

Personal Loans

Terms and Conditions

30 April 2015



making banking easier

Important Notice

This booklet contains the usual Terms and Conditions for all our personal 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.

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Part A - Personal Loans General Terms and Conditions

A.1 Definitions

The following definitions apply to this document and the Schedule:

Amount of Credit means the Amount of Credit 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.

Encumbrance means:

- (a) a mortgage, charge, pledge, lien, hypothecation, bill of sale, assignment, 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;
- (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;
- (c) third party right or interest or any right arising as a consequence of the enforcement of a judgment; and
- (d) a security interest under PPS Law.

Goods means the goods described in the Schedule, any replacements for, and accessories and additions to the goods at any time and, if the context allows, your rights at any time in connection with the goods.

Government Agency means any government or governmental, semi governmental or judicial entity or authority in any state, country or other jurisdiction, including any self-regulatory organisation established under a statute or stock exchange.

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

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

National Credit Code means Schedule 1 to 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 Schedule.

Permitted Security Interest means any Security Interest in any of the Goods to which the Bank has expressly consented.

PPS Act means the *Personal Property Securities Act 2009* (Cth);

PPS Law means:

- (a) the PPS Act and regulations made under the PPS Act; and
- (b) any amendment made to any other legislation as a consequence of a PPS Law referred to in paragraph (a), including, without limitation, amendments to the *Corporations Act 2001* (Cth).

Schedule means the Schedule which records the particulars of this Contract and includes a financial table.

Security means any security interest 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.

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

Unless the contrary intention appears, reference in this Contract to "proceeds", "financing statement", "financing change statement" and "chattel paper" have the respective meanings given to them under the PPS Act.

A.2 Conditions of Contract

- A.2.1 This Contract for the Loan comprises the Schedule, this Part A and, if specified in the Schedule, Part B of this booklet.
- A.2.2 To the extent of any inconsistency between the Schedule, on the one hand and any of Part A and Part B as apply to this 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 Part B as apply to this Contract, the terms of Part B will prevail.

A.3 Code of Banking Practice

- A.3.1 The Code of Banking Practice applies to the Loan where you are an individual or a Small Business.
- A.3.2 For general descriptive information about our Banking services please request a copy of the booklet issued by the Bank called 'Banking Services Rights and obligations'. It provides information on account opening procedures, our obligations regarding the confidentiality of your information, our complaint handling procedures, and the divisibility of you reading the terms and conditions applying to our Banking services and of informing us promptly when you are in financial difficulty.

A.4 The Loan

- A.4.1 The Bank will provide 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 one month of the date you sign the Schedule, the Bank may terminate this Contract.
- A.4.3 The Bank may open an account in your name for the purpose of the Contract ('Loan Account') and may debit the account with the Amount of Credit and any interest charges, fees and charges and enforcement expenses. If you finance credit-related insurance with this Loan, interest charges debited to your Loan Account will also include amounts of interest relating to the insurance premium.
- A.4.4 You must repay the Loan, interest charges and all other amounts debited to the Loan Account in accordance with this Contract.
- A.4.5 If you terminate this Contract before any credit has been obtained by you under this Contract, you must still pay fees or charges incurred by you before termination.
- A.4.6 When the Loan has been fully repaid and the Loan Account is in credit or has a nil balance, you may

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

- A.4.7 Where the Unpaid Balance of the Loan is \$30 or less and you have made no transactions in the preceding 12 months, the Bank may close the Loan Account.

A.5 Annual percentage rate

- A.5.1 The annual percentage rate that applies under this Contract is set out in the Schedule.
- A.5.2 Information on the Bank's current interest rates is available on request by telephoning the Customer Help Centre on **13 17 19**.

A.6 Interest charges

- A.6.1 Interest charges will accrue daily and will be calculated on the Unpaid Daily Balance under this Contract at the Daily Percentage Rate where:
 - (a) 'Daily Percentage Rate' means the applicable annual percentage rate as specified in the Schedule divided by 365 (366 in a leap year); and
 - (b) 'Unpaid Daily Balance' means the Unpaid Balance at the end of a 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:
 - (a) that day is not a Business Day; or
 - (b) 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.7 Fees and charges

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

A.7.2 If the Bank incurs any Government tax, duty or other charge imposed by law in respect of this Contract or the operation of the Loan Account, you must pay the Bank 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. The amount payable by you may differ from the amount stated in the Schedule in respect of a Government tax, duty or other charge imposed by law.

A.7.3 Information on the Bank's fees and charges is available on request by telephoning Customer Help Centre 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 this Contract or the Bank.

A.8.2 If a repayment falls due on:

- (a) a day that is not a Business Day; or
- (b) 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 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. If you do and you have:

- a Secured Basic Personal Loan or an Unsecured Basic Personal Loan, this does not affect your obligation to pay in full the minimum monthly repayment due in any subsequent month, unless the Bank agrees in writing to change the repayment arrangements;
- an Unsecured Flexible Personal Loan Contract, you need only make the minimum monthly repayment due in any subsequent month to the extent that the aggregate payments you have made are less than the aggregate minimum monthly repayments required at that time.

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.20.1.

A.8.5 The Bank 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 the Bank and you make any payment to the Bank, without telling the Bank in writing how the payment is to be applied, the Bank will apply it to any or all of the loan contracts in any way the Bank thinks fit.

A.8.7 A payment will not be treated as made until the date it is credited by the Bank 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 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 The Bank will send you a statement of account at least every six months.

A.10.2 Notwithstanding Clause A10.1, the Bank may not send you a statement if:

- (a) no amount is debited or credited to the Loan Account during the statement period (other than debits for government charges or duties on receipts and withdrawals) and the amount outstanding is zero; or
- (b) the Bank writes off the debt owing by you under this Contract during the statement period and no further amount has been debited or credited to the Loan Account during the statement period; or
- (c) you are in default under this Contract during the statement period and the Bank commences enforcement proceedings; or
- (d) you die or become insolvent and your personal representative or trustee in bankruptcy has not requested a statement of account.

A.11 Changes to this Contract and notification

- A.11.1 The Bank can change this Contract, or any part of it, at any time without your consent as follows:
- (a) the Bank cannot change the annual percentage rate;
 - (b) the Bank can change the manner in which interest is calculated or applied, impose a new fee or charge, change the amount, frequency or time for payment of a fee or charge or of a repayment or change any other term or condition that applies to this Contract.

- A.11.2 Circumstances where we may make changes to this 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 this Contract notified to you under this Clause A11, you may pay us the amount required to pay out your Contract on the day you wish to end this Contract.

- A.11.3 If the change does not reduce your obligations, or does not extend the time for payment, the Bank will give you prior written notice of the change. Otherwise, the Bank will give you 20 days' notice. If the Bank changes a fee or charge, the Bank may give the prior notice by advertising the change in the West Australian and Australian newspapers. If the Bank gives you notice by advertisement or the change reduces your obligations or extends the time for payment, the Bank will provide particulars of the change before or when your next statement of account is issued after the change takes effect. If any Government introduces or changes a tax or fee which applies to this Contract but does not publicise the change, the Bank will either advertise the change in the West Australian and Australian newspapers or write to you.

A.12 Communication with you

- A.12.1 Whenever we send you a letter, notice, statement, or other information or communication, we will do so by mail addressed to you at your last known address.
- A.12.2 If you agree, we may provide such communication to you by:

- (a) electronic communication to your nominated electronic address; or
- (b) making the information available on our website after first notifying you by electronic communication to your electronic address that the information is available for retrieval by you.

- A.12.3 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.

- A.12.4 You may at any time, by notice to us:
- (a) terminate your agreement to receive information by electronic communication or via our website; or
 - (b) change your email address.

A.13 Security

- A.13.1 The Schedule specifies the Security (if any) which must be given to the Bank. In the event that a Security is specified, the provisions of both Part A and Part B of this booklet apply.

A.14 Further conditions

- A.14.1 If there is more than one borrower and there is more than one copy of this Contract signed by any or each of you, then each signed copy taken together is part of the same Contract.
- A.14.2 This Contract is subject to the laws of the State or Territory in which you ordinarily reside on the date you sign this Contract. Where there is more than one borrower and you do not all ordinarily reside in one State or Territory then this Contract is subject to the laws of the State or Territory in which the Loan, or any part, is first advanced.
- A.14.3 If this Contract allows the Bank to do things on a day then the Bank can do that thing on that day or any later day unless the Bank is required by law to do it on that day.
- A.14.4 You must inform the Bank immediately of any change in your name or address. You can do this at any Bankwest Customer Service Centre or by telephoning the Customer Help Centre on **13 17 19**.
- A.14.5 If the Bank decides not to exercise a right, remedy or power, this does not mean it cannot exercise it later. In addition, the Bank is not liable for any loss caused by exercising or attempting to exercise a right, remedy or power or by not exercising it.

A.15 Agents

A.15.1 To the extent permitted by law the Bank can appoint agents to do anything the Bank can do under this Contract.

A.16 Assignment of rights and disclosures

A.16.1 The Bank may assign, transfer or otherwise deal with its rights under this Contract. This will not affect your rights or obligations under the Loan.

A.16.2 If the Schedule states that a commission is payable to or by the Bank, you agree that information about you 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.

A.17 Warranties

A.17.1 You agree that all statements made and documents provided in connection with the application to the Bank for the Loan and all representations which you have made or may make to the Bank during the term of this Contract are true and correct. You acknowledge that the Bank has relied upon the correctness of those statements, documents and representations in entering into this Contract and will continue to do so in its dealings with you.

A.18 Enforcement expenses

A.18.1 If:

- you breach any term or condition of this Contract; and
- the Bank or its agents incur enforcement expenses in enforcing the Bank's rights under this Contract, you must pay to the Bank the enforcement expenses reasonably incurred by the Bank or its agents. The Bank will debit these expenses to the Loan Account and they will be due and payable immediately.

A.18.2 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 any Security or otherwise in connection with its rights under this Contract in respect of the property the subject of any Security.

A.18.3 The Bank's internal expenses include but are not limited to the Bank's internal lawyers' fees and expenses and internal administration costs. The Bank's external expenses include but are not limited to barristers' fees, lawyers' fees and

expenses (on a full indemnity basis), receivers' fees and charges, valuers' fees, licensed debt recovery agents' fees and commissions, process servers' fees, enquiry and other Bank agents' fees and charges.

A.19 Amount owing

A.19.1 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 this Contract, or that an amount is due and payable by you to the Bank under this Contract) unless the contrary is established.

A.20 Default

A.20.1 If:

- you do not pay any amount due under this Contract by its due date for payment; or
- you do not comply with any of your obligations under this Contract; or
- any direct debit payment you have authorised is dishonoured; or
- the Bank finds out that any statement by you to the Bank is untrue,

you will be in default of this Contract and the Bank may, after first giving any notice required by law and waiting the required period:

- demand immediate payment of the Unpaid Balance and any other amount owing under this Contract; and
- exercise any and all of its rights under this Contract.

A.20.2 If the Bank gives 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.20.3 If an obligation to pay the Bank an amount under this 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 Severance

A.21.1 If any part or provision of this Contract is or becomes void or unenforceable under any applicable statute, then that part or provision will be removed from this Contract. Removal of any part or provision will not affect the remaining provisions of this Contract or affect the validity or enforceability of that part or provision in any other State or Territory.

A.22 Conditions precedent

A.22.1 The Bank 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) the Bank has received confirmation of your employment, financial and personal particulars;
- (c) you pay to the Bank those fees and charges that are payable as stipulated in the Schedule;
- (d) if requested by the Bank, you provide a copy of an insurance policy (or cover note) which satisfies the requirements referred to in Clause B.5; and
- (e) you give the Bank disbursement instructions in respect of the Loan.

A.22.2 If you:

- (a) are unable to comply with any term or condition of this Contract;
- (b) fail to make a material disclosure; or
- (c) have 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;

the Bank may refuse to make the Loan.

The following Clause A.23 only applies if you have a Secured Basic Personal Loan or an Unsecured Basic Personal Loan.

A.23 Periodic debit authority

A.23.1 You must provide the Bank with a direct debit request or other periodic debit authority instruction in such form as required by the Bank for the minimum periodic repayment amount. In this instruction you must authorise the Bank to debit your nominated transaction account with your minimum periodic repayment amount for the term of the Loan. Your nominated transaction account must be suitable to allow an automatic debit.

The following Clause A.24 only applies if you have an Unsecured Flexible Personal Loan Contract.

A.24 Redraw facility

A.24.1 You can redraw amounts of up to \$5000 per day from the aggregate of the amounts paid by you to the Bank in excess of the amounts of the minimum repayments which were required to have been made under this Contract subject to Clause A.24.2. Your right to redraw is at our discretion (see Clause A.24.5).

A.24.2 A request for a redraw can only be made through the Bankwest Online Banking or FastPhone facilities and must nominate an account to which the amount requested is to be paid.

A.24.3 Without limiting the Bank's discretion to refuse a request for a redraw, the Bank will not provide a redraw that you request if:

- (a) the Loan has been fully repaid;
- (b) you are in default under this Contract;
- (c) where the Schedule specifies a Security, there has been any change in the Security position since the disclosure date of this Contract;
- (d) your instructions are not in accordance with instructions given to the Bank for operating the account; or
- (e) you are not an account holder of a Bankwest Investment or Transaction account;
- (f) you do not provide the Bank with instructions on how your redraw is to be applied;
- (g) you have cancelled the option to redraw pursuant to Clause A.24.5; or
- (h) we have cancelled your option to redraw pursuant to Clause A.24.5.

A.24.4 You acknowledge and agree that, if there is more than one borrower, by signing this Contract you each authorise any co-borrower to access any surplus Loan repayments alone by using the redraw facility. You may withdraw your authorisation by notice to us in writing.

A.24.5 You, and if there is more than one borrower, each one of you, can cancel the right to redraw at any time. You acknowledge and agree that 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.

A.24.6 Your use of this redraw facility will be governed by the Account Access Conditions of Use which are available on the Bankwest website or by request.

For this purpose, any reference to a 'nominated account' in the Account Access Conditions of Use will be taken to be a reference to the Loan Account and any reference to a 'Product Schedule' in the Account Access Conditions of Use will be taken to be a reference to your Contract.

A.25 Mistaken Payment 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.

Part B - Security agreement

B.1 Security Interest

B.1.1 In consideration of the Bank agreeing to provide the Loan you give us a mortgage over the Goods as security for the Loan and the performance of your obligations under this Contract. This Contract is a security agreement for the purposes of PPS Law.

B.1.2 The mortgage created by clause B.1.1:

- (a) constitutes a security interest for the purposes of PPS Law and extends to all proceeds of the Goods; and
- (b) is effective and attaches to the Goods:
 - (i) when you sign this Contract; or
 - (ii) immediately after you acquire any right or interest in the Goods, if you do not have legal and beneficial title in the Goods when you sign this Contract.

B.1.3 You warrant that you have or will have as soon as you acquire them, good title to the Goods and that they are, or will be when acquired, free from any other Security Interest.

B.2 Release

B.2.1 When all amounts outstanding under this Contract have been repaid and, if there are no outstanding breaches of this Contract, the Bank will, on request, release the Goods from this mortgage.

B.3 Things you must do in relation to the Goods

B.3.1 You must:

- (a) keep the Goods in your possession or control at all times;
- (b) keep the Goods in good repair and condition and keep them regularly serviced in accordance with any manufacturer's recommendations;
- (c) tell the Bank if the Goods are stolen, lost, defective, seriously damaged, impounded, immobilised or forfeited;
- (d) pay on time all moneys payable to any authority in connection with the Goods (including registration fees, licence fees, fines and penalties);
- (e) comply with all laws and requirements of authorities and any other obligations you may have in connection with the Goods;

- (f) without affecting the operation of clause B.4.1, take any action necessary to register, perfect, preserve and maintain any security interest in the Goods which you hold, or have the benefit of, under and in accordance with the PPS Law;
 - (g) procure the removal of any registration (other than by or in favour of the Bank) in relation to any Encumbrance that affects the priority of any Security;
 - (h) immediately notify the Bank if you become aware of any person taking steps to register, or registering, a financing statement in relation to the Goods;
 - (i) without affecting the operation of clause B.4.1, promptly notify the Bank in writing of any Goods that become located outside Australia; and
 - (j) whenever requested by the Bank, take or defend such legal proceedings as the Bank may consider advisable for the protection or recovery of the Goods.
- (h) cause or permit any person to acquire any interest (except a Permitted Security Interest) in any of the Goods;
 - (i) do anything or allow any state of affairs to continue to exist which would give the Bank reasonable grounds to believe that either you intend to remove or dispose of the Goods without the Bank's consent or that urgent action is necessary to protect the Goods; or
 - (j) use the Goods or allow them to be used for any illegal or improper purpose.

B.5 Insurance

- B.5.1 You must take out and maintain the following insurance over the Goods:
- (a) if the Goods include a vehicle – comprehensive and third party insurance; and
 - (b) in any other case – insurance against fire, theft, accident, any other risk against which a prudent person owning Goods similar to the Goods would insure, and against any other risks the Bank reasonably requires.
- B.5.2 The insurance must:
- (a) note the Bank's interest as mortgagee;
 - (b) be on terms and for an amount satisfactory to the Bank; and
 - (c) be with an insurer approved by the Bank acting reasonably.
- B.5.3 You must produce evidence satisfactory to the Bank of current insurance cover whenever the Bank asks for it.
- B.5.4 You must:
- (a) ensure that the insurance cover is not reduced or cancelled and notify the Bank if it is or could be; and
 - (b) ensure that nothing happens that could permit an insurer to decline a claim, and notify the Bank if anything would permit an insurer to do this.

B.4 Things you must not do in relation to the Goods

- B.4.1 You must not:
- (a) keep the Goods in a location other than that stated in the Schedule;
 - (b) conceal the Goods, alter them or any identifying number or mark (including any serial number) on them, or refuse to tell the Bank where they are located;
 - (c) part with possession or control of any part of the Goods or move any Goods outside of Australia;
 - (d) sell, lease, transfer, dispose of, or create any Encumbrance over the Goods or allow anyone to take an interest in them (or purport to do any of those things), without the Bank's prior written consent;
 - (e) grant a lease or licence of any part of the Goods;
 - (f) waive any rights or release any person from any obligation in connection with the Goods;
 - (g) cause or permit any other personal property in which another person has a security interest or other interest or right to become accessions to the Goods or commingled with any Goods, or affix any of the Goods to land or buildings;

B.6 Insurance claims

- B.6.1 You must ensure that proceeds from an insurance claim are:
- (a) used to replace or repair the Goods; or
 - (b) paid to the Bank (in which event the Bank may apply the proceeds towards repairing, reinstating or replacing the Goods, or satisfying your liability under this Contract, at its discretion). However, if the Bank directs you to use or hold insurance proceeds you receive in a particular way, you must use or hold them as the Bank directs.
- B.6.2 You must notify the Bank if an insurance claim is refused either in part or in full.
- B.6.3 If the Bank notifies you, the Bank may take over your rights to make, pursue or settle an insurance claim. The Bank may exercise those rights in any manner the Bank chooses.

B.7 Administrative matters

- B.7.1 If the Bank asks, you must deposit with the Bank any documents of title (including chattel papers) relating to the Goods or other documents which evidence your rights in the Goods.
- B.7.2 The Bank may, at your expense, register this Security or its interest in the Goods or take such other steps to perfect the Security, its security interest in the Goods or the priority intended for it.
- B.7.3 You must, at your expense and immediately upon request from the Bank, do anything the Bank asks (including providing information, obtaining consents or waivers, or executing new documents, amendments to this Contract or consents):
- (a) to provide more effective security over the Goods;
 - (b) to ensure that, any security interest created under, or provided for, by this Contract:
 - (i) attaches to the Goods; and
 - (ii) is enforceable, perfected and otherwise effective;
 - (c) to enable the Bank to register this security interest in the Goods (including enabling the Bank to prepare and register a financing statement or financing change statement), with the agreed priority (and if required, to renew the registration);

- (d) to enable the Bank to exercise its rights or powers in connection with the Goods, proceeds of the Goods or any security interest in the Goods or those proceeds;
 - (e) to enable the Bank to register the power of attorney in Clause B.10 or similar power;
 - (f) to show whether you are complying with this mortgage;
 - (g) to protect your interest, or the Bank's interest, in the Goods;
 - (h) to enable the Bank to evidence that the Bank is in control and possession of the Goods for the purposes of the PPS Act;
 - (i) to ensure that this Contract is enforceable;
 - (j) to reserve or create any type of Encumbrance over any part of the Goods or proceeds of the Goods in a manner not inconsistent with this Contract with any additional terms reasonably required by the Bank having regard to the nature of that part of the Goods or proceeds of the Goods and the type of additional Encumbrance being created, including of any Goods or proceeds of the Goods;
 - (k) to stamp, protect, perfect, record or better secure the position of the Bank under this Contract in any relevant jurisdiction;
 - (l) to overcome any defect or adverse effect arising from the PPS Law; or
 - (m) to enable the Bank to exercise any of the Bank's rights or powers or perform any of the Bank's obligations under the PPS Law.
- B.7.4 You agree that the Bank may fill in any blanks in this Contract.
- B.7.5 You must supply the Bank promptly with any information or documents the Bank asks for about or affecting:
- (a) the Goods;
 - (b) your financial circumstances or the financial condition of any business which uses the Goods; or
 - (c) this mortgage.
- B.7.6 You must pay for anything which you must do under this mortgage.

B.8 Access by the Bank

- B.8.1 You must, subject to the requirements of the National Credit Code or any other applicable legislation:
- (a) notify the Bank upon demand of the location of the Goods;
 - (b) authorise the Bank and its agents to enter any premises owned or occupied by you for the purpose of inspecting the state and condition of the Goods and also procure access for the Bank and its agents to any premises not owned or occupied by you where the Goods are kept, for the purpose of inspecting them; and
 - (c) authorise the Bank and its agents to use necessary and reasonable force to obtain access to and possession of the Goods following the occurrence of a default by you under this Contract.

B.9 When you are In default

- B.9.1 If the Bank is entitled to demand payment under Clause A.20.1, it may, subject to the notice requirements in Clause A.20.1, take possession of and sell the Goods for the best price reasonably obtainable and apply the sale proceeds towards satisfaction of your liability under this Contract.
- In some circumstances under the National Credit Code, we may not be able to repossess the Goods without consent of a Court depending upon the amount owing under the Contract.
- We may not be able to enter premises used for residential purposes to repossess the Goods unless a court or tribunal or the occupier of the premises has authorised the Bank's entry.

B.10 Power of attorney

- B.10.1 You irrevocably appoint the Bank, each of its directors, each of its employees whose job title includes the word 'Head' or the word 'Manager' and each receiver or agent under the mortgage, separately as your attorney with the rights specified in clause B.10.2. If the Bank asks, you must formally approve anything they do under Clause B.10.2. You may not revoke these appointments.
- B.10.2 Each attorney may:
- (a) do anything which you can do as owner of the Goods, in particular to protect the Bank's interest in the Goods and to enforce any insurance over the Goods;

- (b) delegate his or her powers (including this power) and revoke a delegation; and
- (c) exercise his or her powers even if this involves a conflict of duty or a personal interest.

- B.10.3 The attorney will not be liable to you for anything done under this power.

B.11 Confidentiality

- B.11.1 Subject to clause B.11.2, neither the Bank nor you may disclose:
- (a) any information of a kind referred to in section 275(1) of the PPS Act; or
 - (b) the existence or content of this Contract.
- B.11.2 You and the Bank may disclose information or documents referred to in B.11.1 as follows:
- (a) in the case of the Bank, in assigning or enforcing or seeking to assign or enforce this document or this Contract or in a proceeding arising out of or in connection with this Contract or to the extent that disclosure is regarded by the Bank as necessary to protect its interests;
 - (b) if required under a binding order of a Government Agency or any procedure for discovery in any proceedings;
 - (c) if required under any law or any administrative guideline, directive, request or policy whether or not having the force of law (except to the extent the requirement can be excluded or limited by contract or by a confidentiality obligation) and, if not having the force of law, the observance of which is in accordance with the practice of responsible bankers or financial institutions similarly situated;
 - (d) as required or permitted by this Contract;
 - (e) to its legal advisers and its consultants;
 - (f) in the case of the Bank, to a ratings agency or to a potential assignee, transferee or sub-participant or to any person with whom the Bank may enter into a transaction, including a securitisation; or
 - (g) with the prior consent of the other party, which must not be unreasonably withheld.
- B.11.3 Clause B.11.2(c) does not require the Bank to disclose any information of the kind referred to in section 275(1) of the PPS Act.
- B.11.4 This clause B.11 survives the termination of this Contract.

Part C - 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

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; or
- (c) by visiting **bankwest.com.au** and completing the 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 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: Freecall 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).

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: 1300 78 08 08 or (03) 9613 7366
(9am – 5pm AEST)
Fax: (03) 9613 6399
Website: www.fos.org.au

Part D - Information Statement

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 your contract. If you have any concerns about your contract, contact the credit provider and, if you still have concerns, your credit provider's external dispute resolution scheme, or get legal advice.

The Contract

D.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.

D.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.

D.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.

D.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.

D.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.

D.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.

D.7 Can my contract be changed by my credit provider?

Yes, but only if your contract says so.

D.8 Will I be told in advance if my credit provider is going to make a change in the contract?

That depends on the type of change. For example:

- you get at least same day notice for a change to an annual percentage rate. That notice may be a written notice to you or a notice published in a newspaper.
- you get 20 days advance written notice for:
 - a change in the way in which interest is calculated; or
 - a change in credit fees and charges; or
 - any other changes by your credit provider;

except where the change reduces what you have to pay or the change happens automatically under the contract.

D.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 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 **Financial Ombudsman Service** (see page 12 for details). 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

D.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.

D.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.

D.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.

D.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.

D.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

D.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.

D.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.

D.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.

D.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 your 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 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 your credit provider even after mortgaged property is sold.

D.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.

D.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.

D.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

D.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.

D.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 your 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 25.

D.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 credit provider's external dispute resolution scheme or ASIC, or get legal advice.

D.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 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 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 **Financial Ombudsman Service** and can be contacted at:

**GPO Box 3
Melbourne Vic 3001**

or phone or fax to:

Telephone: 1300 780 808

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

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