

Home Loans

Terms and Conditions

July 2018

bankwest



Important Notice

This booklet contains the usual Terms and Conditions for all our home loans. The Contract for the Loan is made up of these Terms and Conditions and a Schedule setting out the particulars of the Loan. By signing and returning the Schedule to us you agree to be bound by the relevant terms of the Contract as set out in both documents.

Please note: This booklet does not contain all the information we are required to give you before you enter into the Contract. Other information is contained in the Schedule. Please read both documents carefully. If you do not fully understand these documents, please ask one of our Customer Service Officers to help you.

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Part A: General Terms and Conditions (all loans)

A.1 Definitions

Amount of Credit means the Amount of Credit, Maximum Amount of Credit or Credit Limit (as relevant) stated in the Schedule.

Business Day means a weekday including local public holidays but excluding holidays observed on a national basis.

Contract means the Schedule you sign and Part A and any other Parts of these Terms and Conditions as specified in the Schedule.

Credit Code means Schedule 1 of the National Consumer Credit Protection Act 2009 (Cth) and includes any instruments made under that Schedule and regulations made under that Act for the purposes of that Act.

Land Titles Office means the body described below (or its successor) that exists in the State or Territory where the land shown in the Schedule under 'Security' is located.

New South Wales	Land and Property Information Service
Victoria	Land Titles Office
Queensland	Titles Registry Office
Western Australia	Landgate
South Australia	Land Services and Land Titles office
Tasmania	Land Titles Office
Australian Capital Territory	Land Titles Office
Northern Territory	Land Titles Office

Loan means that part of the Amount of Credit we provide to you under the Contract.

Loan Account means the account the Bank opens in your name to record transactions under the Contract.

Mistaken Internet Payment means a payment through a 'Pay Anyone' internet banking facility where funds are paid into the account of an unintended recipient, being an individual, as a result of the BSB number and/or account number being incorrect due to an error by the person initiating the transaction or that person having been given the wrong BSB number and/or account number. This does not include:

- payments made using BPAY; or
- payments made using a facility designed primarily for use by a business and established primarily for business purposes.

Offset Account means a deposit account with the Bank which the Bank advises is eligible to be nominated as an Offset Account to be linked to the Loan Account. You will only be entitled to nominate an Offset Account if the Schedule says you can and if the Offset Account is in the same name(s) and capacity(ies) as the Borrower(s). If the Offset

Account is in more than one name, each Borrower must be authorised to operate the Offset Account alone.

Proscribed Person means a person who appears to us to be any of the following:

- (a) a proscribed person or entity under the Charter of the United Nations Act 1945 (Cth);
- (b) in breach of the laws of any jurisdiction relating to money-laundering or terrorism financing;
- (c) a person with whom dealings are proscribed by the government or a regulatory authority of any jurisdiction; or
- (d) a person acting on behalf of, or for the benefit of, a person referred to above.

Receiving ADI means an ADI which is a subscriber to the ePayments Code and whose customer has received a payment which you have reported as being a Mistaken Internet Payment.

Schedule means the Schedule which records the particulars of the Contract and includes a Financial Table.

Security means any security (including any guarantee) stated in the Schedule (or any security substituted for it with the Bank's consent).

Small Business means a business employing:

- (a) less than 100 full time (or equivalent) employees if the business is or includes the manufacture of goods; or
- (b) in any other case, less than 20 full time (or equivalent) employees.

State Revenue Office means the body described below (or its successor) that exists in the State or Territory where the property shown in the Schedule under 'Security' is located or the security referred therein is entered into:

New South Wales	Office of State Revenue
Victoria	State Revenue Office
Queensland	Office of State Revenue
Western Australia	Office of State Revenue
South Australia	State Taxation Office
Tasmania	State Revenue Office
Australian Capital Territory	ACT Revenue Office
Northern Territory	Office of the Commissioner of Taxes

Unpaid Balance means the difference between all amounts credited and all amounts debited to your Loan Account.

We, us, the Bank or **Bankwest** means Bankwest, a division of Commonwealth Bank of Australia ABN 48 123 123 124 AFSL/Australian credit licence 234945 and its successors and assigns.

you means the Borrower named in the Schedule and 'your' has a corresponding meaning. If more than one person comprises the Borrower, 'you' means each of them separately and all of them jointly.

A.2 Conditions of Contract

- A.2.1 The Contract for the Loan comprises the Schedule, this Part A and Parts B, C, D or E of this booklet as specified in the Schedule.
- A.2.2 To the extent of any inconsistency between the Schedule, on the one hand and any of Part A and Parts B, C, D or E as apply to the Contract on the other hand, the terms of the Schedule will prevail.
- A.2.3 To the extent of any inconsistency between Part A and any of Parts B, C, D or E as apply to the Contract, the terms of Parts B, C, D and E as apply will prevail.

A.3 Code of Banking Practice

- A.3.1 The Code of Banking Practice is the banking industry's benchmark for best-practice banking standards. It applies to your Loan where you are an individual or a Small Business. You can ask us for a copy of the Code of Banking Practice, or download it at **www.bankers.asn.au**.
- A.3.2 In respect of guarantees, the Code of Banking Practice applies to individuals acting as guarantor to help another individual or a Small Business to secure any financial accommodation or facility provided by us. The Code of the Banking Practice requires us to provide individual guarantors with certain information before taking a guarantee (certain exceptions apply for example, where the guarantor is a director of the borrower, the guarantor can choose not to receive some or all of that information).

A.4 Your Loan

- A.4.1 We will provide you with the Amount of Credit in accordance with this Contract and your written instructions.
- A.4.2 If no part of the Amount of Credit is advanced to you within three (3) months of the date you sign the Schedule, we may terminate the Contract.
- A.4.3 We may open an account in your name for the purpose of the Contract ('Loan Account') and may debit the account with any part of the Amount of Credit you borrow and any interest charges, fees and charges and enforcement expenses you incur.
- A.4.4 You must repay the Loan, interest charges and all other amounts debited to the Loan Account in accordance with the Contract.
- A.4.5 Where the Loan has been fully repaid and the Loan Account is in credit or has a nil balance, you may request us to close the Loan Account and to pay you the amount of the credit balance (if any) of the Loan Account, or upon

reasonable notice to you, we may close the Loan Account and pay you the amount of the credit balance (if any) of the Loan Account.

- A.4.6 Where the Unpaid Balance of the Loan is \$30 or less and you have made no transactions in the preceding 12 months, we may close the Loan Account.
- A.4.7 If you terminate the Contract before any credit has been obtained by you under the Contract, you must still pay fees or charges incurred by you before termination.

A.5 Annual percentage rate

- A.5.1 The annual percentage rate or rates that apply under the Contract are set out in the Schedule.
- A.5.2 Our reference rates (including the reference rate(s) applicable to the Contract) will be advertised:
- in the business section of Monday's edition of The Australian newspaper and on the first Monday of each month in the finance section of The West Australian newspaper; and/or
 - on our website at bankwest.com.au. You may also find out information on the Bank's current interest rates, including reference rates, by calling us on 13 17 19.
- A.5.3 Except for any fixed interest rate period (if applicable), the annual percentage rate applicable to the Loan is determined by the use of the property acquired with the Loan. If you change the use of the property from or to owner occupation or from or to investment purposes, we may change the annual percentage rate to the Bank's reference rate applicable to the property's then current use. We will give you notice of any change to the applicable reference rate in accordance with Clause A.11.

A.6 Interest charges

- A.6.1 Subject to Clause 6.6, interest charges will accrue daily and will be calculated on the Unpaid Daily Balance under the Contract at the Daily Percentage Rate where:
- 'Daily Percentage Rate' means the applicable annual percentage rate as specified in the Schedule divided by 365 (366 in a leap year); and
 - 'Unpaid Daily Balance' means the Unpaid Balance at the end of a day. The Unpaid Balance of a day that is not a Business Day will be taken, for the purpose of calculating interest charges, to be the Unpaid Balance of the immediately preceding Business Day.

- A.6.2 The interest charges (calculated to the end of the day prior to the debiting) will be debited to the Loan Account monthly in arrears starting one month after the day the Loan (or any part) is first advanced and on the same day in each subsequent month unless:
- that day is not a Business Day; or
 - the date the Loan (or any part) was first advanced was the 29th, 30th or 31st and any month does not contain such a day, in which case interest charges will be debited on the next Business Day.
- A.6.3 On the date the Loan is paid out, interest charges (calculated to the end of the day prior to the debiting) will also be debited to the Loan Account and will be payable on that date.
- A.6.4 If you are entitled to and do nominate an Offset Account to be linked to the Loan Account, your interest charges on the Loan Account will be reduced each day by the 'Offset Amount'. The Offset Amount will be calculated by multiplying the credit balance of the Offset Account on the day (to the extent that its amount does not exceed the amount of the Unpaid Daily Balance of the Loan Account) by X% and then by the Daily Percentage Rate, where X% is the percentage stated in the Schedule as the 'Offset Account Percentage'.
- A.6.5 We will not pay interest on the credit balance of an Offset Account you nominate to be linked to the Loan Account even if:
- the Amount of the credit balance of the Offset Account exceeds the amount of the debit balance of the Loan Account; or
 - the Contract is terminated and the Loan Account is closed.
- A.6.6 Notwithstanding Clause A.11, where a hold is placed on your Loan in anticipation of settlement:
- interest charges will be calculated at the Annual Percentage Rate applicable on the day that the hold occurs; and/or
 - the Daily Percentage Rate will be divided by 366 or 365 days determined by whether it is a leap year or non-leap year at the time that the settlement hold is placed.
- A.7.2 If Security is required, no part of the Amount of Credit will be advanced to you under the Contract unless you pay us the fees and charges that are required to be paid when the Security is signed.
- A.7.3 When the Loan is repaid in full you can ask for the Security to be discharged provided the Security does not secure other obligations. A discharge fee will apply.
- A.7.4 If we incur any Government tax, duty or other charge imposed by law in respect of the Contract or the operation of the Loan Account, you must pay us an amount equal to the charge calculated in accordance with the methods prescribed from time to time by relevant legislation. This will include, if applicable, debits tax relating to any transaction on the Loan Account.
- A.7.5 The amount referred to in your Schedule as a Government tax or duty may be the maximum amount payable and may be subject to reduction under relevant legislation. Any reduction will be refunded to you.
- A.7.6 Information on our fees and charges is available on request by calling us on **13 17 19**.

A.8 Repayments

- A.8.1 You must make the repayments in the amounts and when required by the Schedule or otherwise by the Contract or the Bank.
- A.8.2 If a repayment falls due on:
- a day that is not a Business Day; or
 - the 29th, 30th or 31st of any month and that month does not contain such a day, the repayment will be due on the next Business Day.
- A.8.3 Except for a fixed interest rate or interest only period (if applicable), you can pay the minimum monthly repayment amounts stated in the Schedule by weekly or fortnightly instalments. You may also, in any month, make a payment or payments which in aggregate exceed the amount of your minimum monthly repayment. However if you do, this does not affect your obligation to pay in full the minimum monthly repayment due in any subsequent month, unless we agree in writing to change the repayment arrangements.
- A.8.4 You must pay the Unpaid Balance of the Loan Account on the day the last scheduled repayment is due or, in the circumstances of your default, at the time described in Clause A.21.1.

A.7 Fees and charges

- A.7.1 You must pay us the fees and charges that are or may become payable under the Contract and must do so when required by the Schedule or otherwise by the Contract or the Bank. We may debit the fees and charges to the Loan Account when they are payable.

- A.8.5 We will apply any payments received under this Contract to the Unpaid Balance of the Loan Account.
- A.8.6 If you have more than one loan contract with us and you make any payment to the Bank, without telling the Bank in writing how the payment is to be applied, we will apply it to any or all of the loan contracts in any way we think fit.
- A.8.7 A payment will not be treated as made until the date it is credited by us to the Loan Account. If your cheque or other payment instrument is not honoured in full when first presented, the payment will not be treated as a valid payment.

A.9 Assumptions

- A.9.1 To the extent that the Schedule specifies the repayments, total amount of interest or the term of the Loan, they are based on the annual percentage rate(s) in the Schedule and assume:
- (a) the Loan will be for the full amount of the Amount of Credit;
 - (b) you will make the repayments at the intervals and for the amounts specified in the Schedule;
 - (c) interest will be debited one month after the Loan is fully advanced or treated as fully advanced; and
 - (d) fees and charges (including debits tax) which do not form part of the Amount of Credit but which may become payable and are required to be debited to the Loan Account are not included in the calculations.

A.10 Statements of account

- A.10.1 We will send you a statement of account at least every six (6) months unless:
- (a) this is not required by law (such as where no amount is debited or credited to the Loan Account during the statement period); or
 - (b) where Clause D4.1 applies, in which case we will send you a statement of account at least every three months.

A.11 Changes to the Contract and notification

- A.11.1 Changes requested by you
At any time, we may at our discretion agree to a request by you for a variation of your Contract, including changes to the type of home loan you have. If we agree to process a variation, we will send you notice of the changes within 30 days.

- A.11.2 Other changes
We can change your Contract, or any part of it, at any time without your consent. Circumstances where we may make changes to the Contract include but are not limited to those where there are:
- (a) changes to the cost of providing credit to you;
 - (b) changes in legal or other regulatory requirements affecting us;
 - (c) changes in any system or product development or enhancement.
- If you consider that you will be adversely affected by changes to the Contract notified to you under this Clause A.11, you may pay us the amount required to pay out your Contract on the day you wish to end the Contract.

A.11.3 How we will tell you about changes

Change	Minimum Notice periods	Notice Method
Changes to a reference rate	No later than the day on which the change takes effect (unless the change reduces your obligations in which case we may not notify you)	In writing* or by advertising in a national newspaper
Changes to an annual percentage rate which is not determined by referring to a reference rate	No later than the day on which the change takes effect (unless the change reduces your obligations in which case we may not notify you)	In writing* or by advertising in a national newspaper**
Changes to the manner in which interest is calculated or applied.	20 days (unless the change reduces your obligations in which case we may not notify you)	In writing*
Introducing a new fee or increasing the amount or frequency of a fee	20 days	In writing* or by advertising in a national newspaper**
Changes to repayments including changes to the amount, frequency, time or method of calculation or changes to any other term or condition that applies to the Contract	20 days (unless the change reduces your obligations in which case we will give you notice before or when your next statement of account is sent after the change takes effect)	In writing*
If any government introduces or changes a tax or fee which applies to the Contract but does not publicise the change	As soon as practicable	In writing* or by advertising in a national newspaper

***Note:** all references to writing include electronic notice where permitted.

****Note:** where this notice is advertised in the media we will also provide particulars of the change before or when your next statement of account is sent after the change takes effect.

A.11.4 Service of Notices

Whenever we send you a letter, notice or statement, or otherwise seek to communicate with you, we will do so by any method permitted by law, including by mail addressed to you at your last known address or business address as the case may be, or by the electronic means described in Clause A.11.5:

A.11.5 Where applicable, you agree that we may satisfy any requirement under the Contract or under any law or relevant code of conduct to provide you with information by:

- (a) electronic communication to your nominated electronic address;
- (b) making the information available on our website after first notifying you by:
 - SMS message to a mobile phone number you have given us for contacting you;
 - by electronic communication to any other electronic address you have given us for contacting you, or
 - push notification from the Bankwest App that the information is available for retrieval by you;
- (c) a SMS text message to a mobile number you have given us for contacting you; or
- (d) such other means as we agree with you.

Should we communicate with you by electronic communication, the communication will be deemed to have been received by you when the electronic communication enters either your or your internet service provider's information system.

You may at any time, by notice to us, terminate your agreement to receive information by electronic communication, or via our website or change your email address.

A.12 Security

A.12.1 The Schedule specifies the Security which must be given to us.

A.12.2 Before any part of the Amount of Credit is advanced the Security must, to the extent appropriate to the form of security, be in registrable form, stamped, and have priority for all amounts payable under the Contract unless we agree otherwise in writing.

A.12.3 You agree to ensure that the obligations of any person who has provided Security to us are observed and performed.

A.12.4 If the Security is in existence at the date of the Contract, by signing the Contract you acknowledge that the Security extends to cover your obligations under the Contract.

A.12.5 You authorise us and any of our officers to date and complete any blanks or to make amendments to the Security or any other document (including to the Contract) which we require to secure the Loan in accordance with clause A12.2.

A.13 Insurance

A.13.1 You agree to insure and keep insured any property the subject of any Security, against fire, storm, tempest, and other extraneous risks and for an amount at least equal to the full replacement cost of any building or other improvements on the property insured. The insurer and the terms and conditions of the policy must be acceptable to us and the Bank must be named on the policy as an insured.

A.14 Lenders' mortgage insurance

A.14.1 Lenders' mortgage insurance will be required if the Schedule indicates that a lenders' mortgage insurance premium is payable to the Bank. You agree that if lenders' mortgage insurance is required, the Bank may place this insurance with a company in which the Bank has an interest.

A.14.2 The lenders' mortgage insurer will insure us (and not you or the persons providing any Security) against losses, resulting from a default under the Contract or any Security. If the lenders' mortgage insurer pays our claim resulting from a loss due to your default, the insurer can recover this amount and costs from you and any persons providing the Security.

A.15 Further conditions

A.15.1 If there is more than one Borrower and there is more than one copy of the Contract signed by any or each of you, then each signed copy taken together is part of the same Contract.

A.15.2 Any valuation or inspection report of any property is for the Bank's own internal use only. The Bank is not obliged to disclose details about the property's condition, construction or value to you or any other party.

A.15.3 If the Contract allows us to do certain matters on a day then we can do it on that day or any later day unless otherwise required by law.

A.15.4 You must inform us immediately of any change in your name or address including changes to your nominated mobile phone number or electronic address. You must also inform us when your loan purpose changes. You can do this by calling us on **13 17 19**.

A.15.5 If we decide not to exercise a right, remedy or power, this does not mean we cannot exercise it later. In addition we are not liable for any loss caused by exercising or attempting to exercise a right, remedy or power or by not exercising it.

A.15.6 You must pay all amounts in full without setting off amounts you believe the Bank owes you and without counterclaiming amounts from the Bank, except to the extent:

- (a) you have a right of set off granted by law which we cannot exclude by agreement, or
- (b) the amounts are the subject of dispute resolution proceedings or court action.

A.16 Agents

A.16.1 To the extent permitted by law we can appoint agents to do anything the Bank can do under the Contract.

A.17 Assignment of rights and disclosures

A.17.1 The Bank may assign, transfer or otherwise deal with its rights under the Contract or any Security in any way we consider appropriate.

A.17.2 If the Schedule states that a commission is payable to or by us, you agree that information about you and the Loan may be given to and obtained from any person to or by whom such commission is payable to enable the calculation of the commission payable and for matters related to your relationship with them.

A.18 Warranties

A.18.1 You agree that all statements made and documents provided in connection with the application to us for the Loan and all representations which you have made or may make to us during the term of the Contract are true and correct. You acknowledge that we have relied upon the correctness of those statements, documents and representations in entering into the Contract and will continue to do so in its dealings with you.

A.18.2 For Trust Borrowers only. You represent and warrant that you have the power and authority to enter into, to perform and to comply with your obligations under the Contract, you are the sole trustee of the trust referred to in the Schedule, that no action has been taken to remove or replace you as trustee of that trust, no action has been taken for any asset of the trust to be administered by a court or for the winding up of the trust and that you have an unrestricted right to be fully indemnified out of the trust assets.

A.19 Enforcement expenses

A.19.1 If you or any person providing any Security breaches any term or condition of the Contract and/or any Security you will be required to pay expenses reasonably incurred by us or our agents in enforcing or preserving our rights under this Contract and/or the Security.

We will debit these expenses to the Loan Account and they will be due and payable immediately.

A.19.2 Enforcement expenses include the Bank's internal and external expenses in enforcing or taking any action to recover any amounts owing, dealing with the property the subject of a Security or otherwise in connection with its rights under the Contract and/or a Security.

A.20 Amount owing

A.20.1 You agree that a certificate which has been signed by a Bank officer is evidence of any fact or matter stated in the certificate (including, for example, that a default has occurred under the Contract or the Security, or that an amount is due and payable by you to the Bank under the Contract) unless the contrary is established.

A.21 Default

A.21.1 Subject to Clause A.21.5, you are in default under the Contract if any of the following conditions apply:

- (a) **Overdue amount:** You do not pay any amount due under the Contract by its due date for payment;
- (b) **Credit Limit:** you exceed your Credit Limit;
- (c) **Title to the Security is unsatisfactory:** We are not reasonably satisfied with the title to the Security or the Security over it. For example: we are unable to register the mortgage as a first ranking mortgage, or there has been an unreasonable delay in you becoming the registered proprietor of the Security, or a claim is made by a third party to an interest in the Security;
- (d) **Enforcement action:** Material creditor enforcement action is taken against you or any Guarantor or your or their assets;
- (e) **Financial information:** If Part D applies to your Loan, you or any Guarantor fail to provide any financial information as required;
- (f) **Dealing with security:** Your assets or the assets of any Guarantor are dealt with, or

are attempted to be dealt with, in breach of the Contract, or any Security or other agreement with us without our consent and such dealing materially increases our risk in relation to the Loan;

- (g) **Insurance:** You or any guarantor fail to maintain the required insurance;
- (h) **Risk in relation to security:** You use the Loan other than for the stated purpose which materially increases our risk in relation to the Loan;
- (i) **Wilful damage:** You wilfully damage the Security;
- (j) **False information:** At any time, you or a Guarantor give us information or make a representation or warranty to us which is materially incorrect or misleading (including by omission) and which materially increases our risk in relation to providing you credit or to continue to provide you credit; or
- (k) We believe on reasonable grounds that:
 - (a) it becomes, or may become unlawful for you or us to continue with the Loan;
 - (b) it becomes or may become contrary to our legal obligations for you or us to continue with the Loan; or
 - (c) you or anyone else associated with the Security is a Proscribed Person.

We may be restricted by law from providing specific information to you and/or others in these circumstances.

You will be in default of the Contract and we will give you notice of the default where required by law, providing you the opportunity to remedy your default (where permitted by law).

A.21.2 If we give you notice to remedy your default, you will be deemed to have failed to remedy the default specified in the notice if, at the end of the time allowed by the notice, you have remedied that default but have committed another of the same type.

A.21.3 If upon expiry of the notice referred to in A.21.1, you have failed or be taken to have failed to remedy the default:

- (a) the Unpaid Balance becomes immediately due and payable;
- (b) you must pay the Unpaid Balance together with any other amount due and payable under the Contract; and
- (c) the Bank can exercise any and all of its rights under the Contract and the Security.

A.21.4 If an obligation to pay us an amount under the Contract becomes merged in a court order or judgment, you must pay interest on that amount calculated daily until paid, at the Daily Percentage Rate.

A.21.5 Where this Contract is a credit contract for a reverse mortgage within the meaning of the Credit Code, you will not be in default of the Contract and the Bank may not demand payment or exercise its rights under the Contract or the Security if the event described in Clause A.21.1 consists of:

- a) you failing to inform the Bank that another person occupies any property which is the subject of any Security;
- b) you failing to give the Bank evidence that you or anyone else occupies or occupied the property which is the subject of any Security;
- c) you leaving your principal place of residence unoccupied while it is the subject of any Security;
- d) you failing to pay a cost to a person other than the Bank;
- e) you failing to comply with a provision of the Contract if it is unclear how you are to comply;
- f) you breaching another credit contract with the Bank; and
- g) an act or omission by you which is not permitted under the regulations to the Credit Code.

A.22 Severance

A.22.1 If any part or provision of the Contract is or becomes void or unenforceable under any applicable statute that part or provision will be removed from the Contract. Removal of any part or provision will not affect the remaining provisions of the Contract.

A.23 Conditions precedent

A.23.1 We need not provide any part of the Amount of Credit until:

- (a) you complete all necessary documentation to open a Loan Account and provide the Bank with suitable identification (if required);
- (b) we have received:
 - (i) satisfactory lenders' mortgage insurance cover (if the Schedule indicates that a lenders' mortgage insurance premium is payable to us);
 - (ii) the valuation of, and title, to the Security must be to our reasonable satisfaction in accordance with our usual prudent credit standards;

- (iii) confirmation of your employment, financial and personal particulars;
- (iv) a copy of the contract of sale signed by the purchaser and the vendor, if the Loan purpose is to purchase a property;
- (v) a duly completed guarantor/mortgagor's consent form where the Security required to be given under the Contract is one already held by us;
- (vi) for Company and Trust Borrowers only, copies of two years previous annual Balance Sheet and Profit and Loss Statements of the Borrower (and Guarantor if applicable) and supporting notes
- (vii) You must provide us with adequate proof of your identity and the identity of any person you authorise to operate on your Loan account;
- (viii) We will ask you to make representations and warranties for the Contract (for example A18 above). Your representations and warranties must not be misleading; and
- (ix) confirmation that you have not assigned your estate or entered into any arrangement or composition for the benefit of your creditors.

- (c) you pay to us those fees and charges that are payable as stipulated in the Schedule;
- (d) you provide a copy of an insurance policy (or cover note) which satisfies the requirements referred to in Clause A.13;
- (e) you give the Bank settlement and disbursement instructions in respect of the Loan;
- (f) you (and/or the Guarantor if applicable) obtain independent legal or financial advice (if requested to do so by the Bank).

A.23.2 We may refuse to make the Loan if a guarantor withdraws from a guarantee provided as Security or you or the person providing the Security:

- (a) is unable to comply with any term or condition of the Contract or Security (as relevant);
- (b) fails to make a material disclosure; or
- (c) has a material change in circumstances which, in the Bank's opinion, makes it undesirable for the Bank to proceed with making available the Amount of Credit.

A.24 [intentionally left blank]

A.25 Mistaken Payments

Mistaken Payments to your account

- A.25.1 If a person reports that a Mistaken Internet Payment has been made from the person's account to your account:
- (a) you agree that we may inform that person's financial institution whether or not your account has sufficient credit funds to cover the payment; and
 - (b) provided there are sufficient credit funds in your account to cover the Mistaken Internet Payment and we are satisfied that a Mistaken Internet Payment has been made to your account;
 - (i) if the person made the report within 10 business days of making the payment, we may immediately debit your account for the amount of the Mistaken Internet Payment; and
 - (ii) if the person made the report between 10 business days and 7 months of making the payment, we may immediately freeze those funds and, after giving you 10 business days to establish that you are entitled to the funds, debit your account for the value of the Mistaken Internet Payment;
 - (c) if we debit your account or otherwise receive funds from you for the value of the Mistaken Internet Payment, we will return the funds to the person or the person's financial institution;
 - (d) if we are satisfied that a Mistaken Internet Payment has occurred but there are not sufficient credit funds in your account, we will use reasonable endeavours to retrieve the funds from you.

Mistaken Payments from your account

- A.25.2 We have adopted the processes under the ePayments Code regarding Mistaken Internet Payments. You must report a Mistaken Internet Payment as soon as possible. We will acknowledge each report you make and investigate whether a Mistaken Internet Payment has been made.
- A.25.3 In order for us to investigate the Mistaken Internet Payment, you must complete a Mistaken Internet Payment form and you should do so promptly. This form can be obtained from any Customer Service Centre, our website or calling us on 13 17 19. We will contact you if we require further information,

and you must supply this information within 10 business days.

- A.25.4 We will inform you of the outcome of your report of a Mistaken Internet Payment within 30 business days of you making it. If you are not satisfied with how your report has been handled (by us or the Receiving ADI) or the outcome of your report, you can lodge a complaint with us.
- A.25.5 We may disclose personal and transactional information to a Receiving ADI or unintended recipient in relation to a Mistaken Internet Payment.

A.26 Online banking, phone banking and cards

- A.26.1 Your use of Bankwest Online Banking, phone banking or a card in connection with your Loan is governed by the Account Access Conditions of Use. This document is available at www.bankwest.com.au
- A.26.2 By using Bankwest Online Banking, phone banking or a card in connection with your Loan you accept the terms and conditions applying to Bankwest Online Banking, the phone banking service or cards as contained in the Account Access Conditions of Use.

Part B: Special Conditions

NB: More than one of the following Special Conditions may apply to your Loan. In this case, the Special Conditions are cumulative. The clause numbers of the Special Conditions which apply to your Loan are listed in your Schedule under the heading 'Special Conditions'.

B.1 Home loan access facility

- B.1.1 You can redraw amounts of not less than \$1,000 at a time from the aggregate of the amounts paid by you to us in excess of the amounts of the minimum repayments which were required to have been made under the Contract subject to Clause B.1.2. Your right to redraw is at our discretion (see Clause B.1.4).
- B.1.2 Without limiting our discretion to refuse a request for a redraw, the Bank will not provide a redraw if:
- (a) the Loan has been fully repaid;
 - (b) you are in default under the Contract;
 - (c) there has been any change in the Security position since the Disclosure Date of the Contract;
 - (d) the Loan has not yet been fully advanced or deemed to be fully advanced;

- (e) the ratio of the Unpaid Balance of the Contract and any other loan contract with the Bank to the assessed value of the property securing those contracts would at the time of redraw exceed the Bank's present applicable maximum lending ratios;
- (f) your instructions are not in accordance with instructions given to the Bank for operating the Loan Account;
- (g) you do not provide us with instructions on how your redraw is to be applied; or
- (h) you do not pay the fees for the redraw (as indicated in the Schedule);
- (i) you have cancelled the option to redraw (see Clause B.1.4); or
- (j) we have cancelled your option to redraw (see Clause B.1.4).

B.1.3 Unless you have instructed us otherwise, where there is more than one Borrower you each authorise any co-Borrower to access any surplus home loan repayments alone. You may withdraw your authorisation by notice to us in writing in a form we require.

B.1.4 You acknowledge and agree that, you, and if there is more than one borrower, each one of you, can cancel the right to redraw at any time. We can cancel your right to redraw at any time without your prior consent and without prior notice. However, if we do, we will give you notice after we do so.

B.2 [intentionally left blank]

B.3 Linked credit card account

- B.3.1 You may nominate a Bankwest Credit Card account ('Credit Card account') to be linked to the Loan Account provided that the Credit Card account is in the same name as a Borrower under the Contract and, if there is more than one Borrower under the Contract all the co-Borrowers must be card holders in respect of the Credit Card account.
- B.3.2 If a Credit Card account is linked to the Loan Account:
- (a) the Borrower who is the primary cardholder under the linked Credit Card account may not authorise any person except a co-Borrower under the Contract to be an additional cardholder under the linked Credit Card account and the Credit Card Account Conditions of Use are deemed to be amended accordingly; and
 - (b) to the extent of any other inconsistency

between any terms and conditions applicable to the Credit Card account and the terms and conditions in this booklet, the terms and conditions in this booklet will prevail.

B.4 Periodic debit authority

B.4.1 You must provide us with a periodic debit authority instruction in such form as required by us (if you have not already done so) for the minimum periodic repayment amount. In this instruction you must authorise us to debit your minimum periodic repayment amount to your relevant bank transaction account. Your bank transaction account must be suitable to allow an automatic debit.

B.5 First home owners' scheme

- B.5.1 We need not provide any part of the Amount of Credit until we have received notification from the State Revenue Office that your application for the First Home Owners' Grant ('Grant') has been successful.
- B.5.2 The First Home Owners' Scheme is administered by the State Revenue Office. Approval of the Grant is at the sole discretion of the State Revenue Office.
- B.5.3 We have agreed to lodge an application for the Grant with the State Revenue Office on your behalf, however we are not responsible for any approval or refusal of the Grant. If your application for the full amount of the Grant is refused by the State Revenue Office, any settlement shortfall, or penalties resulting from this refusal of the Grant is your responsibility.
- B.5.4 If you are successful in your application for the Grant and you proceed with the Loan offer, you agree to direct payment of the amount of the Grant to the vendor of the property the subject of the Loan offer or as the vendor directs or, if this is a construction loan, you agree to apply the amount of the Grant to the construction of the home in respect of which the Grant application is made and to direct the Bank in writing as to its payment.

B.6 Capped Rate Home Loan terms and conditions

- B.6.1 Fees
- In providing this Capped Rate Home Loan to you, we have incurred up-front funding costs. Only a fraction of the up-front costs are passed on to you by way of the following fees which are detailed in the Schedule:

- (a) the Capped Rate Home Loan Cap Purchase Fee; and
- (b) the Capped Rate Home Loan Prepayment Fee.

B.7 Reverse Mortgage

B.7.1 To be eligible for this Loan, for the duration of the Loan:

- (a) you must be a natural person(s);
- (b) you must be at least 65 years old (or, if there is more than one Borrower, all Borrowers must be at least 65 years old); and
- (c) unless we otherwise agree, the Security property must not be encumbered by any security interest of any kind other than the Security.

B.7.2 Without limiting our right to require payment of the Unpaid Balance of your loan upon default by you, the Unpaid Balance of the Loan Account must be repaid upon the earliest of:

- (a) the sale of the Security property;
- (b) settlement of the estate of the last surviving Borrower; or
- (c) the expiry of six months after the death of the last surviving Borrower.

B.7.3 Interest on the Unpaid Balance and fees and charges are compounded. As there are no repayments, the Unpaid Balance will increase and your equity in the Security property will reduce. Depending on how property values perform in the future, it is possible that your equity in the property the subject of the Security may be completely extinguished.

B.7.4 Subject to Clause B.7.5, we will not require you to repay more than:

- (a) the market value of the Security property as determined by an accredited valuer within 3 months before we receive payment from you to discharge the Loan, after any adjustment for any reduction in value caused by you, or a person who occupied the property with your consent, deliberately damaging the Security property; or
- (b) if you sell the Security property, the sale price, provided the sale was conducted in good faith and on fair and reasonable terms or if the sale price was reduced due to you, or a person who occupied the property with your consent, deliberately damaging the Security property, the market value of the Security property at the time of sale as determined by an accredited valuer.

This is known as the "No Negative Equity Guarantee".

B.7.5 Your liability (if any) beyond your interest in the Security is limited to the loss caused to us by your actions in the event:

- (a) you engaged in fraud, or provided a warranty under Clause A.18.1 that was incorrect or misleading; or
- (b) you, or a person who occupied the property with your consent, deliberately damaged the Security property.

B.7.6 We have the right to obtain a valuation of the Security property at any time, although normally the Bank will only obtain a valuation upon:

- (a) your application for the Loan;
- (b) 10 years after initial disbursement of the Amount of Credit;
- (c) every five years thereafter; and
- (d) should you propose to sell the Security property for a price which is less than the Unpaid Balance or should you propose to pay the Bank the market value of the Security property.

We will debit the cost of any such valuation to your Loan Account.

B.7.7 You must not sell the Security property without first obtaining our written consent. The Bank will not unreasonably withhold its consent but may attach reasonable conditions to its consent.

B.7.8 This clause operates only where there is more than one Borrower, where the Borrowers hold title to the Security property as tenants in common, and where one Borrower dies and others survive. It is a condition of this loan contract that the deceased's interest in the Security be transferred to a new owner from the deceased's estate within 6 months of the date of death. If the new owner of the deceased's interest in the Security property is not an original Borrower, we may require the remaining Borrowers to procure that the new owner sign an acknowledgement that the Security property is subject to the Bank's mortgage. If this acknowledgement is not procured within 30 business days of the interest passing to the new owner, you are in default of this Contract and the Bank may, after first giving any notice required by law and waiting the required period:

- (a) demand immediate repayment of the Unpaid Balance and any other amount owing under the Contract; and

- (b) exercise any and all of its rights under the Contract and the Security.

B.7.9 During the term of your Loan you agree that you will not, without our consent encumber, or attempt to encumber, the Security property with any security interest other than the Security.

Form 7A Disclosure about credit contracts – reverse mortgages

The rights of any spouse, partner or other resident in your home will be affected by this reverse mortgage.

IMPORTANT

THIS NOTICE INFORMS YOU HOW THIS REVERSE MORTGAGE WILL AFFECT THE RIGHTS OF OTHER PEOPLE LIVING IN YOUR HOME.

When this reverse mortgage needs to be repaid, if another person (including a spouse, partner or other family member) is living in your house THEY WILL HAVE TO MOVE OUT SO YOUR HOUSE CAN BE SOLD.

BEFORE YOU SIGN THE CONTRACT FOR THIS REVERSE MORTGAGE - You should carefully consider whether you want other people to continue living in the house, even if, for example, you move into aged care accommodation. To help you, you may wish to obtain independent legal advice.

If it is important to you that other people who live with you continue to have the right to remain in your home, then you should:

- find a reverse mortgage that provides rights to other residents;
- consider options other than a reverse mortgage.

If you need further information, go to www.moneysmart.gov.au.

MoneySmart shows you how reverse mortgages work.

Or call the Australian Securities and Investment Commission infoline on 1300 300 630.

The National Information Centre on Retirement Incomes (NICRI) also provides a free independent telephone information service to consumers covering all aspects of reverse mortgages.

To speak to an information officer from NICRI call **1800 020 110**.

Part C: Construction Loan Terms and Conditions

C.1 Building or improving your home

C.1.1 These provisions apply if the Loan purpose, or part of that purpose, is to carry out Works on or for the benefit of the property the subject of a Security. 'Works' includes, but is not limited to, building and changes to structures, earthworks and excavation, demolition and removal of materials of all kinds.

C.1.2 Before any part of the Amount of Credit is advanced under the Contract in respect of the Works, you must deliver to us and we must approve:

- a copy of the fixed price building contract, local shire, departmental or council building approval and plans and specifications for the Works ('Specifications'). You acknowledge that any amount by which the construction costs under that contract exceed the fixed price will not be funded by the Bank;
- a copy of the builder's contract Works insurance policy showing the Bank's interest as mortgagee;
- if you are an owner builder:
 - a current building licence;
 - a bill of quantities prepared by a quantity surveyor; and
 - a progress payment schedule and construction timetable; and
- a valuation report from a valuer acceptable to the Bank who has perused the plans, Specifications and costing for the Works confirming that:
 - the costings are accurate; and
 - the value of the constructed dwelling is acceptable to the Bank for lending purposes.

C.1.3 You acknowledge and agree that:

- the Works must be completed in accordance with the Specifications and within a period acceptable to the Bank;
- we may inspect the Works at any time to assess their value; and
- you will not expend monies in excess of the costing approved by us for the Works without the prior written consent of the Bank. You acknowledge that we will not provide additional finance to fund any Works which exceed those costings approved by us for the Works.

- C.1.4 We may provide the Loan in respect of the Works by progress payments unless we specify other arrangements.
- C.1.5 If progress payments apply we may make up to six progress payments subject to:
- (a) the contribution which you have told us you are applying towards the Works must be used before we provide any part of the Loan;
 - (b) an invoice being produced for the Works completed (and not the materials on site) in respect of which each progress payment is sought;
 - (c) such satisfactory inspection of the Works as may be required by the Bank from time to time;
 - (d) receipt of your authorisation to make each progress payment;
 - (e) you not being in default under the Contract; and
 - (f) if the Works include constructing and delivering a transportable structure to the property, no progress payment will be made until the structure is connected to the land.
- C.1.6 If the Loan is not fully advanced after 24 months from the date of the Contract, the Loan may be treated as fully advanced in which case no additional amount may be advanced to you and the Amount of Credit will be reduced to the amount.

Part D: Equity Loan Terms and Conditions

D.1 Credit limit

- D.1.1 The Credit Limit is the amount specified as the 'Credit Limit' in the Schedule or such other amount as the Bank may notify from time to time. It is the maximum Amount of Credit you may obtain under the Contract.
- D.1.2 We can reduce or cancel the Credit Limit at any time, whether or not you have breached the Contract. We will tell you in writing if we reduce the Credit Limit when you are not in breach of the Contract.
- D.1.3 You may cancel or request a change in the Credit Limit at any time. If you request a change in the Credit Limit, the request must be made to us by all Borrowers. We are under no obligation to increase the Credit Limit.
- D.1.4 You can draw down amounts of credit up to the Credit Limit and redraw amounts of credit you have repaid but the Unpaid Balance of the Loan Account must never exceed your Credit Limit. Any amount in excess of the Credit Limit must be paid to us immediately.

- D.1.5 The Credit Limit does not change simply because we debit an amount to the Loan Account that causes the Unpaid Balance of the Loan Account to exceed the Credit Limit.

D.2 Loan payable on demand

- D.2.1 We can demand at any time that you pay to us the Unpaid Balance (and any amounts accrued or charged but not yet debited to the Loan Account) whether or not you have breached the Contract.
- D.2.2 If we make that demand:
- (a) the Credit Limit is cancelled; and
 - (b) you must immediately pay to us the Unpaid Balance (and any amounts accrued or charged but not yet debited to the Loan Account).

D.3 Cancellation of credit limit

- D.3.1 If the Credit Limit is cancelled by you or us:
- (a) you cannot, and must not attempt to, access or draw down any further credit from the Loan Account; and
 - (b) the rest of the Contract continues to operate in relation to any credit previously provided under the Contract and, unless any demand is made for the payment of the Unpaid Balance, you must immediately make arrangements with us to repay the Unpaid Balance in full.

D.4 Statements of account

- D.4.1 We will send you a statement of account every three months where you have an Equity Loan.
- D.4.2 Notwithstanding Clause D.4.1 we may not send you a statement if the law does not require us to do so.

D.5 Facility Review

- D.5.1 We have the right to conduct a review of your Loan.
- D.5.2 Where we reasonably request, you must provide us with any information or documents relevant to your Loan (including but not limited to) your financial position or that of any Guarantor and any information relevant to the Security.
- D.5.3 This clause does not limit our right to demand payment at any time of the Unpaid Balance.

Part E: Fixed Interest Rate Loan

E.1 Annual percentage rate

- E.1.1 If the Loan is not required to be repaid in full at the end of the fixed interest rate period the annual percentage rate applicable to the Loan is determined according to Clause A.5.3.
- E.1.2 The fixed reference rate may change between the Disclosure Date and the date the Loan or any part of it is advanced. Further, if we agree to vary the Contract so that it becomes subject to a fixed interest rate, the fixed reference rate may change between the Disclosure Date and the date we give effect to that variation. If the fixed reference rate changes from the Disclosure Date in either event, the rate that applies for the fixed interest rate period will, except where you pay the Fixed Rate Cap Fee, be the fixed reference rate at the date the Loan is advanced (or, as relevant, the date the variation to a fixed rate effected by us). The repayments you are required to make may change accordingly.
- E.1.3 If you elect to cap the rate, pay the Fixed Rate Cap Fee and, in the capped rate period, the Loan or any part of it is advanced (or, as relevant, the variation to a fixed rate is effected by us), the rate that applies for the fixed interest rate period will be the lesser of the capped rate or the fixed reference rate at the date the Loan, or any part of it, is advanced (or, as relevant, the variation to a fixed rate effected by us).

E.2 Early repayments

- E.2.1 You can pay out the full amount of your Loan at any time, but should you do so you will also be required to pay the fees described in the Schedule including any 'Fixed Rate Break Cost' (Early Termination Amount) as detailed in Clause E.3.1 below.
- E.2.2 You must not repay any part of the Loan (other than the full amount) before the end of the fixed interest rate period otherwise than by the repayments required in the Schedule, unless we give written consent to or makes demand for the payment (see Clause E.3) or it is authorised by Clause E.4.

E.3 Prepayment or Loan Variations

- E.3.1 Unless clause E.3.2 applies, you must pay the Bank the 'Fixed Rate Break Cost' (Early Termination Amount) calculated in accordance with the Schedule if the fixed rate is broken at any time during the fixed interest rate period, including where:

- (a) the Loan or any part of it is paid prior to its due date during the fixed interest rate period as a result of:
 - you exercising your right to pay out the Loan; or
 - the Bank consenting to the early repayment of a part of the Loan; or
- (b) the Loan is varied or terminated at your request, including but not limited to transferring your Loan to another product type, changing of interest rate tier within the same product or splitting your Loan or combining it with another home loan; or
- (c) the Bank demanding payment of the Loan in the event of default.

- E.3.2 You do not have to pay the 'Fixed Rate Break Cost' (Early Termination Amount) if your 'Surplus Position' immediately after making any early repayment remains within the 'Allowable Surplus Position Limit'. See Clause E.4.1 for the meaning of these terms.

E.4 Excess Repayments

- E.4.1 During the fixed interest rate period, you may make excess repayments that exceed the minimum repayments required under the Contract, without paying the Excess Repayment Fee disclosed in the Schedule, so long as your 'Surplus Position' immediately having made any excess repayments remains within the 'Allowable Surplus Position Limit'. Clauses E.4.2 to E.4.3 below explain when a Surplus Position occurs and what the Allowable Surplus Position Limit is.
- E.4.2 The 'Surplus Position' on the day of calculation of the Excess Repayment Fee (the 'Surplus Position Date') is the amount (if any) by which the aggregate of all payments that you have made under the Contract by the Surplus Position Date during a Fixed Rate Year, reduced by the aggregate of any amounts you have redrawn under the Home Loan Access Facility by the Surplus Position Date during that Fixed Rate Year, exceeds the aggregate of all payments required to have been made under the Contract by the Surplus Position Date (including any amount of arrears carried forward from a previous Fixed Rate Year) during that Fixed Rate Year.
- E.4.3 The 'Allowable Surplus Position Limit' for any Fixed Rate Year of the fixed interest rate period is \$10,000.
- E.4.4 If on the Surplus Position Date your Surplus Position exceeds the Allowable Surplus Position Limit, we may charge you an Excess Repayment Fee calculated in accordance with the formula set out in the Schedule.

E.4.5 A 'Fixed Rate Year' is:

- for the first year of the fixed interest rate period, the calendar year from the date of commencement of the fixed interest rate period; and
- for each subsequent year of the fixed interest rate period, the calendar year from each anniversary date of the fixed interest rate period.

Part F: Credit Guide

Bankwest, a division of the credit provider, Commonwealth Bank of Australia ABN 48 123 123 124 AFSL/Australian credit licence 234945.

This Credit Guide gives you some information about our dispute resolution procedures and responsible lending obligations. If you have any queries, you can contact us at your local store or call **13 17 19**.

We will not make an unsuitable contract with you

We are not permitted to enter into a credit contract or increase the credit limit of an existing credit contract if the contract would be unsuitable for you. A contract will be unsuitable for you if at the time of our assessment it is likely that you will be unable to comply with your financial obligations under the contract or could only do so with substantial hardship, or if the contract will not meet your requirements and objectives.

In order to ensure that we do not enter into a contract with you that is unsuitable, we are required to make reasonable inquiries about your financial situation, your requirements and objectives and to take reasonable steps to verify your financial situation.

We will make an assessment that the contract is not unsuitable for you

We are required to assess that the credit contract is not unsuitable for you before we enter into the contract or agree to increase your credit limit.

If you request a copy of the assessment before entering into the credit contract or increasing your credit limit, we will not enter into the contract or increase your credit limit until we have given you a copy of the assessment.

You may also request a copy of the assessment within 7 years of the date the contract is made or your credit limit is increased. If your request is made within 2 years, we will provide you with the assessment within 7 business days of your request, otherwise we will provide you with the assessment within 21 business days. We will not charge you a fee for providing the assessment.

If you have a dispute in relation to your credit contract

F.1 Dispute resolution process

At Bankwest we believe in listening to our customers. This is the only way to continually improve our products and services to meet your needs. If you have a complaint about our services, facilities or any other aspect of Bankwest, we'd like to hear from you.

Please contact our Customer Help Centre on **13 17 19**.

You can also give feedback in the following ways:

- (a) by calling our toll free number 1800 650 111;
- (b) by completing our feedback form;
- (c) by visiting www.bankwest.com.au and completing our electronic feedback form.

Our staff will do everything they can to rectify your problem immediately. We strive, wherever possible, to resolve your complaint within five (5) working days.

If you're still not satisfied, you can ask our Service Quality Department to review the matter. Contact them by writing to:

**Manager Service Quality
GPO Box E237, Perth WA 6841**

Or phone or fax to:

**Telephone (free call): 1800 650 111
Fax: 1300 259 233.**

You will be advised of the details (including the timeframes) of our internal dispute resolution process and an officer with the appropriate authority to resolve the dispute will investigate your complaint thoroughly. We will do our best to resolve any complaint promptly and to your satisfaction.

In the unlikely event that the matter cannot be resolved directly with Bankwest, you can seek assistance from the Financial Ombudsman Service (FOS) Australia.

FOS provides an independent dispute resolution service and is approved by the Australian Securities and Investments Commission (ASIC) as an external dispute resolution scheme. A brochure outlining the FOS scheme is available by phoning our Customer Help Centre on **13 17 19**.

The contact details for FOS are as follows:

**GPO Box 3, Melbourne Vic 3001
Telephone: 1800 367 287
(9am – 5pm AEST)
Fax: (03) 9613 6399
Website: www.fos.org.au**

Part G: Information Statement

This Statement only applies to Contracts subject to the National Credit Code. It does not apply, for example, to loans made for business purposes.

G.1 Things you should know about your proposed credit contract

This statement tells you about some of the rights and obligations of yourself and us, your credit provider. It does not state the terms and conditions of the Contract. If you have any concerns about the Contract, contact your credit provider and, if you still have concerns, your credit provider's external dispute resolution scheme, or get legal advice.

G.2 The Contract

How can I get details of my proposed credit contract?

Your credit provider must give you a precontractual statement containing certain information about the Contract. The precontractual statement, and this document, must be given to you before:

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

whichever happens first.

G.3 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 the Contract write to your credit provider and ask for one. Your credit provider may charge you a fee but must give you a copy:

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

G.4 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. However, you will still have to pay any fees or charges incurred before you terminate the Contract.

G.5 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 the Contract.

G.6 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.

G.7 Will I pay less interest if I payout 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 the Contract permits your credit provider to charge one) and other fees.

G.8 Can my Contract be changed by your credit provider?

Yes, but only if the Contract says so.

G.9 Will I be told in advance if my credit provider is going to make a change in the Contract?

That depends on the type of change. For example:

- you get at least same day notice for a change to an annual percentage rate. That notice may be a written notice to you or a notice published in a newspaper.
- you get 20 days advance written notice for:
 - a change in the way in which interest is calculated;
 - 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.

G.10 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 your credit provider's external dispute resolution scheme. External dispute resolution is a free service established to provide you with an independent mechanism to resolve specific complaints. Your

credit provider's external dispute resolution provider is the **Financial Ombudsman Service Australia** and can be contacted at:

GPO Box 3, Melbourne Vic 3001

or phone or fax to:

Telephone: 1800 367 287

Fax: (03) 9613 6399 Website: www.fos.org.au.

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>**.

G.11 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 include mortgage indemnity insurance and 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 can not insist that you use any particular insurance company.

G.12 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.

G.13 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.

G.14 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.

G.15 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.

G.16 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 the Contract, you can lose that property and you might still owe money to the credit provider.

G.17 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.

G.18 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.

G.19 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 21 and 22.

Otherwise you may:

- sell the property, but only if your credit provider gives permission first; or
- give the property to someone who may then take over the repayments, but only if the credit provider gives permission first. If your credit provider won't give permission, you can contact their external dispute resolution 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 the credit provider even after mortgaged property is sold.

G.20 Can my credit provider take or sell the mortgaged property?

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

G.21 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 the Contract in a number of ways, for example:

- to extend the term of the Contract and either reduce the amount of each payment accordingly or defer payments for a specified period; or
- to simply defer payments for a specified period.

G.22 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 external dispute resolution scheme that your credit provider belongs to. Further details about this scheme are set out below in question 24.

G.23 Can my credit provider take action against me?

Yes, if you are in default under the 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 credit provider's external dispute resolution scheme or ASIC, or get legal advice.

G.24 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 your credit provider's external dispute resolution scheme. If you have a complaint which remains unresolved after speaking to your credit provider you can contact the your credit provider's external dispute resolution scheme or get legal advice. External dispute resolution is a free service established to provide you with an independent mechanism to resolve specific complaints. Your credit provider's external dispute resolution provider is the financial ombudsman service and can be contacted at:

GPO Box 3, Melbourne Vic 3001

or phone or fax to:

Telephone: 1800 367 287

Fax: (03) 9613 6399

Website: www.fos.org.au.

Please keep this information statement. You may want some information from it at a later date.

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