

# Macquarie Leasing Terms & Conditions

## Version updated September 2023

### Inside this booklet

This document consists of:

- **Part A** - Loan Terms & Conditions
- **Part B** - Information Statement (applicable to consumer loans regulated by the National Credit Code only). Your loan is regulated by the National Credit Code if you are an individual and the loan is for personal, domestic or household purposes. If you are a company, or if the loan is predominantly used for business purposes or investment purposes, your loan will not be regulated by the National Credit Code.

This document and your Loan Schedule together comprise your Loan Agreement.

If you have a chattel mortgage loan, your loan will not be regulated by the National Credit Code. If you have a consumer loan, your loan will be regulated by the National Credit Code.

This document does not contain all of the information we are required to give you before you enter into the loan. You must read this document together with your Loan Schedule so that you understand your Loan Agreement.

Capitalised words have a special meaning and are defined in Part A.

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## Part A - Loan Terms & Conditions

### 1. Entering a legal agreement

#### 1.1 The Settlement Date

There is no binding legal agreement between us until the Settlement Date or such earlier date as we agree.

We have the right to change the terms of your Loan Agreement or withdraw it altogether if anything occurs which we reasonably believe makes proceeding with the loan undesirable. We are not obliged to advance funds until we are reasonably satisfied that all relevant conditions are met (unless waived by us).

You are not bound to go ahead with this loan until the Settlement Date.

#### 1.2 If settlement does not occur

If we decide not to proceed with this loan for any reason, you may be liable for costs, and we will not be liable for any resulting loss, damage or cost.

#### 1.3 Multiple borrowers and Guarantors

If there is more than one of you, the Loan Agreement applies to and binds each of you jointly and separately. This means that each of you is individually liable, and all of you are jointly liable. Accordingly, we may take legal action against any one of you for all the outstanding amounts.

Similarly, if there is more than one Guarantor, the Guarantee applies to and binds each Guarantor jointly and separately.

Each borrower can bind each other borrower. For example, any one of you can authorise a transaction or any other activity in respect of your loan. Each borrower and any Guarantor will be liable even if they did not know about or agree to the transaction or activity.

You acknowledge that each of you may have access to information about the Loan Agreement without the consent of any other of you.

**IMPORTANT: This means that each one of you can be required to pay the whole amount owing even if you have some other arrangement among yourselves and even if not all of you benefit equally.**

### 2. Changes to your Loan Agreement

**IMPORTANT: We can make changes to your Loan Agreement at any time after the Settlement Date (except interest rate changes). In making any changes, we will act reasonably.**

#### 2.1 What we can change

Acting reasonably, we can change any term of your Loan Agreement (such as introduce new terms, or change or delete any existing term):

- (a) that deals with the pricing of your loan (except for your interest rate), including fees and charges;
- (b) that deals with the day you make repayments or we debit interest to your Account;
- (c) to accommodate a change in law or market practice;
- (d) to accommodate a change in technology or other ways of communication;
- (e) to accommodate a change in payment methods;
- (f) to accommodate a change in how we make disclosures to customers or present our loan documents;
- (g) to deal with any unforeseen event that may arise; or
- (h) to make any other change.

## 2.2 Notification of changes

Unless clause 2.3 or clause 2.4 applies, we will notify you of changes to your Loan Agreement in accordance with the following table:

Change type	Notice period	Method of notice
Introduce a new fee or charge	Not less than 30 days notice	Either by publishing a notice in a national newspaper or by writing to you (including by electronic means)
Change to the amount of an existing fee or charge		
Change to the frequency of payment of an existing fee or charge		
Change to the amount or frequency of repayments	Not less than 20 days notice	By writing to you (including by electronic means)
Change to the manner in which interest is calculated or applied	Not less than 30 days notice	
Any other change which is unfavourable to you	Not less than 30 days notice	By writing to you (including by electronic means)

## 2.3 Changes which are unfavourable to you

- (a) If you are an individual and your loan is regulated by the National Credit Code, we may give you less than 30 days notice of an unfavourable change to your Loan Agreement if:
- (i) it is reasonable for us to do so to manage a material and immediate risk; or
  - (ii) there is a change to, or introduction of, a government charge that you pay directly or indirectly in connection with your loan,
- but we will comply with any minimum notice period prescribed by the National Credit Code.
- (b) If you are a Small Business and your loan is regulated by the Banking Code of Practice, we may give you less than 30 days notice, or no notice, of an unfavourable change to your Loan Agreement if:
- (i) it is reasonable for us to do so to manage a material and immediate risk; or
  - (ii) there is a change to, or introduction of, a government charge that you pay directly or indirectly in connection with your loan.
- (c) If we give less than 30 days notice of an unfavourable change to your Loan Agreement because there is a change to, or introduction of, a government charge that you pay in connection with your loan, we will notify you of this change reasonably promptly after the government notifies us of the change (unless the government publicises the change).

## 2.4 Changes which are not unfavourable to you

If we make a change to your Loan Agreement which is not unfavourable to you (e.g. the change reduces your obligations, or extends the time for payment), we will notify you in writing (including by electronic means) of the change before the change takes effect.

## 2.5 If you are not satisfied with a change to your Loan Agreement

If you are not satisfied with any material change to your Loan Agreement which is unfavourable to you, you may repay your loan in accordance with clause 6.

### **3. Interest**

#### **3.1 How interest is calculated**

- (a) If you have a consumer loan, interest is calculated on a daily basis by applying the applicable interest rate to the balance of the Account (excluding any fees debited to your Account after the Settlement Date) at the end of each day. The daily interest rate applied is the applicable interest rate divided by 365. Interest accrues on a daily basis from the day we advance money.
- (b) If you have a chattel mortgage loan, interest is debited and calculated upfront by applying the applicable interest rate to the loan amount, taking into account the loan term.

#### **3.2 Payment of interest charges**

Interest charges comprise part of your scheduled repayments.

#### **3.3 When interest is debited**

This clause 3.3 only applies if you have a consumer loan.

- (a) Interest charges are normally debited to your Account monthly on the same day that your scheduled repayment is due in respect of interest accrued in the previous month.
- (b) Interest charges debited to your Account form part of the Total Amount Owing and become part of the balance on which future interest charges are calculated.
- (c) Interest may also be debited to your Account:
  - (i) when any repayment is made;
  - (ii) immediately before you repay the Total Amount Owing;
  - (iii) whenever the loan is in default;
  - (iv) if we increase your loan amount or vary your Loan Agreement; and
  - (v) on the day the final repayment is due.

#### **3.4 Interest on judgment**

If you become liable by a court order to pay any money due under your Loan Agreement, you must pay interest at the higher of the rate ordered by the court or the rate payable under your Loan Agreement.

### **4. Required payments**

#### **4.1 Payments you must make**

You must make all payments specified in your Loan Schedule (as varied from time to time) and pay any other amounts that become due under your Loan Agreement (such as fees and charges). You must pay to us the Total Amount Owing at the end of your loan term or as otherwise agreed in writing. All payments must be made in Australian dollars.

#### **4.2 Government duties and taxes**

- (a) You must pay us any government duties, taxes, and other charges on receipts, debits or withdrawals that apply to your loan, including stamp duty, government charges and taxes of any kind.
- (b) You must pay these duties, taxes and charges whether or not someone else is liable to pay them and whether or not the loan is made. We may debit these duties, taxes and charges to your Account as and when they become payable without prior notice.
- (c) If GST or any similar tax is applicable on any payments to us, you must also pay us an additional amount that is equal to that tax.

#### **4.3 Payments must be in full**

All payments must be paid in full by the due date without setting off, deducting or withholding any amounts you believe we owe you (or any amounts any Guarantor believes we owe the Guarantor), and without counterclaiming any amounts from us.

#### **4.4 If a payment is due on a non-Business Day or a day that does not exist in a month**

If any payment is due on a day that is not a Business Day, the payment will be due on the next Business Day. If any payment is due on the 29th, 30th or 31st of a month with no such date, the payment will be due on the last day of that calendar month (or on the following Business Day if the last day of the calendar month is not Business Day).

#### **4.5 Direct debit authority**

Payments are to be made by direct debit or by any other reasonable method we direct. The amount of each payment may include any applicable direct debit fees, taxes or charges relating to the payment method in addition to your repayment amount. You must give us a signed direct debit authority or other authorisation approved by us to allow us to debit any amount that becomes due in connection with your loan. You authorise us to obtain any money due under your Loan Agreement by using the direct debit authority. If an attempted direct debit fails, we may make reasonable further attempts to direct debit your account until the direct debit is successful.

#### **4.6 We can debit your Account**

We can debit your Account with any amounts lent to you or due under your Loan Agreement, such as interest and fees and charges, or in accordance with any applicable code, law or agreement for mistaken internet payments received by you. We may debit your Account with any fees and charges payable under your Loan Agreement with effect from the date we incur these fees and charges, and either require you to pay the fee or charge immediately, collect it with your regular repayments, or require it to be repaid by one or more repayments.

#### **4.7 Operation of accounts**

We may adjust debits, credits and the balance of your Account if there is a processing error or because a payment has been dishonoured. We may also adjust the debits, credits and balance of your Account if there are refunds or corrections to your Account in order to accurately reflect the legal obligations between you and us.

#### **4.8 Deductions from payments**

If you are required by law to deduct any amount from a payment due to us, unless we can receive a credit or rebate for that deduction, you must make an additional payment so that the amount we receive is not reduced.

#### **4.9 If a borrower or Guarantor dies**

Unless other arrangements are made for the continuation of the loan to our satisfaction, the Total Amount Owing must be repaid within a reasonable timeframe from the date you die (or if there is more than one borrower, the last borrower dies). We will discuss this with your executor or beneficiaries and seek to agree a mutually acceptable solution. If there is more than one borrower, and one of the borrowers dies, we may allow the surviving borrower(s) to continue to operate your Account. If any Guarantor dies, we may require the Total Amount Owing to be repaid within a reasonable timeframe from the date of the Guarantor's death unless other arrangements are made for the continuation of the loan to our satisfaction.

### **5. Applying payments**

#### **5.1 How we apply payments**

Payments received by us may be applied to any part of the Total Amount Owing in any order reasonably determined by us. For example, if any fees are owing under your Loan Agreement, we may apply a payment towards payment of those fees before your scheduled repayment. We do not treat a payment as having been made until we credit the payment to your Account. If any payment to us is dishonoured, the payment will be treated as not having been made, and if you have a consumer loan, interest will continue to accrue on the total balance until actual payment is received (even if we have earlier credited your Account for that payment).

## 5.2 How we treat multiple accounts

- (a) If you have more than one Account, each Account will be debited and credited separately and have its own balance, and we may send you a separate statement for each Account.
- (b) If you have more than one account with us, and you make a payment without telling us in writing how the payment is to be applied, we can apply it to any one or more of the accounts in any way we reasonably determine.
- (c) We may combine two or more of your Accounts into a single Account.

## 5.3 Clearing arrears

If any of your Accounts are in arrears while one or more of your other Accounts (or other accounts with us) have funds available to be drawn, you authorise us to appropriate from any one or more of those accounts to pay some or all of your arrears. We are not obliged to do this.

## 5.4 Closing an Account in credit

We may close an Account if that Account has a credit balance, and if we do so, we will:

- (a) if appropriate, give reasonable notice of the closure; and
- (b) pay you the amount of the credit balance.

## 6. Early repayments

### 6.1 Repaying your loan early

**IMPORTANT: Fees may be payable if the whole of your loan is repaid early.**

- (a) You may make additional payments or repay your loan in full at any time.
- (b) If you have a chattel mortgage loan, you may terminate your obligations under your Loan Agreement prior to the end of the loan term by paying to us the Termination Amount. Payment of the Termination Amount compensates us for any losses (including our reasonable costs) that we may incur because your loan was terminated before the expiry of the term.
- (c) If you have a consumer loan, and you repay the whole of your loan early, the early repayment fee specified in your Loan Schedule will be payable.
- (d) If you make additional payments during the term of your loan, you must still make future scheduled repayments on their due date until the Total Amount Owing is repaid in full.

### 6.2 Repaying more than the Total Amount Owing

If you repay us more than the Total Amount Owing, we may reject the payment, or return the excess to you. We will not pay you interest on that amount.

## 7. Account access

### 7.1 Allowing others to access your Account

You may request us to allow another person to access your Account by nominating that person in writing in a form required by us. We may ask for supporting information in considering your request.

You will be liable for any instructions given by any nominated user on your Account. You must ensure that, where relevant, all approved users comply with your Loan Agreement.

## 7.2 Instructing us to send a copy of your Account information to a third party

We may from time to time accept instructions from you to send a copy of your Account information (which may include personal information) on an ongoing basis to a third party. Separate terms apply to any such data feed service(s) we may offer.

If there is more than one borrower, all borrowers are required to provide us with instructions before we will send any Account information to a third party.

Unless otherwise required by law, we accept no responsibility for any acts or omissions of the third party, or for any loss or damage suffered by you as a result of us sharing your Account information with the third party in accordance with your instructions.

You can contact us at any time to change or terminate any data feeds which have been established.

We may suspend or terminate any data feed service without notice to you if we consider it reasonably necessary to protect our legitimate business interests.

## 8. Secured Property

### 8.1 Mortgage and Security Interest

- (a) By signing your Loan Agreement, you grant to us a mortgage and a Security Interest over the Secured Property and over any insurance policy relating to the Secured Property to secure your obligations to us under your Loan Agreement. This includes any asset acquired in replacing the Secured Property, or any modifications made to the Secured Property (including any additions made or accessories purchased), and any money received from in respect of the Secured Property (including from any insurance claim over the Secured Property or received from an insurer following cancellation of a policy).
- (b) You acknowledge that we will have a Security Interest under the PPS Act in respect of the Secured Property, and you authorise us to register one or more Security Interests under the PPS Act in respect of your Loan Agreement. The rights and powers conferred on us by your Loan Agreement or by law are in addition to any rights and powers conferred by the PPS Act.
- (c) You agree to do anything we reasonably request to effect, more effectively secure, confirm and register the mortgage and Security Interest, including signing any documents.
- (d) You warrant that you own the legal title to, or will own legal title to, the whole of the Secured Property during the term of the loan. You warrant that there is no, and will be no, other Security Interest granted over the Secured Property.

### 8.2 PPS Act provisions

- (a) In addition to the powers under section 125 of the PPS Act, we may take any action after default authorised by your Loan Agreement or by law, including delaying any disposal, leasing or action to retain any of the Secured Property.
- (b) Unless the Secured Property is used predominantly for personal, domestic or household purposes, you waive your right to receive notice of:
  - (i) a verification statement under section 157 of the PPS Act in respect of commercial property;
  - (ii) the removal of an accession under section 95 of the PPS Act;
  - (iii) a decision to enforce a security interest pursuant to a land law under section 118 of the PPS Act;
  - (iv) action to enforce security over liquid assets under section 121(4) of the PPS Act;
  - (v) a proposal to dispose of the Secured Property under section 130 of the PPS Act;
  - (vi) a statement of account under sections 132(3)(d) and 132(4) of the PPS Act; and
  - (vii) any proposal by us to retain the Secured Property under section 135 of the PPS Act.
- (c) Unless the Secured Property is used predominantly for personal, domestic or household purposes, you waive your right:



- (i) to redeem the Secured Property under section 142 of the PPS Act; and
- (ii) to reinstate your Loan Agreement under section 143 of the PPS Act.

## **9. Your obligations in relation to the Secured Property**

### **9.1 Things you must do in relation to the Secured Property**

- (a) During the term of your loan, you must:
  - (i) keep the Secured Property in good repair and condition;
  - (ii) keep the Secured Property in Australia;
  - (iii) promptly attend to any repairs to the Secured Property that we reasonably require you to undertake;
  - (iv) ensure that the Secured Property is regularly serviced in accordance with any manufacturer's recommendations;
  - (v) take all reasonable steps to keep the Secured Property secured against theft or damage;
  - (vi) ensure that the Secured Property is operated in accordance with the requirements of any law and insurance policy concerning the Secured Property;
  - (vii) repair, maintain and service the Secured Property on terms which do not create a lien over the Secured Property, and pay for all repair, maintenance and servicing promptly;
  - (viii) procure the removal of any registration (other than by or in favour of us) in relation to any Security Interest other than our Security Interest in the Secured Property that affects the priority of our Security Interest;
  - (ix) whenever reasonably requested by us, take or defend such legal proceedings as we may consider advisable for the protection or recovery of the Secured Property; and
  - (x) deliver the Secured Property to us if we are entitled to take possession of it.
- (b) If the Secured Property is stolen, lost, destroyed or damaged so that repair is impractical or uneconomic, you must pay to us the Total Amount Owing, less any insurance money paid to us, on not less than 30 days notice.
- (c) If the Secured Property is stolen, lost, destroyed or damaged, we may (but are not obliged to) accept other assets to replace the Secured Property. Any asset that is accepted as a replacement will be Secured Property and subject to your Loan Agreement.

### **9.2 Right to enter and inspect**

- (a) We may enter the premises where the Secured Property is located to gain access to the Secured Property for any purpose under your Loan Agreement, subject to us complying with any legal requirements. If your loan is not regulated by the National Credit Code, you consent to us entering any premises where the Secured Property is or is believed to be located to exercise any of our rights under your Loan Agreement, and you must (and you must use your best endeavours to ensure that others) allow us to enter that premises.
- (b) You must give us and any agent we appoint access to the Secured Property when we reasonably request it so that we or our agents can:
  - (i) inspect the Secured Property;
  - (ii) check that you are complying with the terms of your Loan Agreement; or
  - (iii) exercise any of our rights under your Loan Agreement.
- (c) We will give you reasonable notice if we require access to the Secured Property. However, we may enter any premises where the Secured Property is located at any time without notice to take any urgent action required to prevent damage to or preserve the Secured Property.

### 9.3 Keep the Secured Property insured

- (a) You must keep the Secured Property insured for not less than its full insurable value on terms reasonably acceptable to us against all usual risks in respect of the Secured Property and such other risks as we may from time to time reasonably require, and you must pay for the cost of that insurance.
- (b) You must:
  - (i) ensure that the insurance policy covers both you as mortgagor and us as mortgagee for our respective rights and interests, and our interest must be noted on the policy;
  - (ii) provide a copy of each insurance policy in respect of the Secured Property when reasonably requested by us;
  - (iii) provide evidence of currency of the insurance of the Secured Property when reasonably requested by us;
  - (iv) promptly pay all premium, stamp duty and other costs in relation to the insurance of the Secured Property; and
  - (v) not do or permit anything to be done which could prejudice any insurance or any claim under any insurance policy in respect of the Secured Property.
- (c) We may (but are not obliged to) take out any insurance we reasonably see fit if you fail to:
  - (i) arrange or maintain the required insurance over the Secured Property;
  - (ii) provide a copy of each insurance policy in respect of the Secured Property;
  - (iii) provide evidence of currency of the insurance of the Secured Property; or
  - (iv) provide such other evidence as we may reasonably require to satisfy ourselves that the Secured Property is fully and properly insured.

If we do arrange the insurance, we may debit the cost to your Account.

### 9.4 Insurance claims

- (a) If loss or damage to the Secured Property occurs, we may make, negotiate and settle any insurance claims concerning the Secured Property, and you must accept any settlement we agree with the insurance company.
- (b) If you make a claim which the insurer refuses, we can ask you to give us your rights to take further action against that insurer on that claim.
- (c) Any money paid by the insurer must be paid directly to us. We may apply that money as we see fit, including to repair the Secured Property, apply it towards repayment of the Total Amount Owing, or hold it as additional security for the Total Amount Owing.

### 9.5 You must notify us of certain things

You must promptly notify us:

- (a) if the address where the Secured Property will be located changes, and inform us of the location of the Secured Property on request;
- (b) if the Secured Property is stolen, lost, or materially damaged or defective;
- (c) if you become aware of any person taking steps to register, or registering, a financing statement in relation to the Secured Property;
- (d) if there is any material accident or damage which occurs in relation to the Secured Property, or if the Secured Property (or any part of it) is stolen, impounded or forfeited;
- (e) if anything happens which materially and adversely affects the Secured Property or its value;
- (f) of anything that may give rise to a claim under any insurance policy in respect of the Secured Property and provide any other information we reasonably request; and
- (g) if you make a claim which the insurer refuses.

## 9.6 Things you must not do with the Secured Property

- (a) You must not, and you must ensure that others do not:
- (i) change where the Secured Property is usually located without our prior consent (which will not unreasonably be withheld);
  - (ii) sell, dispose of, abandon or part with possession or control of the Secured Property;
  - (iii) grant a licence over or lease the Secured Property;
  - (iv) further mortgage, charge or encumber the Secured Property;
  - (v) change the serial numbers or other identifying numbers on the Secured Property;
  - (vi) make any alterations to the Secured Property without our prior written consent (which will not be unreasonably withheld);
  - (vii) do or allow anything to be done which may adversely affect the value of the Secured Property;
  - (viii) take the Secured Property out of Australia;
  - (ix) do anything that could cause or allow the Secured Property to be impounded, immobilised or forfeited;
  - (x) conceal the Secured Property;
  - (xi) tamper with, damage or modify any metering or measuring equipment (if applicable) forming part of the Secured Property in any way;
  - (xii) cause or permit any other personal property in which another person has a Security Interest or other interest or right to become an accession to the Secured Property or commingled with any Secured Property, or affix any of the Secured Property to land or buildings, without our prior written consent (which will not be unreasonably withheld);
  - (xiii) cause or permit any person to acquire any interest in any Secured Property; or
  - (xiv) use the Secured Property, or allow it to be used, for any illegal or offensive purpose.
- (b) You acknowledge and agree that we are not responsible for any performance or service issues, product warranties or the use or other benefits which you may or may not obtain from the Secured Property.

## 10. Default

### 10.1 Consequences of a breach of any term or Event of Default

If you breach any term of your Loan Agreement or any Other Agreement, if an Event of Default occurs, or if any Security or Guarantee is terminated or is of reduced force and effect:

- (a) we will not be obliged to lend you any more money under your Loan Agreement; and
- (b) we may rectify the breach or Event of Default by performing your obligations under your Loan Agreement or any Other Agreement.

**IMPORTANT: The events which may cause you to default under your loan are listed below. You may default under your loan even if you have made all your payments. If you default, you may lose the Secured Property.**

### 10.2 Monetary Events of Default

A monetary Event of Default is an Event of Default that occurs as a result of your failure to make a payment. Each of the following is a monetary Event of Default:

- (a) you do not pay any money due to us under your Loan Agreement or any Other Agreement by the due date for payment; and
- (b) you do not pay any amount exceeding \$50,000 to any person other than us by the due date for payment.

### 10.3 Non-monetary Events of Default

A non-monetary Event of Default is an Event of Default that occurs even if you have made all your payments. Each of the following is a non-monetary Event of Default:

- (a) if you are an individual:
  - (i) you become bankrupt;
  - (ii) you are unable to pay your debts as they fall due; or
  - (iii) you make any arrangement with your creditors;
- (b) if you or a Guarantor is a company:
  - (i) proceedings are commenced to wind up the company;
  - (ii) a receiver, manager, receiver and manager, administrator, controller, provisional liquidator or liquidator is appointed to the company or any part of the company's assets; or
  - (iii) the company is, or is deemed or presumed by law or a court to be, insolvent;
- (c) you or a Guarantor no longer has legal capacity;
- (d) enforcement proceedings are taken against you or a Guarantor, or your or their assets, by another creditor;
- (e) early repayment is required under any Other Agreement, or default based action is taken against you or a Guarantor by us under any Other Agreement, in each case due to a non-monetary Event of Default of the kind described in this clause 10.3;
- (f) we reasonably believe that you or a Guarantor has not complied with the law or any requirement of any competent authority, and such non-compliance has or may have a material adverse effect on the Secured Property, the assets of you or a Guarantor or any business conducted by you or a Guarantor;
- (g) it becomes unlawful for you or us to continue with your Loan Agreement or any Other Agreement;
- (h) you or a Guarantor gives us information, or makes a representation or warranty to us, that is materially incorrect or misleading (including by omission), and is such that we would not have provided the loan, or would only have provided the loan on different terms, if we had known the correct information;
- (i) you use the loan for a purpose not approved by us;
- (j) you use the loan for an illegal or improper purpose, or to finance an illegal or improper activity;
- (k) the assets of you or a Guarantor are dealt with, or attempted to be dealt with, in breach of the terms of your Loan Agreement or any Other Agreement without our prior written consent (which will not be unreasonably withheld), including:
  - (i) any of the Secured Property becomes subject to a Security Interest without a priority agreement being in place between us and the other security holder on terms acceptable to us, acting reasonably;
  - (ii) any of the Secured Property becomes subject to a Security Interest without our prior written consent (which will not be unreasonably withheld); or
  - (iii) the amount secured by any Security Interest over the Secured Property is increased without our prior written consent (which will not be unreasonably withheld);
- (l) you or a Guarantor does not provide financial information required by us in connection with your loan;

- (m) you or a Guarantor does not maintain any insurance required by us in connection with your loan;
- (n) if you or a Guarantor is a company:
  - (i) you or a Guarantor does not maintain a licence or permit necessary to conduct any business conducted by you or a Guarantor;
  - (ii) legal or beneficial ownership, or management control, of you or a Guarantor, or your or their business, changes without our prior written consent (which will not be unreasonably withheld); or
  - (iii) without our prior written consent (which will not be unreasonably withheld), the status, capacity or composition of you or a Guarantor changes, including you or a Guarantor ceases to carry on all or a material part of your or their business, or disposes of all or a material part of your or their assets;
- (o) if you or a Guarantor is an individual, you or a Guarantor is sentenced to jail for a term of longer than 12 months;
- (p) the Secured Property is:
  - (i) materially damaged or destroyed, or threats of material damage or destruction are made, and we reasonably consider that the Secured Property cannot or will not be expected to be reinstated within a reasonable time and without material loss of any material income from the Secured Property; or
  - (ii) taken out of your control;
- (q) there is a material reduction in the value of the Secured Property;
- (r) any repairs necessary to keep the Secured Property in good repair are not made in a timely fashion; and
- (s) any other event specified to be an Event of Default for the purposes of your Loan Agreement occurs.

#### **10.4 Notification of an Event of Default**

Without limiting our rights under your Loan Agreement in any way, you must promptly notify us in writing if any Event of Default occurs.

#### **10.5 What we can do if an Event of Default occurs**

Subject to clauses 10.6 and 10.7, at any time after an Event of Default occurs, we can take any of the following actions:

- (a) demand and require immediate payment of any money due under your Loan Agreement;
- (b) require payment of the Total Amount Owing (or the Termination Amount if you have a chattel mortgage loan) and terminate your Loan Agreement;
- (c) take possession of and deal with the Secured Property;
- (d) exercise any right or power conferred by law, your Loan Agreement, or any Security;
- (e) in addition to any other right of set-off we have, use any money of yours in any account with us to reduce the Total Amount Owing;
- (f) perform any of your obligations under your Loan Agreement or any Security; and
- (g) appoint one or more persons separately or together to be agents, receivers, managers, or receivers and managers of the whole or any part of the Secured Property. Those persons may exercise any of our powers under law, your Loan Agreement, or any Security. Unless we tell you otherwise, any receiver appointed by us is your agent. This means you are responsible for anything done, or not done, by the receiver. We may set the receivers remuneration, remove a receiver, and appoint a new or additional receiver. You must pay the receiver's costs.

**10.6 When we will take action if an Event of Default occurs**

- (a) If you are an individual or a Small Business, we will only act on a non-monetary Event of Default if the event by its nature is material, or we reasonably consider that the event has had, or is likely to have, a material impact on:
  - (i) the ability of you or a Guarantor to meet your or their financial obligations to us (or our ability to assess this);
  - (ii) our security risk (or our ability to assess these); or
  - (iii) our legal or reputational risk where the Event of Default in clause 10.3(f), 10.3(g), 10.3(h) or 10.3(i) occurs.
- (b) If you are a Small Business, we will not commence enforcement action if an Event of Default as described in clauses 10.3(j), 10.3(o), 10.3(p), 10.3(q), 10.3(r) or 10.3(s) occurs.

**10.7 Notice before taking action**

- (a) If you are an individual or a Small Business and an Event of Default occurs, we will not:
  - (i) require you to repay the Total Amount Owing;
  - (ii) take enforcement action against you; or
  - (iii) enforce any Security held to secure repayment of your loan, unless:
    - (iv) we have given you at least 30 days written notice of the Event of Default; and
    - (v) if the Event of Default is remediable, you have not remedied that Event of Default within 30 days.
- (b) If any Event of Default is remediable, and you remedy that Event of Default within 30 days, we may take any action specified in clauses 10.7(a)(i), 10.7(a)(ii) or 10.7(a)(iii) if an Event of Default of the same type has arisen during that period.
- (c) If you are an individual and your loan is regulated by the National Credit Code, we do not need to give you a default notice or wait 30 days before commencing enforcement action if:
  - (i) we reasonably believe that we were induced by fraud by you or a Guarantor to enter into your Loan Agreement;
  - (ii) we have made reasonable attempts to locate you or a Guarantor but without success;
  - (iii) a court authorises us to begin enforcement proceedings; or
  - (iv) we reasonably believe that you or a Guarantor has removed or disposed of the Secured Property, or that urgent action is necessary to protect the Secured Property.
- (d) If you are a Small Business and your loan is regulated by the Banking Code of Practice, we do not need to give you a default notice or wait 30 days before commencing enforcement action if:
  - (i) the Event of Default is unable to be remedied;
  - (ii) it is reasonable for us to do so to manage a material and immediate risk relating to the nature of the relevant Event of Default, your particular circumstances, or the value of the Secured Property or any Security; or
  - (iii) we have already given you a notice to remedy a non-monetary Event of Default and you have not remedied that Event of Default.

**10.8 Exercising our rights**

- (a) We do not need to act as soon as an Event of Default occurs and can take action at any time after the Event of Default occurs.
- (b) We do not lose any rights or forgive any Event of Default unless we have done so in writing.
- (c) We can exercise our rights with or without taking possession of the Secured Property.
- (d) If we hold more than one Security, we can enforce any one of the Securities first or all of them at the same time.

- (e) Our rights and remedies under your Loan Agreement may be exercised by any of our employees or any other person we authorise.
- (f) We are not liable for any loss caused by the exercise, attempted exercise, failure to exercise, or delay in exercising any of our rights or remedies, except where such loss arises from the mistake, error, fraud, negligence or wilful misconduct of us, our employees, our agents or a receiver we appoint.

### 10.9 Enforcement expenses

**IMPORTANT: If you default under your loan, enforcement expenses may be payable. This means that you may have to pay any of our reasonable costs incurred in preserving, maintaining or selling the Secured Property, collection expenses, and any other internal or external costs we incur as a result of your default.**

- (a) Enforcement expenses may become payable under your Loan Agreement and any Security if you breach your Loan Agreement or an Event of Default occurs. We may debit your Account with our enforcement expenses at any time after they are incurred, and we may then require you to pay these costs immediately (including by using any direct debit or similar authority you have given us), collect them with your regular repayments, or require them to be repaid by one or more repayments.
- (b) Enforcement expenses payable by you will not exceed our reasonable enforcement costs (including internal costs).
- (c) Enforcement expenses include our expenses incurred in preserving, maintaining or selling the Secured Property (including insurance and taxes payable in respect of the Secured Property), collection expenses, expenses resulting from dishonour of a payment, and any internal or external costs we incur as a result of you breaching your Loan Agreement or any Other Agreement or an Event of Default occurring (including legal costs and expenses on a full indemnity basis or solicitor and own client basis, whichever is higher).
- (d) You indemnify us from and against any expense, loss, loss of profit, damage or liability which we incur as a consequence of a breach of your Loan Agreement or an Event of Default occurring, except where such loss arises from the mistake, error, fraud, negligence or wilful misconduct of us, our employees, our agents or a receiver we appoint, or is otherwise recovered by us.

## 11. Guarantee and indemnity

This clause 11 only applies if there is a Guarantor in respect of your Loan Agreement.

**IMPORTANT: This is a guarantee and indemnity. If the borrower does not pay any money owing to us, we may demand the payment from the Guarantor. If the Guarantor grants any security to us, we can enforce that security to recover from the Guarantor.**

**This is a serious and important obligation and the Guarantor should make sure that they understand their obligations before they sign the Loan Agreement. The Guarantor should obtain independent legal and financial advice as to the full effect of this Guarantee before signing the Loan Agreement.**

- (a) In consideration of us providing or continuing to provide financial accommodation to the borrower at the Guarantor's request, the Guarantor:
  - (i) guarantees to us the due and punctual performance of the borrower's obligations under this Loan Agreement and payment of all money owing under this Loan Agreement; and
  - (ii) indemnifies us against all losses, costs, liabilities and expenses which we may suffer or incur as a result of the non-payment of any money owing under this Loan Agreement or the non-performance of any obligations under this Loan Agreement by you, except where such loss, cost, liability or expense arises from the mistake, error, fraud, negligence or wilful misconduct of us, our officers, employees or agents, or any receiver we appoint.
- (b) If the Banking Code of Practice applies to this Guarantee, this Guarantee is limited to the amount specified in your Loan Schedule (if any).
- (c) The obligations of the Guarantor under this Guarantee are principal obligations imposed on the Guarantor. Subject to any applicable restrictions or obligations under the Banking Code of Practice, we may make a claim or demand against the Guarantor pursuant to this Guarantee without first having taken any proceedings against the borrower or any other person.
- (d) This Guarantee is not to be considered wholly or partly discharged unless and until all of the Total Amount Owing has been paid in full.
- (e) This Guarantee is not impaired or discharged by:
  - (i) any variation (whether or not with the consent of the Guarantor) of this Loan Agreement;
  - (ii) any breach of the borrower's obligations under this Loan Agreement, whether or not with the consent or knowledge of the borrower, any Guarantor or us;
  - (iii) any granting of time, credit, forbearance, indulgence or concession to the borrower or any Guarantor, or any compromise, abandonment, waiver, release, variation or redemption or compounding by us of any of our rights under this Loan Agreement or any Other Agreement or against any other Guarantor;
  - (iv) the unenforceability in whole or in part of this Guarantee against any other Guarantor;
  - (v) the fact that all or any part of the Total Amount Owing may not be, or may cease to be, recoverable from the borrower or any other person;
  - (vi) any liquidation, incapacity, de-registration, insolvency or bankruptcy of the borrower or any Guarantor;
  - (vii) any avoidance for any reason by statute or otherwise of any payment by or on behalf of the borrower or any Guarantor;
  - (viii) any transfer or assignment of the benefit of this Loan Agreement to any person or corporation;
  - (ix) any legal incapacity the borrower or any Guarantor;



- (x) any failure to register or perfect our Security Interest in the Secured Property or arising under this Loan Agreement; or
- (xi) any other matter or thing which, but for this provision, could or might operate to abrogate the effect of provisions of this Guarantee.

## **12. Notices, statements and communications**

### **12.1 Statements of transactions**

You may request statements of transactions by contacting us.

### **12.2 How we can give you notices**

- (a) Subject to any applicable laws or codes of practice, we may give any notice, statement, demand, court document (including any collection notice, default notice, court originating process or other court document) or other document connected to your Loan Agreement or any Security by:
  - (i) in the case of an individual, delivering it to you personally;
  - (ii) leaving it at or posting it to your residential or business address last known to us;
  - (iii) electronic means to your electronic address last known to us; or
  - (iv) any other means permitted by law.
- (b) Any notice, statement, demand, court document or other document given by us will be taken to have been served:
  - (i) by if posted, when it would have been delivered in the ordinary course of post; and
  - (ii) if sent electronically, on conclusion of transmission.
- (c) Any notice, statement, demand, court document or other document may be signed by any employee, solicitor or agent on our behalf.

### **12.3 Disclosures to Guarantors**

We may disclose the following documents to each Guarantor:

- (a) a copy of any notice, including correspondence, to us or to you;
- (b) any credit report received in relation to you;
- (c) any financial statements you have given us;
- (d) any notice of demand, or information regarding a dishonour, on any loan with us;
- (e) information on any excess or overdrawing;
- (f) a copy of your statement of transactions; and
- (g) any other information about you and your Accounts with us.

### **12.4 Changes to your details**

You must promptly tell us if any of your contact details change or if you become aware of any information that could impact your ability to comply with your Loan Agreement.

## **13. Laws and codes that apply**

### **13.1 Governing law**

- (a) If your loan is regulated by the National Credit Code, your Loan Agreement is usually governed by the laws of the Australian state or territory in which you reside. If there are two or more borrowers, and each of you reside in the same Australian state or territory when your Loan Agreement is entered into, your Loan Agreement is governed by the laws of that state or territory. If there are two or more borrowers who reside in different states or territories, your Loan Agreement is governed by the laws of the Australian state or territory in which the main Secured Property (as determined by us) is located. If any borrower does not ordinarily reside in Australia, your Loan Agreement is governed by the laws of the Australian state or territory in which the main Secured Property (as determined by us) is located.

- (b) If your loan is not regulated by the National Credit Code, your Loan Agreement is governed by and construed in accordance with the law for the time being in force the state or territory in which the main Secured Property (as determined by us) is located, or if there is no such determination, New South Wales.
- (c) You submit to the jurisdiction of the courts of the Australian state or territory whose laws apply to your Loan Agreement and the proper jurisdiction of any other court.

### 13.2 Consumer legislation and industry codes

- (a) To the extent that your Loan Agreement is regulated under consumer legislation (e.g. the National Credit Code) or an industry code to which we have subscribed (e.g. the Banking Code of Practice) or any other law:
  - (i) any terms and conditions in your Loan Agreement which do not comply with that law or code have no effect, and to the extent necessary, your Loan Agreement is to be read so it does not impose obligations prohibited by that law or code; and
  - (ii) any mortgage over the Secured Property only secures the amount authorised by that law or code in relation to that credit. For example, to the extent that the mortgage secures money due under a credit contract regulated by the National Credit Code or similar legislation, the mortgage only secures the amount due under that credit contract, any reasonable enforcement expenses, and any other money authorised by the National Credit Code or similar legislation. This clause does not restrict how the mortgage secures credit which is not regulated by any consumer legislation or industry code.
- (b) The Banking Code of Practice will apply to your loan if you are an individual or Small Business. If the Banking Code of Practice applies to your loan, it will also apply to any Guarantor who is an individual.
- (c) From the date of our adoption of the ePayments Code we will comply with the ePayments Code in relation to transactions which are governed by it. The ePayments Code does not apply to products established primarily for business purposes.

### 13.3 Anti-money laundering and counter-terrorism financing

- (a) You must not use your loan for the purposes of money laundering or terrorism financing.
- (b) You must provide additional information and assistance and comply with all reasonable requests to facilitate our compliance with the anti-money laundering and counter-terrorism financing laws in Australia or an overseas jurisdiction and our internal policies and procedures.
- (c) You undertake that:
  - (i) the money used to fund the payments under your Loan Agreement is not derived from or related to money laundering, terrorism financing or similar activities; and
  - (ii) proceeds of investment made in connection with your Loan Agreement will not fund money laundering, terrorism financing or similar activities.
- (d) We may terminate your Loan Agreement and close any of your other accounts with us if we reasonably believe that continuing with your Loan Agreement would cause us to breach anti-money laundering and counter-terrorism financing laws or would represent an unacceptable level of money laundering and terrorism financing risk for us. If, in doing so, we require repayment of the Total Amount Owing, we will endeavour to give you not less than 90 days notice to repay.

### 13.4 Breaches of laws

We may delay, block, freeze or refuse a transaction from your Account if we have reasonable grounds to believe that the transaction breaches Australian law or sanctions (or the law or sanctions of any other country). Where transactions are delayed, blocked, frozen or refused, we are not liable to any loss you suffer in connection with your use of your Account.

### 13.5 Severability

If any of the terms of your Loan Agreement are illegal or not enforceable or become illegal at any time, the affected provisions will cease to have effect, but the balance of your Loan Agreement will remain in full force and effect.

## 14. General information

### 14.1 How we can deal with your Loan Agreement

**IMPORTANT: We may disclose information about you to any third party involved in an actual or proposed assignment, novation or dealing by us, and that disclosure may be in a form that may enable that third party to identify you.**

- (a) We may at any time assign, novate or otherwise deal with our rights and obligations under your Loan Agreement, any Security, and any document or agreement entered into or provided under or in connection with your Loan Agreement in any way we wish. You and any Guarantor must sign anything and do anything we reasonably require to enable any dealing with your Loan Agreement, any Security, and any document or agreement entered into or provided under or in connection with your Loan Agreement. Any dealing with our rights does not change the obligations of your or any Guarantor under your Loan Agreement in any way.
- (b) You and any Guarantor may not assign, novate or otherwise deal with your or their rights or obligations under your Loan Agreement, any Security, and any document or agreement entered into or provided under or in connection with your Loan Agreement.
- (c) We may disclose information about you, any Guarantor, your Loan Agreement or any Security to anybody involved in an actual or proposed assignment, novation or dealing by us with our rights under your Loan Agreement.

### 14.2 If you are a trustee

- (a) If you are at any time the trustee of a trust, you enter your Loan Agreement in your own right and as trustee of the trust. In addition to your own assets, all the present and future assets of the trust will be available to satisfy your obligations under your Loan Agreement.
- (b) If you or any Guarantor is at any time the trustee of any trust, whether disclosed to us or not, you represent and warrant that:
  - (i) the trustee has free, full, complete, valid and unfettered authority and power to enter into the Loan Agreement, any Security and any Guarantee to which it is a party in its personal capacity and in its capacity as trustee of the trust;
  - (ii) that entering into the Loan Agreement, any Security and any Guarantee is in the due and proper administration of the trust and is for the benefit of the beneficiaries of the trust;
  - (iii) the performance by the trustee of its obligations under the Loan Agreement, any Security and Guarantee has been duly authorised in accordance with the terms of the trust; and
  - (iv) no limitations or restrictions exist in respect of the trustee's rights to be indemnified from the trust assets in respect of the obligations incurred by the trustee under the Loan Agreement, any Security and any Guarantee; and
  - (v) it is for the commercial benefit of the trust that the trustee enters into the Loan Agreement, any Security and any Guarantee to which it is a party in its capacity as trustee of the trust.
- (c) You must not allow without our prior written consent (which will not be unreasonably withheld):
  - (i) any retirement or replacement of the trustee, or any appointment of a new trustee, of the trust;
  - (ii) any termination of the trust, or any variation of the vesting date of the trust;
  - (iii) any distribution, transfer or setting aside of any part of the income or capital of the trust; or

- (iv) any amendment of the deed establishing the trust.
- (d) An Event of Default occurs if there is a change of trustee, a termination of the trust, or any material change to the terms of the trust without our prior written consent (which will not be unreasonably withheld).

### **14.3 If you are a partnership**

- (a) If you are a partnership, each partner of the partnership is liable individually and together with the other partners jointly for your obligations and liabilities.
- (b) Your Loan Agreement will continue to be in full force and effect and bind each person who is a partner despite any changes that may from time to time take place in the partnership, including by the death, retirement, receivership, insolvency, administration or liquidation of any partner, or the admission of any new partner, even if the partnership no longer carries on business.

### **14.4 Providing information to us**

You must provide to us any information we reasonably require relating to your business, assets, tax affairs or financial affairs within 14 days of our request. If you are an individual, we may require a copy of your taxation return or an assets and liabilities statement. In relation to a company, we may require a balance sheet, a profit and loss statement, or both. We may require this information to be certified or audited.

### **14.5 Waiving our rights**

We only lose the power to exercise any of our rights under your Loan Agreement by an express written statement that we waive that right.

### **14.6 Consents**

Any authority, consent or other thing to be given, made or exercised by us under your Loan Agreement may be done, given or made how and when we decide and on such terms and conditions as we consider appropriate, but will be exercised reasonably and will not be unreasonably withheld or delayed.

## **15. Definitions and interpretation**

### **15.1 Inconsistencies between documents**

If there is any inconsistency between your Loan Schedule and these terms and conditions, the terms of your Loan Schedule prevail. If there is any inconsistency between any provisions of any Security or Guarantee and your Loan Agreement, the terms of your Loan Agreement prevail.

### **15.2 How to read these terms and conditions**

In your Loan Agreement:

- (a) singular words include plural words and vice versa;
- (b) a reference to a person includes companies and trusts and any other kind of body;
- (c) a reference to a document includes any variation or replacement of it;
- (d) a reference to a person or to a party to your Loan Agreement includes its successors and permitted assigns;
- (e) each term referred to in the Loan Schedule has the meaning given to it in the Loan Schedule;
- (f) headings are for ease of reference only and not to assist interpretation; and
- (g) use of examples is illustrative of the context only and does not limit the natural meaning of the terms of your Loan Agreement.

### 15.3 Definitions

In your Loan Agreement, the following words and phrases have defined meanings.

<b>Account</b>	Each loan account we open in your name to record transactions under your Loan Agreement and to which we debit the Loan Amount or any part of it.
<b>Business Day</b>	A day other than a Saturday, a Sunday or a national public holiday.
<b>Early Termination Rate</b>	The rate specified in the Particulars (for a chattel mortgage loan).
<b>Event of Default</b>	Any event described in clauses 10.2 and 10.3.
<b>Guarantee</b>	The guarantee and indemnity contained in clause 11 and any other guarantee and/or indemnity at any time given in relation to this Loan Agreement.
<b>Guarantor</b>	Any person who at any time guarantees to us the payment of all or any part of the Total Amount Owning, including any guarantor named in your Loan Schedule.
<b>Loan Agreement</b>	The loan agreement that is comprised of your Loan Schedule and these Macquarie Leasing Terms & Conditions.
<b>Loan Schedule</b>	The Particulars (for a chattel mortgage loan) or Loan Schedule (for a consumer loan) that incorporates these Macquarie Leasing Terms & Conditions.
<b>Other Agreement</b>	Any other agreement or arrangement under which we or a related body corporate provides financial accommodation to you or any Guarantor at any time.
<b>PPS Act</b>	The <i>Personal Property Securities Act 2009</i> (Cth).
<b>Secured Property</b>	Any goods subject to the Security, and includes any additions or alterations made to the Secured Property and any money received from any insurance proceeds or disposal in respect of the Secured Property.
<b>Security</b>	The security given by you under your Loan Agreement (as specified in your Loan Schedule) that secures your obligations and any other security given at any time to secure your obligations.
<b>Security Interest</b>	Includes: <ul style="list-style-type: none"><li>(a) a mortgage, charge, pledge, lien, hypothecation, bill of sale, assignment, flawed deposit arrangement, title retention arrangement, trust or power held as security, or other interest securing the payment of money or performance of any obligation of any person or any other agreement, notice or arrangement having a similar effect;</li><li>(b) a right, interest or an arrangement which has the effect of giving another person a preference, priority or advantage over creditors including any right of set-off;</li><li>(c) a third party right or interest or any right arising as a consequence of the enforcement of a judgment;</li><li>(d) an agreement to create any of the above, or allow them to exist; or</li><li>(e) a 'security interest' as defined in the PPS Act.</li></ul>

<b>Settlement Date</b>	The date on which any part of the loan amount is advanced under your Loan Agreement.
<b>Small Business</b>	Has the same meaning as set out in the Banking Code of Practice at any time.
<b>Termination Amount</b>	<p>The total of:</p> <ul style="list-style-type: none"><li>(a) the sum of the Present Value (calculated at the date of termination of the Loan Agreement at the Early Termination Rate) of each repayment that is not yet due for payment but would be payable if the Loan Agreement had not been terminated;</li><li>(b) all repayments that are due for payment as at the date of termination of the Loan Agreement but are unpaid; and</li><li>(c) any other amounts owing under the Loan Agreement.</li></ul> <p>The Present Value of any amount is calculated by discounting that amount on a monthly basis at the Early Termination Rate for the number of whole months remaining in the loan term.</p>
<b>Total Amount Owing</b>	The total amount outstanding from time to time under or in connection with your Loan Agreement, including all accrued interest, fees and charges (including those that accrue on repayment), and includes any part of that amount.

## Part B - Information Statement

Part B only applies to consumer loans that are regulated by the National Credit Code.

Your loan is regulated by the National Credit Code if you are an individual and the loan is for personal, domestic or household purposes. If you are a company, or if the loan is predominantly used for business purposes or investment purposes, your loan will not be regulated by the National Credit Code.

## THINGS YOU SHOULD KNOW ABOUT YOUR PROPOSED CREDIT CONTRACT

This statement tells you about some of the rights and obligations of yourself and your credit provider. It does not state the terms and conditions of your contract.

If you have any concerns about your contract, contact the credit provider and, if you still have concerns, the AFCA scheme, or get legal advice.

### The contract

- 1. How can I get details of my proposed credit contract?**

Your credit provider must give you a precontractual statement containing certain information about your contract. The precontractual statement, and this document, must be given to you before-

  - your contract is entered into; or
  - you make an offer to enter into the contract,

whichever happens first.
  
- 2. How can I get a copy of the final contract?**

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

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

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

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

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

However, you will still have to pay any fees or charges incurred before you terminated the contract.
  
- 4. Can I pay my 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.
  
- 5. How can I find out the pay out figure?**

You can write to your credit provider at any time and ask for a statement of the pay out figure as at any date you specify. You can also ask for details of how the amount is made up.

Your credit provider must give you the statement within 7 days after you give your request to the credit provider. You may be charged a fee for the statement.



- 6. Will I pay less interest if I pay out my contract early?** Yes. The interest you can be charged depends on the actual time money is owing. However, you may have to pay an early termination charge (if your contract permits your credit provider to charge one) and other fees.
- 7. Can my contract be changed by my credit provider?** Yes, but only if your contract says so.
- 8. Will I be told in advance if my credit provider is going to make a change in the contract?** That depends on the type of change. For example-
- you get at least same day notice for a change to an annual percentage rate. That notice may be a written notice to you or a notice published by your credit provider.
  - 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 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 by phone on 1800 931 678, by email at [info@afca.org.au](mailto:info@afca.org.au), or in writing to GPO Box 3, Melbourne Vic 3001.
- Alternatively, you can go to court. You may wish to get legal advice, for example from your community legal centre or Legal Aid.
- You can also contact ASIC, the regulator, for information on 1300 300 630 or through ASIC's website at <http://www.asic.gov.au>.

## Insurance

- 10. Do I have to take out insurance?** Your credit provider can insist you take out or pay the cost of types of insurance specifically allowed by law. These are compulsory third party personal injury insurance, mortgage indemnity insurance or insurance over property covered by any mortgage. Otherwise, you can decide if you want to take out insurance or not. If you take out insurance, the credit provider cannot insist that you use any particular insurance company.
- 11. Will I get details of my insurance cover?** Yes, if you have taken out insurance over mortgaged property or consumer credit insurance and the premium is financed by your credit provider. In that case the insurer must give you a copy of the policy within 14 days after the insurer has accepted the insurance proposal.
- Also, if you acquire an interest in any such insurance policy which is taken out by your credit provider then, within 14 days of that happening, your credit

provider must ensure you have a written notice of the particulars of that insurance.

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

- 12. If the insurer does not accept my proposal, will I be told?** Yes, if the insurance was to be financed by the 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 the credit provider has previously given you a copy of the mortgage document to keep.
- 17. Is there anything that I am not allowed to do with the property I have mortgaged?** The law says you cannot assign or dispose of the property unless you have your credit provider's, or the court's, permission. You must also look after the property. Read the mortgage document as well. It will usually have other terms and conditions about what you can or cannot do with the property.
- 18. What can I do if I find that I cannot afford my repayments and there is a mortgage over property?** See the answers to questions 22 and 23.
- Otherwise you may-
- if the mortgaged property is goods - give the property back to your credit provider, together with a letter saying you want the credit provider to sell the property for you;
  - sell the property, but only if your credit provider gives permission first;
- OR
- give the property to someone who may then take over the repayments, but only if your credit provider gives permission first.

If your credit provider won't give permission, you can contact the AFCA scheme for help.

If you have a guarantor, talk to the guarantor who may be able to help you.

You should understand that you may owe money to your credit provider even after the mortgaged property is sold.

- 19. Can my credit provider take or sell the mortgaged property?** Yes, if you have not carried out all of your obligations under your contract.
- 20. If my credit provider writes asking me where the mortgaged goods are, do I have to say where they are?** Yes. You have 7 days after receiving your credit provider's request to tell your credit provider. If you do not have the goods you must give your credit provider all the information you have so they can be traced.
- 21. When can my credit provider or its agent come into a residence to take possession of mortgaged goods?** Your credit provider can only do so if it has the court's approval or the written consent of the occupier which is given after the occupier is informed in writing of the relevant section in the National Credit Code.

#### General

- 22. What do I do if I cannot make a repayment?** Get in touch with your credit provider immediately. Discuss the matter and see if you can come to some arrangement. You can ask your credit provider to change your contract in a number of ways-
- to extend the term of your contract and reduce payments; or
  - to extend the term of your contract and delay payments for a set time; or
  - to delay payments for a set time.
- 23. What if my credit provider and I cannot agree on a suitable arrangement?** If the credit provider refuses your request to change the repayments, you can ask the credit provider to review this decision if you think it is wrong.
- If the credit provider still refuses your request you can complain to the AFCA scheme. Further details about this scheme are set out below in question 25.
- 24. Can my credit provider take action against me?** Yes, if you are in default under your contract. But the law says that you cannot be unduly harassed or threatened for repayments. If you think you are being unduly harassed or threatened, contact the AFCA scheme or ASIC, or get legal advice.
- 25. Do I have any other rights and obligations?** Yes. The law will give you other rights and obligations. You should also READ YOUR CONTRACT carefully.

**IF YOU HAVE ANY COMPLAINTS ABOUT YOUR 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 BY PHONE ON 1800 931 678, BY EMAIL AT [INFO@AFCA.ORG.AU](mailto:INFO@AFCA.ORG.AU), OR IN WRITING TO GPO BOX 3, MELBOURNE VIC 3001.**

**PLEASE KEEP THIS INFORMATION STATEMENT. YOU MAY WANT SOME INFORMATION FROM IT AT A LATER DATE**