to us.

Your actions or behaviour

- you or a guarantor do something you or they agreed not to do, or you or a guarantor don't do something you or they agreed to do
- you or a guarantor give us materially incorrect or misleading information or act fraudulently
- you or a guarantor fail to carry out in full an undertaking given within the period specified, or within seven days of our request
- you can't make the representations, warranties and declarations in 1.2 Your promises to us and, if applicable to you, 15.10 Trustee declarations.
- we reasonably believe someone acted fraudulently in connection with this mortgage or any arrangement with us.

The property

- we believe on reasonable grounds that urgent action is necessary to protect any property
- the value of any property materially decreases.

The mortgage

- anything happens that we believe affects our rights or our ability to recover the total amount owing
- this mortgage is, becomes, or is claimed to be void or unenforceable.

Default if you are a trustee

A default also occurs if you or a guarantor are a trustee and, without our previous written consent:

- a new or extra trustee is appointed
- the winding up of the trust starts for any reason
- the trust is held not to have been correctly constituted
- you or the guarantor are no longer authorised under the trust to hold the trust's property in your or their name, or to perform your or their obligations.

Default if you are a corporation

A default also occurs if you or a guarantor are a corporation and:

- steps are taken to make you insolvent
- you become de-registered, or steps are taken to de-register you
- you cease to be a subsidiary of the corporation which is your holding company at the date of this mortgage, or a corporation ceases to be your subsidiary
- a transfer of shares in your capital, or a change of directors or company secretary occurs without our prior consent
- the status, capacity or composition of you, a borrower or a guarantor changes without our consent (for example, if you are a partnership and it is dissolved, or you are a trustee and there is a change in trustee or the trust ends)
- a transfer of shares in your capital is registered
- new shares, convertible notes or options for shares in your capital are issued, or
- your capital is reduced or made capable of being called up only in certain circumstances.

16.8 What happens when you are in default

The notice period in **13.3 If the NCC doesn't apply** does not apply and is replaced with this clause.

You must pay the total amount owing when we demand it.

We don't have to give you notice or a grace period to fix the default before exercising any powers under this mortgage.

16.9 Treating as one account

If you or a guarantor has more than one account with us, either in your name only or with another person, we can treat these accounts as one to pay the total amount owing, unless an amount owed is genuinely in dispute.

16.10 Notice of subsequent security

If we receive notice (whether actual or constructive) of any subsequent security over or affecting any of the property, we can open a separate account in the borrower's name in our books.

Whether or not we actually open this account at the time, it will be considered to have been opened.

From that point on, any amounts we receive for a borrower will be considered as paid to that account.

We will only apply these amounts to the total amount owing if there is no debit balance in the account.

17 What the words mean

agreement covered by this mortgage	an agreement or other arrangement (including a deed) under which one or more of you incurs or owes obligations to us or under which we have rights against you, including any such agreement or arrangement which all of you acknowledge in writing to be an 'agreement covered by this mortgage'. It includes any agreement or security assigned to us.
arrangement with us	an arrangement (including an agreement or a security interest) under which a borrower/guarantor has or could in the future have an obligation to us or any of our related entities. It includes any agreement or security interest assigned to us.
attorney	each attorney you appoint under **15.7 Power of attorney.**
authorisation	includes any consent, authorisation, registration, filing, lodgement, agreement, notarisation, certificate, permission, licence, approval, authority or exemption prescribed by law or regulation or required by any government agency.
Banking Code of Practice (BCOP)	the Australian Banking Association's Banking Code of Practice including any amendments from time to time which have been published by the Australian Banking Association and formally adopted by us.
borrower	each person who is a borrower under an agreement covered by this mortgage.
business day	a day that is not (a) a Saturday or Sunday, or (b) a national public holiday.
code	each of the National Credit Code and the Banking Code of Practice.
contaminant	anything (including a liquid, solid, gas, odour, temperature, sound, vibration or radiation) that presents or could present a risk of harm to human health or the environment but excluding contaminants of a type ordinarily used on land of the same type as the property (for example, cleaning products) that are managed reasonably, appropriately and in accordance with applicable instructions.
controller	has the meaning given to it in the Corporations Act.
Corporations Act	the *Corporations Act 2001 (Cth)*.
costs	includes charges and expenses. It also includes costs, charges and expenses in connection with advisers (in the case of legal advisers, on a full indemnity basis or solicitor and own client basis, whichever is higher).
crown lease	the crown lease for the property (or, if the property is a unit in a unit plan, the unit plan relating to the property).
default	See 12. When you are in default and 16.7 What happens when you are in default 16 applies to you.
encumbrance	any: • security • right of set-off, assignment of income, garnishee order or monetary claim • notice under section 255 of the *Income Tax Assessment Act 1936 (Cth)* or under section 260-5 of the *Taxation Administration Act 1953 (Cth)* or under any similar provision of any law • right that a person (other than the registered proprietor) has to remove something from land (known as a profit à prendre), easement, public right of way or restrictive or positive covenant or lease, licence to use or occupy • equity, interest or writ of execution, or • any agreement to create any of them or allow them to exist.

enforcement proceedings	a person: • starting proceedings in a court to recover a debt or to recover possession of property subject to a security interest • otherwise enforcing a security interest by taking possession of property (or taking steps to do so) or exercising a power of sale or appointing receivers or voluntary administrators • applying to a court to appoint a provisional liquidator or a trustee in bankruptcy, or • enforcing a judgement against another person or their assets.
environment	components of the earth, including: • land, air and water • any layer of the atmosphere • any organic or inorganic matter and any living organism, and • human-made or modified structures and areas, • and includes interacting natural ecosystems that include components referred to in the first three points above.
financial accounts	profit and loss accounts and balance sheets together with statements, reports and notes, including a director's report or an auditor's report, attached to or intended to be read with any of those profit and loss accounts or balance sheets.
governing body	each entity which manages or administers any shared scheme of which any property is part.
guarantee	any guarantee, indemnity, letter of credit, performance bond, legally binding letter of comfort, an option arrangement or suretyship, or any similar transaction or a combination of them.
guarantor	each person who guarantees payment of any part of the total amount owing.
insolvent	a person who: • is (or states that they are) an insolvent under administration or insolvent (each as defined in the Corporations Act) • has a controller appointed, is in liquidation, in provisional liquidation, under administration or wound up or has had a receiver appointed to any part of their property • is subject to any arrangement, assignment, moratorium or composition, or protected from creditors under any statute, or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms we've approved) • has an application or order made (and in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with them, which is preparatory to or could result in any of the things referred to above • is taken (under section 459F of the Corporations Act) to have failed to comply with a statutory demand • in the case of an individual, commits an act of bankruptcy, enters into a composition with their creditors, is declared or becomes bankrupt • is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or they make a statement from which we reasonably deduce they are so subject) • is otherwise unable to pay their debts when they fall due • has something substantially similar to any of the things referred to above happen to them under the law of any jurisdiction.
land	each one or more of the following which the context allows: • the land which is the subject of the lease, and • each fixture, fitting, structure or improvement on that land or fixed to it.

landlord	your landlord or lessor under the lease.
lease	the lease, or if more than one, each lease described in this mortgage.
licence	any licence, permit, allocation, quota or authorisation (including to sell liquor, to discharge hazardous waste, to draw water or to develop and use the property) which allows activity to be carried out on or in connection with the property. It also includes a lease or any other allocation or right and any interest in a company trust, joint venture, co-operative or irrigation scheme you use or hold in connection with the use or supply of water on or to the property.
mortgage	the general conditions in this document and the mortgage form which incorporates these terms and conditions by reference (or to which these terms and conditions are attached or annexed).
National Credit Code (NCC)	the National Credit Code as set out in Schedule 1 of the *National Consumer Credit Protection Act 2009 (Cth)* including any instruments made under that Schedule and Regulations made under that Act for the purposes of that Schedule (all as amended from time to time).
own (when used in relation to land)	being the registered proprietor, the registered holder, the registered crown lessee or the holder of an estate in fee simple.
person	includes an individual, a firm, a strata corporation, a body corporate, an unincorporated association and an authority.
PPSA	the *Personal Property Securities Act 2009 (Cth)*.
PPSA law	• the PPSA • any regulation made under the PPSA, and • any other legislation or regulation made to implement, or contemplated by, any PPSA law.
property	all of your rights, property and undertaking in each one or more of the following: • the land described in this mortgage, or that is the subject of the lease, and • each fixture, fitting, structure or improvement on that land or fixed to it, and • your estate and interest in the land or the lease, and • any licence or entitlement in connection with the land (in the case of a lease, only if the lease includes the right to this licence or entitlement).
proscribed person	A person who is, or who appears to us to: • be a proscribed person or entity under the *Charter of the United Nations Act 1945 (Cth)*, or • be in breach of the laws of any jurisdiction relating to money-laundering or counter-terrorism, or • appear in a list of persons with whom dealings are proscribed by the government or a regulatory authority of another jurisdiction, or • be declared or otherwise designated under any law relating to organised crime or gang activity, or • act on behalf of, or for the benefit of, a person listed in above, or • be closely connected to a person listed above.
receiver	includes a receiver, or receiver and manager, and has the meaning given to it in the Corporations Act.
security	any security for the payment of money or performance of obligations including a mortgage, charge, lien, pledge, trust or power or title retention arrangement and a security interest as defined in sections 12(1) or 12(2) of the PPSA. Security also includes a guarantee.

security interest	any security for paying money or performing obligations including: • a mortgage, charge, lien, pledge, trust or power or title retention arrangement or guarantee • a 'security interest' as defined in the PPSA • any document to grant or create anything referred to in either of these definitions and any other thing which gives a creditor priority to any other creditor for any asset or an interest in any asset.
shared scheme	each scheme or plan regulated by a shared scheme law that affects the property. Examples of properties which are often part of a shared scheme are strata or stratum title home units and town houses and properties in integrated developments.
shared scheme law	any legislation that provides for the: • subdivision and development of land with shared property • subdivision of buildings • management of land which is subdivided and has shared property, or • management of subdivided buildings.
taxes	taxes, levies, imposts, charges and duties (including stamp and transaction duties) imposed by any authority together with any related interest, penalties, fines and expenses in connection with them, except if imposed on our overall net income or if they were caused by the mistake, error, fraud, negligence or wilful misconduct of us or one of our agents or a receiver we've appointed.

total amount owing	at any time, all money which one or more of you owe us, or will or may owe us in the future, including under this mortgage or an agreement covered by this mortgage. This definition applies:
	• regardless of the capacity in which you or we became entitled to or liable for the amount concerned
	• whether you or we are liable as principal borrower, as surety, or otherwise
	• whether you are liable alone, or together with another person
	• even if you owe an amount or obligation to us because it was assigned to us, whether or not:
	  - the assignment was before, at the same time as, or after this mortgage agreement is executed
	  - you consented to or were aware of the assignment, or
	  - the assigned obligation was secured
	• even if this mortgage was assigned to us, whether or not:
	  - you consented to or were aware of the assignment, or
	  - any of the total amount owing was previously unsecured, and
	• if you are a trustee, whether or not you have a right of indemnity from the trust fund.
	A reference to the total amount owing also includes any part of it.

trust	any and each trust of which you are the trustee (whether or not disclosed to us) including the trust (if any) described in the loan schedule. Trust deed means the deed of trust or settlement described in that item.
we, us and our	Bank of Queensland Limited ABN 32 009 656 740 Australian Credit Licence 244616, and its successors and assigns.
works	building work, excavation or earthworks on the property, work demolishing, removing or materially altering any part of the property, or any building or development work required by an authority in connection with the property.
you and your	the person or persons named in this mortgage as mortgagor. If there is more than one person, 'you' means each of them separately and all of them jointly. 'You' includes your successors and assigns. In the description of the total amount owing it also refers to you as so defined, whether alone or jointly and separately and whether as a principal or as a surety.

18 Interpretation

The following rules apply to the interpretation of this mortgage.

Reference to:

- a person includes the person's successors and assigns
- a thing includes all or part of that thing
- a document includes that document as changed or replaced from time to time
- any legislation includes the legislation as amended, repealed or replaced from time to time and any subordinate legislation made under it
- individuals includes corporations and the other way around
- a gender includes all other genders
- currency is to Australian dollars
- this mortgage is a reference to this mortgage (as varied from time to time) between you and us
- clauses are references to clauses in this mortgage
- the singular includes the plural and the other way around
- the ASIC Act is a reference to the *Australian Securities and Investments Commission Act 2001 (Cth)*
- the Corporations Act is a reference to the *Corporations Act 2001 (Cth)*.

Headings for clauses are included for guidance only and must not be used for interpretation.

Unless otherwise specified, a day ends at midnight under this mortgage.

The use of the word 'can' about any right or power we have under this mortgage indicates that we can exercise or not exercise the right or power at our discretion.

Words or phrases which are derived from words or phrases which are defined have a similar meaning to the defined term.

If you agree not to do something, you will also not attempt to do it, or permit or cause the thing to be done.

If two or more people are the mortgagor, one person being released from their promises does not release any of the others.

Unless defined in this mortgage, a term or expression which is used in this mortgage and which is defined in the PPSA has the meaning given to that term or expression in, or in the context of, the PPSA.

Bank of Queensland Limited ABN 32 009 656 740 (BOQ)
AFSL and Australian Credit Licence No 244616.
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