

Business Lending General Terms and Conditions

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Effective from 3 November 2023



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Section A – General Terms and Conditions

1 Part 1 – Your Agreement with us

1.1 The Agreement

Your Agreement with us is made up of:

- (a) this document;
- (b) each Letter of Offer; and
- (c) any other document described in the definition of Agreement.

1.2 Other terms

- (a) You should also carefully read the terms of any Securities applicable to the Agreement. If there are any inconsistencies between the Agreement and any Securities, the terms of the Agreement will prevail to the extent of the inconsistency.
- (b) Further information regarding fees and charges which may be relevant to your Facility can be found in the Business Lending Fees and Charges Guide.

1.3 Reading this document

This document consists of three parts, which should be read together:

- (a) Section A “General Terms and Conditions” sets out the terms and conditions that apply to all Facilities, unless we tell you otherwise in this document;
- (b) Sections B to E “Product Terms and Conditions”, which set out the terms and conditions that apply to different types of Facilities; and
- (c) Section F “Definitions and Interpretation” which explains the meaning of terms and words used in the Agreement.

If there are any inconsistencies between this document and the Letter of Offer, the Letter of Offer shall prevail.

More information about our current interest rates, and standard fees and charges relating to your Facility is available upon request.

1.4 Banking Code of Practice

The provisions of the Banking Code of Practice apply where relevant to your Agreement with us if you are a small business or an individual.

Unless we have told you in your Letter of Offer or have otherwise communicated to you that you are a Large Business Customer as per clause 1.5, you will be a small business for the purposes of the Banking Code of Practice.

You can obtain a copy of the Banking Code of Practice by contacting us on 13 11 55 or by visiting our website at <https://www.suncorp.com.au/banking/help-support/banking-code-of-practice.html>.

1.5 Large Business Customers

If you are a Large Business Customer, there are additional terms and conditions that apply to the Agreement, including for example, conditions that need to be satisfied to avoid triggering an Event of Default. These additional terms and conditions are outlined at Part 11.

1.6 Counterparts

The Agreement may consist of several copies each signed by one or more of the parties to it. If so, the signed copies are treated as making a single document.

1.7 Governing law

The Agreement is governed by the laws of the relevant State or Territory of the Real Property Security. If your Facility is not secured by a Real Property Security, or the Real Property Security is located across more than one State or Territory, then the Agreement is governed by the laws of Queensland.

2 Part 2 – Using the Facility

2.1 Purpose

You may only use a Facility for the purpose set out in the Letter of Offer. You may request the reallocation of loan funds for another purpose, and we may approve such a request at our discretion, with consent not to be withheld unreasonably.

2.2 Initial Drawdown

- (a) Unless otherwise agreed by us, if you do not make an Initial Drawdown under your Facility within 60 days of the date of the Letter of Offer, we will have no obligation to allow you to Draw your Facility or any part of it.
- (b) Prior to the Initial Drawdown, we may in our absolute discretion:
 - (i) withdraw the Facility offered in the Letter of Offer by providing notice in writing to you; or
 - (ii) vary the Facility Interest Rate or Facility Margin (including changing the method of determination of the Base Rate) by providing notice in writing to you,

if there is:

- (A) any event, action, state, condition or occurrence of national or international consequence (including war or an act of terrorism), or any incident, governmental action, law, regulation, policy, inquiry or other occurrence of any nature whatsoever should develop, occur or come into effect or existence and we reasonably think may adversely affect our cost of funds; or
- (B) if there is a change of law or in the interpretation or administration of a law, which we reasonably consider may affect your ability to service or repay any financial accommodation to be made available by us to you.

and where making such a decision under this clause 2.2(b) is reasonably made to protect our Legitimate Interests.

2.3 Your obligations

- (a) You must comply with all of the terms and conditions contained in each Facility Document.
- (b) Without limiting your obligations under each Facility Document, you must:
 - (i) make all payments when due as set out in the Agreement and any Security;
 - (ii) not exceed the Facility Limit (if applicable to the Facility). If you do exceed the Facility Limit without our prior written approval, the amount in excess of the Facility Limit is payable immediately;

- (iii) provide us with all Financial Information promptly and as set out in the Agreement; and
 - (iv) obtain and maintain Insurance with a reputable insurer.
- (c) You agree that your Facility and your Account may be adjusted by us from time to time as required to rectify errors identified.

2.4 Conditions

You acknowledge and agree that we will not allow Settlement to occur unless the following conditions have been satisfied:

- (a) the Facility Documents executed by you, and, if required by us, evidence of their stamping and registration (where applicable);
- (b) we have been able to complete all customer identification procedures as required by law;
- (c) where you are trustee of any trust:
 - (i) a copy of the stamped trust deed (where stamping is required) and any subsequent variations;
 - (ii) where we determine (acting reasonably) that the terms of a trust deed are unacceptable, a copy of a stamped (where stamping is required) deed of variation in a form acceptable to us; and
 - (iii) if requested by us, a declaration from the trustee in a form reasonably acceptable to us;
- (d) a copy of the Insurance, which must be in full force and effect by no later than the date of Settlement;
- (e) we are satisfied (acting reasonably) with any additional enquiries in respect of you and the Security Property;
- (f) if requested by us, evidence satisfactory to us (acting reasonably) that the Real Property Security is not listed on a contaminated land register or environmental management register (however described in the State or Territory where the Real Property Security is located);
- (g) if requested by us, copies of any Licence or Approval and/or confirmation of compliance with Government Requirements, as relevant to your Facility;
- (h) evidence that any fees and charges payable upfront as required in connection with the Agreement have been paid (unless they are to be debited to your Facility as part of the Initial Drawdown);

- (i) a direct debit form signed by you for payment or repayment obligations and fees payable under your Facility;
- (j) all documents and other information we reasonably request; and
- (k) all other conditions that may be specified in your Letter of Offer.

2.5 Continuing Conditions

- (a) In addition to the obligations set out in this document, your Letter of Offer may set out Continuing Conditions that you must comply with in order for us to continue the Facility on the terms and conditions set out in your Letter of Offer.
- (b) If you fail to meet any of the Continuing Conditions, we may:
 - (i) exercise our rights under clause 7.6 if the breach of the obligation falls into one of the categories where there is an Event of Default under clause 7.3 and clause 11.3 (where applicable); or
 - (ii) require a Review of the Facility in accordance with clause 2.6 if we consider, acting reasonably, that the failure may adversely affect our Legitimate Interests,

and the choice by us of either one of these options, does not prevent us from subsequently exercising our rights under the other option.

2.6 Review of Facility

- (a) Your Facility may be reviewed by us as we consider to be reasonably necessary to protect our Legitimate Interests, but in any event, a Review will be conducted at least annually.
- (b) This Review will include a review of our exposure in respect of the Facility having regard to the value of any Security, the conduct of your Facility and your financial position.
- (c) If, acting reasonably, we request you to provide us with Financial Information and other documents that we require, you must provide them to us.
- (d) As a result of a Review, we may choose to:
 - (i) continue the Facility on the existing terms and conditions of the Agreement;
 - (ii) make any non-material changes as permitted under the existing terms and conditions.

These may be additions or changes to fees, your Facility Interest Rate, repayments or repayment type; or

- (iii) ask you to vary the Agreement.
- (e) As a result of a Review, we will not without your agreement:
 - (i) require you to make an early repayment of the Facility; or
 - (ii) materially vary the terms of the Agreement; or
 - (iii) require you to enter into new documents.
- (f) We will notify you of any changes in accordance with our notice requirements set out in clause 10.9.
- (g) We may conduct credit searches on you as part of a Review.
- (h) We may postpone or waive the requirement for a periodic Review without prejudice to our right to conduct future Reviews.

2.7 Security

- (a) You acknowledge and agree that the Security will secure the repayment of each Facility and all your obligations under the Agreement.
- (b) Each Facility, Additional Facility and Security is not dependent, nor is it affected by your or our entry into, granting, release, waiver or failure to enter into, grant, release or waive any other Facility, Additional Facility or Security unless otherwise expressly stated.
- (c) Any release or waiver in relation to any Facility, Additional Facility or Security does not affect any other Facility, Additional Facility or Security or our rights under any other Facility, Additional Facility or Security.

3 Part 3 – Interest and repayments

3.1 Principal

- (a) You must pay the Moneys Secured under a Facility:
 - (i) as set out in the Letter of Offer; and
 - (ii) in full by the expiry of the Facility Term.
- (b) Your Facility may require you to pay a Residual Amount at the end of the Facility Term to fully repay the principal advanced under your Facility. The Residual Amount, where applicable, is specified in your Letter of Offer.

3.2 Interest

- (a) You must pay interest on each Facility as provided in Sections B to E "Product Terms and Conditions" (as applicable).
- (b) The Facility Interest Rate that applies to your Facility is specified in your Letter of Offer.

3.3 Default Interest Rate

- (a) You must pay the Default Interest Rate if any payment is not received by us on the Repayment Date.
- (b) The Default Interest Rate will be applied to the daily balance of:
 - (i) for Commercial Term Loans and Business Essentials Term Loans, the Balance Outstanding; and
 - (ii) for Overdraft and Business Line of Credit Facilities, the Arrears,and in each case will be payable from the day following the Repayment Date until all outstanding Arrears have been received by us.

3.4 Early Payment Interest Adjustment

- (a) An Early Payment Interest Adjustment applies to Fixed Rate Facilities which reflects a reasonable estimate of the loss incurred by us as a result of your decision to break the Fixed Rate or make an excess payment. You should obtain advice when entering a Fixed Rate Period as the Early Payment Interest Adjustment that may apply could be substantial.
- (b) An Early Payment Interest Adjustment applies if you have a Facility with a Fixed Rate Period and you:
 - (i) make any additional repayments in excess of the pre-payment allowance (currently \$500 per Billing Cycle) during the Fixed Rate Period;
 - (ii) repay the Facility in full during the Fixed Rate Period; or
 - (iii) otherwise break the current Fixed Rate;and the Swap Reference Rate for the week of the date which the Fixed Rate Period commenced is greater than it is at the time you break the Fixed Rate or make an excess repayment.

- (c) The Early Payment Interest Adjustment is calculated on the Difference in Interest over the remaining Fixed Rate Period and charged on both:
 - (i) the amount pre-paid which would have been expected to have still been remaining at the end of the Fixed Rate Period had contractual repayments been continued; and
 - (ii) the remaining balance of the Facility less the balance calculated in (i). The Difference in Interest is applied each Billing Cycle to this remaining component of Facility balance on the assumption that it will reduce each Billing Cycle during the Fixed Rate Period.

Both components of Early Payment Interest Adjustment are converted to Today's Value using discounted cash flow techniques and are added together.

- (d) The calculation method of the Early Payment Interest Adjustment will not change to your detriment during a Fixed Rate Period.

4 Part 4 – Fees and charges

4.1 Fees and charges

You must pay:

- (a) the fees and charges as set out in the Letter of Offer;
- (b) the fees and charges relevant to the Facility as stipulated in the Business Lending Fees and Charges Guide; and
- (c) the fees and charges as set out in the 'Suncorp Business Accounts - Product Information Document'.

We may impose new fees and charges or vary the existing fees and charges relating to the administration of the Facility and the general provision of our services from time to time. Please refer to clause 10.9 for how we may vary fees and charges.

4.2 Establishment Costs

- (a) Except where we withdraw the Facility prior to Initial Drawdown under clause 2.2(b), you must reimburse us for any Costs reasonably incurred by us and payable by us to any third party in connection with establishing the Facility whether or not the Facility proceeds. This includes, but is not limited to:
- (i) documentation and statutory fees and charges (including Government Fees and Charges) advised to you that are payable in connection with the Facility; and
 - (ii) any other fees that we may reasonably incur as a result of establishing your Facility, including legal costs, settlement fees, search fees and valuation fees.
- (b) Such fees will be advised to you in writing prior to Settlement and subject to paragraph (c) will be payable on or before Settlement.
- (c) If Settlement does not occur or the Facility does not proceed, any Costs will be payable to us by you within 5 Business Days of our request.

4.3 Valuation fees

Valuation fees are payable on or before Settlement and are non-refundable. Valuation fees may also become payable during your Facility Term if further valuations are required. We will give you a separate notice containing the amount of the valuation fees in advance of the valuation commencing. You must authorise payment of the valuation fee before the valuation proceeds and pay the valuation fee pursuant to clause 10.5(c).

4.4 Government Fees and Charges

Government Fees and Charges may vary after we advise you of them, and you authorise us to debit or credit your Facility with any adjustment relating to the Government Fees and Charges. We will give you written notice of the adjustment in accordance with the notice requirements in Part 10.

4.5 GST

- (a) You agree that:
- (i) we may credit your Facility with only the net amount of a sum that we receive, after reduction by any GST payable by us or others in accordance with the Agreement;
 - (ii) we may increase an amount that is payable to us to account for GST. You agree to this for amounts that are payable for a Supply under the Agreement or a Security but only after we have made any reductions that are required by law;
 - (iii) we can take into account any amounts that we are required to credit back to you when we calculate amounts that you must pay us;
 - (iv) if you are required to reimburse us for an amount that we pay to a third party, we may reduce any amounts that you are required to reimburse us for to account for tax credits that are available to us;
 - (v) if we are part of a GST group, you agree that this clause 4.5 will apply as if GST applied to us and we were entitled to any tax credits; and
 - (vi) where we may only claim a reduced credit for some but not all Supplies (including legal fees and valuations fees) which arise in connection with the Facility, you must reimburse us for the portion of GST that we are unable to claim a credit for in addition to reimbursement of the cost incurred.
- (b) You indemnify us against:
- (i) Liability to pay or reimburse GST payable in respect of our or a Receiver's exercise of rights, powers or remedies pursuant to the Agreement or a Security (regardless if this is imposed by law relating to GST, by virtue of any indemnity or contractual obligation, or in any other manner); and
 - (ii) any loss which we incur because of the imposition of GST on any other Supply pursuant to the Agreement or a Security (including any Supply to you), which is not recovered,

except for liability or loss incurred as a result of our, our Receiver's or our Authorised Officer's mistake, fraud, negligence or misconduct.

5 Part 5 – Representations and warranties

This Part 5 sets out the representations that you make to us when you enter into the Agreement.

5.1 Representations and warranties made by you

You represent and warrant to us that:

- (a) **(representations)** each document and any information you have given to us and each representation you have made is correct and not misleading;
- (b) **(financial position)** there has been no material adverse change in your financial position and commitments since your financial position was last reported to us and there is nothing known to you that would cause a material change to this position and commitments after the date of the Agreement other than disclosed to us;
- (c) **(no breach)** to the best of your knowledge and belief, your entry into the Agreement is not a breach of any Government Requirement, Licence or Approval, or Legislation, and the Agreement does not breach any Legislation that affects you or your assets;
- (d) **(enforceability)** to the best of your knowledge and belief, your obligations under the Agreement and any Securities are valid and binding and are enforceable against you in accordance with their terms;
- (e) **(clear title)** to the best of your knowledge and belief, you have clear title to the Security Property subject only to Security Interests and other interests notified to us in a Facility Document or to which we have consented in writing;
- (f) **(authorisations)** to the best of your knowledge and belief, each and every authorisation necessary for you to enter into the Agreement has been obtained and is in full force and effect;
- (g) **(litigation)** there is no current action or proceeding, and to the best of your knowledge and belief there is no pending or threatened action or proceeding, affecting you or your assets other than as notified to us and accepted by us in writing;
- (h) **(material facts)** all information you have provided includes all material facts necessary to make the information complete and accurate;
- (i) **(no other security)** to the best of your knowledge and belief, no Security Interest exists in connection with your assets or undertaking except as disclosed to us;
- (j) **(no Event of Default)** to the best of your knowledge and belief, there is no Event of Default under the Agreement or a Security and there is no “event of default” however defined under any other agreement to which you are a party;
- (k) **(Insolvent)** you are not Insolvent;
- (l) **(benefit)** you benefit by entering into the Agreement and any Security to which you are a party;
- (m) **(environment)** you are not aware of any Environmental Issues with the Security Property other than as notified to us and accepted by us in writing;
- (n) **(you do not act as trustee)** except as notified to us and accepted by us in writing, you:
 - (i) do not and will not act as trustee;
 - (ii) do not and will not hold any Security Property as trustee;
 - (iii) have and will have legal and beneficial title to the Security Property; and
 - (iv) charge all of the legal and beneficial interest in the Security Property.
- (o) **(partnership)** except as notified to us and accepted by us in writing, you:
 - (i) do not enter into the Agreement as a partner in a partnership;
 - (ii) do not hold any Security Property as a partnership asset;
 - (iii) have and will have legal and beneficial title to the Security Property; and
 - (iv) charge all of the legal and beneficial interest in the Security Property.

5.2 Representations and warranties made where you are a Corporation

In addition to the representations and warranties under clause 5.1, where you are a Corporation you represent and warrant to us that:

- (a) **(duly incorporated)** you are duly incorporated and validly exist as a Corporation limited by shares or guarantee according to Legislation, and have the power and authority to own your rights, property, undertaking and assets and carry on your business as is now being conducted;
- (b) **(power)** to the best of your knowledge and belief, your obligations under the Agreement are within your powers;
- (c) **(duly authorised)** to the best of your knowledge and belief, the execution, delivery and performance of the Agreement are duly authorised by necessary corporate and other action;
- (d) **(powers not exceeded)** to the best of your knowledge and belief, the Agreement and the transaction contemplated by it comply with all directives, agreements, instruments, undertakings, or obligations affecting you or your assets and will not cause a limitation in your powers or the powers of your directors to be exceeded;
- (e) **(no default under Legislation)** to the best of your knowledge and belief, you or your subsidiaries are not in default under Legislation affecting you or your subsidiaries or their respective assets;
- (f) **(financial accounts)** the most recent Financial Information of you and your subsidiaries are a true, fair and accurate statement of your and your subsidiaries' financial position and disclose or reflect all significant actual and contingent liabilities;
- (g) **(financial position)** there has been no material adverse change in your financial position or the financial position of your subsidiaries since the date to which the last Financial Statements were prepared;
- (h) **(litigation)** there is no current action or proceeding, or to the best of your knowledge and belief, no pending or threatened action or proceeding, affecting your or your subsidiaries or respective assets other than as notified to us and accepted by us in writing;

- (i) **(immunity)** to the best of your knowledge and belief, you do not have immunity from being sued in a legal action or proceeding; and
- (j) **(obligations rank equally)** to the best of your knowledge and belief, your obligations under the Agreement rank at least equally with all your other unsecured and unsubordinated indebtedness except liabilities mandatorily preferred by Legislation.

5.3 Representations, warranties and undertakings made by a trustee

Where you are trustee of a trust, you represent and warrant or undertake (as applicable) that:

- (a) **(duly established)** to the best of your knowledge and belief, the trust has been duly established, no action has been taken or proposed to terminate the trust and the trust has not vested;
- (b) **(trustee)** to the best of your knowledge and belief, you have been validly appointed and are the only trustee of the relevant trust, you are not in default under the trust deed and no action has been taken or proposed to remove you as trustee of the trust;
- (c) **(trust deed)** true copies of the trust deed (including any amending documents) have been provided to us which disclose all terms of the trust;
- (d) **(power)** to the best of your knowledge and belief, you have power under the terms of the trust to enter into the Agreement and any Securities and to perform your obligations under them;
- (e) **(authorisations)** to the best of your knowledge and belief, you have, in full force and effect, all authorisations necessary for you to enter into the Agreement and any Securities, perform your obligations under them and allow them to be enforced (including any authorisation required under the trust deed and its constitution (if any));
- (f) **(capacity)** the Agreement binds you both personally and in your capacity as trustee of the relevant trust;
- (g) **(benefit of beneficiaries)** the Agreement and any transactions secured by it are for the benefit of the beneficiaries of the trust and are in accord with the due and proper administration of the trust;
- (h) **(we rank in priority)** our rights under the Agreement and any Securities rank in priority to the interest of the beneficiaries of the trust;

- (i) **(indemnity)** you have the right to be fully indemnified out of the assets of the relevant trust, that right has not been restricted or limited in any way, and the trust fund is sufficient to satisfy your right of indemnity;
- (j) **(succeeding trustee)** you will take reasonable steps to procure that any succeeding trustee executes such documents as we require (acting reasonably) to ensure the Agreement binds the successor where this is permissible by Legislation;
- (k) **(Event of Default)** you will promptly if requested by us (acting reasonably) in an Event of Default:
 - (i) exercise your rights of indemnity as a trustee and your rights against the beneficiaries to ensure payment of the Moneys Secured to us; and
 - (ii) hold such rights for us where this is permissible by Legislation;
- (l) **(no amendment to trust without our consent)** you will not, without our prior written consent (which we will not withhold unreasonably, with regard to our Legitimate Interests):
 - (i) alter the trust deed in a manner that could affect our rights under the Agreement or the Securities including, without limitation, altering your right of indemnity from the trust fund;
 - (ii) retire as trustee nor appoint any new or additional trustee; or
 - (iii) default in observing or performing your duties under the trust deed.
- (c) **(power)** to the best of your knowledge and belief, you have power under the terms of the partnership to enter into the Agreement and any Securities and to bind the partnership and you have, in full force and effect, all authorisations necessary for you to do so and by doing so you are acting in the proper business of the partnership;
- (d) **(partnership matters)** you will take reasonable steps to ensure that:
 - (i) each other partner complies with that partner's obligations as a partner of the partnership;
 - (ii) the partnership's records are in good order;
 - (iii) partnership assets are not mixed with other assets;
- (e) **(no amendment to partnership agreement without our consent)** you will not, without our prior written consent (which we will not withhold unreasonably, with regard to our Legitimate Interests):
 - (i) alter the partnership agreement in a manner that could affect our rights under the Agreement or any Securities;
 - (ii) default in observing or performing your duties and obligations under the partnership agreement;
 - (iii) terminate or dissolve the partnership.

5.4 Representations, warranties and undertakings made by a partner

Where you enter into the Agreement as a partner in a partnership, you confirm represent and warrant or undertake (as applicable) that:

- (a) **(duly established)** to the best of your knowledge and belief, the partnership has been duly established, no action has been taken or proposed to terminate or dissolve the partnership and you are a partner in the partnership;
- (b) **(partnership agreement)** true copies of the partnership agreement (including any amending documents) have been provided to us which disclose all terms of the partnership;

5.5 Representations and warranties repeated

The representations and warranties set out in this Part 5 are repeated on:

- (a) each date that we provide financial accommodation to you in the form of a Drawing at your request under the Agreement or a Security; and
- (b) on each date you make or are required to make a payment to us.

5.6 We will rely on representations and warranties that you make

- (a) You acknowledge that we have relied on and will rely on the correctness of the representations and warranties contained in this Part 5 in entering into the Agreement and providing the Moneys Secured.

- (b) You must indemnify us against any loss we suffer because of a breach of any of the representations or warranties contained in this Part 5. This includes where we do not receive all or part of the Moneys Secured, but excludes any loss incurred because of our mistake, fraud, negligence or wilful misconduct on our part or on the part of our Authorised Officers.
- (c) You warrant that each of the representations and warranties in this Part 5 will remain true as long as the Agreement remains in force.

6 Part 6 – Your ongoing obligations

This Part 6 sets out your ongoing obligations for your Facility, and includes what you must tell us.

6.1 Your ongoing obligations

- (a) **(information)** You agree to provide all information reasonably requested by us (including Financial Information) within 14 days of a request, including in connection with a Review or as otherwise requested from time to time.
- (b) **(Statutory Payments)** You must provide a certification acceptable to us that shows there are no unpaid or overdue Statutory Payments or payment arrangements with an Authority within 14 days of a request, including in connection with a Review or as otherwise requested from time to time.
- (c) **(Environmental Issues)** You must tell us as soon as you become aware of any Environmental Issues with a Security Property, and in any event within 5 Business Days of becoming aware.
- (d) **(Licences and Approvals)** You must:
 - (i) obtain and maintain all Licences or Approvals reasonably necessary for your business or for the Security Property or its use;
 - (ii) not do anything that may jeopardise the Licence or Approval which relates to your business, the Security Property or its use; and
 - (iii) promptly notify us of any material changes (including cancellation or revocation) of a Licence or Approval necessary for your business the Security Property or its use.
- (e) **(Insurance)**
 - (i) You must maintain the Insurance until the Moneys Secured are repaid.
 - (ii) You must promptly provide us with a copy of each Insurance policy and certificate of currency as requested by us.
- (f) **(Government Requirements)**
 - (i) You must give us details of any Government Requirement relating to your business and in respect of the Security Property promptly on receipt of the requirement or when you become aware of the requirement.
 - (ii) You must comply with all law and Government Requirements in respect of your business and in respect of the Security Property and any business or activity carried out, on, in or using the Security Property.
- (g) **(carry on business)** You must:
 - (i) conduct and maintain in a proper and efficient manner any business carried on:
 - (A) or to be carried on using or involving the Security Property; or
 - (B) by you at the date of the Agreement;
 - (ii) keep the business open at all usual times for businesses of a similar nature;
 - (iii) not stop running the business without our consent (which will not be unreasonably withheld, having regard to our Legitimate Interests);
 - (iv) notify us of any material change to your business;
 - (v) give us a true account of your business at all times; and
 - (vi) not do anything which may cause any goodwill relating to your business to be lost.
- (h) **(Dealings by you with the Security Property)** Unless the law or a Facility Document authorises you to do so, you must not without our prior written consent (which will not be unreasonably withheld, having regard to our Legitimate Interests):
 - (i) Deal with the Security Property, except in the ordinary course of your business (but only in circumstances where a Facility Document does not preclude you from doing so) or in order to comply with a Security;

- (ii) create or allow to arise any Security Interest in the Security Property except in accordance with a Facility Document; or
- (iii) Deal in any way with a Security or allow any interest in a Security to be changed.

You must notify us immediately if you become aware of a Person taking steps to register, or having registered, a Security Interest in the Security Property.

- (i) **(change in business)** Where you are a Corporation, you must not, without our prior written consent (which will not be unreasonably withheld, having regard to our Legitimate Interests):
 - (i) change your management (including the directors), Control or beneficial ownership or allow any of those things to occur;
 - (ii) allow any change in share capital or transfer of shares to occur.
- (j) **(financial undertakings)** You must not borrow or otherwise obtain additional financial accommodation without our consent if it could reasonably cause an Event of Default under the Agreement.
- (k) **(Authorised Representatives)** You must promptly tell us of any change in your Authorised Representatives, provided that no change will be effective until we have approved this request in accordance with clause 10.15.

7 Part 7 – Events of Default

7.1 When we may enforce the Agreement

We may take steps to enforce the Agreement in some circumstances if you fail to perform your obligations or certain events occur. The relevant circumstances appear in clause 7.3 below.

7.2 Types of enforcement action we may take

The type of enforcement action we may take is outlined under clause 7.6 and the notice we are required to give you is outlined under clause 7.4.

7.3 Events which amount to an Event of Default

It will be an Event of Default if:

- (a) **(failure to pay)** you do not pay on time any amount payable under a Facility Document.
- (b) **(Insolvent)** you are Insolvent, go into bankruptcy, voluntary administration, other insolvency process or arrangement, or you no longer have legal capacity.
- (c) **(enforcement)** where another creditor commences Enforcement Proceedings against you or your property.
- (d) **(cross default)** early repayment is required under a separate financing arrangement you have with us, or a default occurs under any Security but only where, as a result of that default, we have become entitled to exercise our rights under that Security or to enforce that Security, and we have commenced the exercise of those rights or enforcement of that Security.
- (e) **(ceasing of business)** you do not maintain a Licence or Approval necessary to conduct the business or a material part of it.
- (f) **(change of control)** your legal or beneficial ownership, or management control of you or your business changes without our consent (which will not be unreasonably withheld, having regard to our Legitimate Interests).
- (g) **(change of status, capacity or composition)** your status, capacity or composition changes without our consent (which will not be unreasonably withheld, having regard to our Legitimate Interests).
- (h) **(failure to comply with the law)** we believe, on reasonable grounds, that you have not complied with the law or any requirement of an Authority, or it becomes unlawful for you or us to continue with the Agreement.
- (i) **(breach of representation or warranty)** you make a representation or warranty to us which is materially incorrect or misleading (including by omission).
- (j) **(not use Facility for approved purpose)** you use the Facility for a purpose not approved by us.
- (k) **(failure to provide information)** you do not provide the Financial Information required by us (for example under clause 6.1).

- (l) **(failure to maintain Insurance)** you do not maintain Insurance.
- (m) **(Deal with property inappropriately)** a Dealing with the Security Property occurs without our consent (which will not be unreasonably withheld, having regard to our Legitimate Interests) in breach of the Agreement or any Security.
- (n) **(circumstances apply to Guarantor)** any of the circumstances described in this clause 7.3 apply to or arise in connection with a Guarantor.

7.4 Where we will give you notice to remedy an Event of Default

Following an Event of Default we will give you not less than 30 days' written notice to allow you to remedy an Event of Default before we commence enforcement action under clause 7.6, unless one of the following applies in which case we may give you a shorter notice period, or no notice period, if:

- (a) the Event of Default is unable to be remedied; or
- (b) based on our reasonable opinion, it is necessary for us to act to manage a material and immediate risk relating to the nature of the Event of Default, your particular circumstances or the value of the Security Property.

7.5 When we can take enforcement action

We can take enforcement action under clause 7.6 if:

- (a) the event in clause 7.3(a) occurs and is not remedied within the permitted timeframe; or
- (b) one or more events in clauses 7.3(b) to (n) (inclusive) occurs and:
 - (i) its nature is material, or we reasonably consider it has had, or is likely to have, a material impact on:
 - (A) your ability to pay the Facility to us (or our ability to assess this);
 - (B) our security risk in connection with any Security for the Facility (or our ability to assess this risk); or
 - (C) our legal or reputation risk in the case of an event referred to in clauses 7.3(h) to 7.3(j) (inclusive); and
 - (ii) you do not remedy the event within the remediation period specified in the notice given under clause 7.4.

7.6 Types of enforcement action we may take

In addition to anything else the law allows us to do, following an Event of Default and provided that any conditions under clause 7.5 are satisfied, acting reasonably, we may do any one or more of the following:

- (a) immediately cancel any undrawn amount under the Agreement;
- (b) terminate the Facility immediately;
- (c) exercise our rights under any Security, and require you to pay to us all amounts owing under the Agreement;
- (d) for an Event of Default under clause 7.3(a), charge you interest at the Default Interest Rate; or
- (e) in respect of the Facility for Bank Guarantees, reduce the Facility Limit to an amount equal to the total amount of all current Bank Guarantees issued under the Agreement or require you to repay your Facility and all amounts you owe us under the Agreement.

8 Part 8 – Notices

8.1 How we can communicate with you

- (a) You consent to us sending communications to you by email, to the email address last notified to us by you (or by any other method of electronic communication permitted by law), and we may do this unless otherwise required by law. Giving this consent means that:
 - (i) paper documents may no longer be given;
 - (ii) your electronic communications must be regularly checked for documents; and
 - (iii) this consent may be withdrawn at any time by providing notice to us.
- (b) We may provide you with information about the Facility in the following manner:
 - (i) left at the address last notified to us;
 - (ii) sent by prepaid post to such address; or
 - (iii) email to the email address last notified to us by you (or by any other method of electronic communication permitted by law).

- (c) Such notices, certificates, consents and other communications shall be taken to have been received:
 - (i) if delivered, on the date of delivery;
 - (ii) if sent by post, on the seventh Business Day after posting; or
 - (iii) if sent by email:
 - (A) when the sender receives an automated message confirming delivery; or
 - (B) 4 hours after we have sent it (as recorded on the device from which we sent the email) unless we receive an automated message that delivery failed,
- whichever happens first.
- (d) You must notify us as soon as possible of any change to your residential or postal address, or electronic address.

8.2 Notice under a Security Document

In the case where notice is required to be given in relation to a Security provided by you, such notice may also be given in accordance with the provisions of that Security.

8.3 Notice under the PPSA

You waive your rights to receive, and the requirement for us to provide, any notice or document required under the PPSA (including notice of a verification statement) to the extent permitted by law.

8.4 How you can communicate with us

Any notice you wish to provide us in connection with a Facility must be in writing and sent to us at the address stated in your Letter of Offer.

9 Part 9 – Conditions for Construction Facilities

9.1 Requirements for First Works Drawing under a Construction Facility

In addition to the Conditions for Settlement set out in clause 2.4, we will not allow you to make the First Works Drawing under a Construction Facility unless the following additional conditions have been satisfied:

- (a) evidence:
 - (i) that each Contractor has all risk insurance in an amount acceptable to us (acting reasonably) and noting our interest under the policy;
 - (ii) that each Contractor and other consultants that we consider material (as applicable to the Works) hold professional indemnity insurance;
 - (iii) all other Insurance in relation to the Works are current and on terms satisfactory to us (acting reasonably);
- (b) each Contractor and consultant for the Works is licensed as required by us and otherwise acceptable to us (acting reasonably) in all material respects;
- (c) a copy of Development Approvals as approved by the relevant Authority;
- (d) a copy of the fully signed Construction Contract that is in form and substance acceptable to us (acting reasonably); and
- (e) a copy of any other reports or documents relevant to the Works as may be reasonably requested by us.

9.2 Your ongoing obligations for a Construction Facility

You must:

- (a) cause the Works to be completed actively and continuously and within the time limit imposed by an Authority or us (and notified by us to you);
- (b) comply with all Legislation and obtain and maintain all necessary Development Approvals from the Authorities to complete the Works;
- (c) cause the Works to be completed in accordance with the Development Approvals approved by the Authorities;

- (d) not without our prior written consent (which will not be unreasonably withheld, having regard to our Legitimate Interests), change the Development Approvals or vary the Construction Contract;
 - (e) not, without our prior written consent (which will not be unreasonably withheld, having regard to our Legitimate Interests), terminate the appointment of the Contractor or any other consultant who we reasonably consider is material to the Works;
 - (f) notify us of any notices received or any default under a contract with the Contractor or consultant (as applicable);
 - (g) ensure that any Development Approval in respect of the Works is lodged for registration with the relevant Authority as soon as possible and within any time limit that may be imposed by any Authority or reasonably imposed by us (where applicable);
 - (h) insure the Works and keep them insured to their full insurable value for such risks reasonably determined by us and ensure we are noted as an interested party that benefits from the Insurance on any insurance policy in relation to the Works;
 - (i) following Practical Completion, obtain and deliver evidence of the following to us within 14 days of Practical Completion:
 - (i) an unqualified certificate from the Authorities certifying that the Works have been satisfactorily completed in accordance with the Development Approvals; and
 - (ii) Insurance for the full replacement value of the Real Property Security and deliver the policy to us;
 - (j) comply with all other conditions for the Works as specified in a Facility Document.
- 9.3 Drawing under a Construction Facility
- (a) Unless otherwise agreed with us, Drawings under a Construction Facility will be made on a progressive basis, ensuring that the Cost to Complete is retained under the Facility at all times.
 - (b) We will only allow a Drawing under a Construction Facility where:
 - (i) you have provided evidence to us that you have contributed the required equity contribution towards the Works as stipulated by us in the Letter of Offer;
 - (ii) you have provided to us all relevant invoices relating to the Development (including the Works), accompanied with a written request authorising us to make the requested payment;
 - (iii) we are satisfied (acting reasonably) with any report obtained from the Independent Consultant (as applicable);
 - (iv) we are satisfied (acting reasonably) with any inspection of the Works;
 - (v) any Cost Overrun relating to the Development has been met by you.
 - (vi) you have complied with any other conditions to Drawings under a Construction Facility that may be contained in the Letter of Offer.
- 9.4 Cost Overruns
- You represent and warrant on each date you request a Drawing and on each date we allow a Drawing that there is no amount owing in respect of a Cost Overrun and you undertake to promptly provide to us on request evidence satisfactory to us that there is no amount owing in respect of a Cost Overrun.
- ## 10 Part 10 – General
- ### 10.1 Interchangeable Facility Limit
- (a) This clause 10.1 only applies if you have Interchangeable Facilities as outlined in your Letter of Offer.
 - (b) The combined limit of the Interchangeable Facilities must not exceed the Interchangeable Facility Limit.
 - (c) You may, with our approval, vary the limit of an Interchangeable Facility provided:
 - (i) we receive 5 Business Days' notice in writing detailing the limits to be altered; and
 - (ii) a minimum of \$100,000 is varied.
 - (d) Varying the limit of an Interchangeable Facility will be without cost to you except where you:
 - (i) elect to vary the limits before an existing Fixed Rate Period expires. In this case any applicable Early Repayment Interest Adjustment will be debited to the Facility; or

- (ii) wish to vary any other term of the Facilities at the same time, in which case you will need to apply to us for a variation to the Facilities and a fee may apply.
- (e) We do not represent or warrant that varying the Facility Limits are suitable to you or your financial circumstances. You should obtain independent legal and financial advice on this matter.

10.2 Substitution of Security

- (a) This clause 10.2 does not apply if you are the trustee of a superannuation fund.
- (b) You may request that we substitute any of the Security previously provided by you under the Agreement with any other asset.
- (c) In determining whether to approve a request under clause 10.2(b), we may have regard to our Legitimate Interests, including but not limited to:
 - (i) the incoming security provider;
 - (ii) value of the proposed asset;
 - (iii) any existing tenancies;
 - (iv) results of our enquiries;
 - (v) all documentation relevant to the proposed asset (including insurance);
 - (vi) evidence satisfactory to us that any stamping and registration (as applicable) has been paid; and
 - (vii) payment by you of any associated Costs and outlays.
- (d) If we approve your request under this clause 10.2, we may require that the Facility Interest Rate or Facility Margin be amended to reflect the change in circumstance and potential change in risk.

10.3 Statements

- (a) We will issue a Statement to you for each Facility at least once every six months (except for Overdraft and Line of Credit Facilities where a Statement will be issued at least once every month, or every three months if you agree).
- (b) We may wish to issue you a Statement earlier if we choose to do so, or if you request one from us. We may charge you a fee if you request to receive Statements more frequently than monthly.

- (c) If there are any errors or unauthorised transaction on your Statement, you should contact us immediately.

10.4 Commission

We may pay commission fees or other remuneration to any Person who introduces you to us or vice versa. If this is the case, we will make certain disclosures to you regarding the amount and purpose of the commission. To determine whether a commission is payable we are authorised to disclose sufficient details of the Facility to such Person to verify the amount of commission, fees or other remuneration payable.

10.5 Valuations

- (a) We may obtain a valuation (including an Acceptable Valuation) of the Security Property at any time as may be reasonably required by us, but not more often than once per year unless an Event of Default occurs.
- (b) We will explain the purpose of the valuation to you.
- (c) If we request, you must pay us the amount of any valuation fees or expenses reasonably incurred by us, within 5 Business Days of the receipt of that request.
- (d) You must not rely on the contents of the valuation for any purpose. We will not be liable if you rely on the contents of the valuation.

10.6 All accounts clause

- (a) Unless otherwise stated, many of our security documents secure all monies (see the meaning of Moneys Secured). This means that in some circumstances when that Security is provided to us by you, it may secure any amounts that you owe to us presently or in the future, under arrangements made between us and you. The specific terms of those arrangements define when and how this applies. This includes any Clear Options Business Credit Card facility and/or associated debt assigned to us by National Australia Bank Limited ABN 12 004 044 937 ("**NAB**").
- (b) NAB is the credit provider and issuer of our Clear Options Credit Cards. We promote and distribute the Clear Options Credit Cards on NAB's behalf under an agreement with NAB. We will not guarantee or otherwise support NAB's obligations under any contract or agreement in connection with a Clear Options Credit Card, other than those relating to our internet or phone banking.

- (c) Amounts owing under a Facility (including any assigned Clear Options Business Credit Card facility) may be secured by the Securities whether or not they have been previously provided or will be provided in the future.
- (d) Without limiting the moneys that are secured by the Securities, the Moneys Secured include any moneys due, owing or payable now or in the future by you in respect of or under any derivatives transaction (including any derivatives master agreement or “other derivative or swap agreements” as may be applicable), or any other form of master agreement related to or governing derivative transactions entered into by you and us.
- (e) Where you are a superannuation fund, the “all accounts” clause only applies in respect of any guarantee given by a Person other than the Borrower or Mortgagor.

10.7 Changes to the Agreement

During the Facility Term, changes may be made to the Agreement. These may be:

- (a) changes that you ask us to agree to; or
- (b) changes that we make to the Agreement.

10.8 Changes we agree with you

- (a) Unless a part of the Agreement expressly provides otherwise, you may only change the Agreement if we agree to the change. You may do this by:
 - (i) making a request to us for a change to be made to the Agreement; and
 - (ii) receiving a notice from us that we agree to this change.
- (b) We may also ask you to sign a Letter of Variation (or any other document we tell you is required to effect this change).
- (c) You may be charged a variation fee for any changes made by agreement.

10.9 Changes that we can make

- (a) We can make the changes set out below without your consent in order to protect against any risks to our Legitimate Interests. If we make these changes, we will tell you about the change as soon as is reasonably possible, and for certain changes, we will notify you within a specific timeline. These changes and timelines are set out in the table below:

Type of Change	Notice Period
if your Facility Interest Rate increases as a result of the applicable Base Rate increasing on a Commercial Term Loan	we will inform you in your next Statement.
if your Facility Interest Rate increases as a result of the applicable Base Rate increasing on a Business Essentials Term Loan, Business Line of Credit or Overdraft	we will notify you by advertising in national or local media no later than one calendar day prior to the change taking effect and by writing on your next Statement after the change takes effect.
if we: <ul style="list-style-type: none"> – introduce a new fee, charge or premium or increase an existing bank fee, charge or premium; – increase your Facility Interest Rate by increasing the applicable Facility Margin; – change the way in which interest is calculated (including a change to the Base Rate to be used) or how often interest is charged; or – change how repayments are calculated, the number, time, or frequency of your repayment obligations, and this change adversely affects you	we will notify you in writing at least 30 days prior to the change.
If any of the following occurs, and the change adversely affects you: <ul style="list-style-type: none"> – changes to any law or requirement that we are obliged to comply with under the law or, as a matter of prudential banking practice, comply with, and includes any regulation, standard or requirement of an Authority; – changes connected to changes in our technology systems and business processes; – changes adding or removing product features, services or benefits; or – any other change to your entitlements, obligations or product structure. 	we will inform you in writing at least 90 days in advance, unless otherwise required by law.

Type of Change	Notice Period
if we increase the amount of your scheduled repayments (to the extent that any change is not the result of changes agreed with you or changes to your repayment type)	we will notify you in writing no later than 20 days before any change in your repayments take effect.
if we change your repayment obligations following a Review	we will notify you in writing at least 30 days prior to the change.
if we make a change that reduces any fees, interest rates or repayments payable by you, or any other change that we reasonably consider will not adversely affect you	we will inform you by advertising in national media, or in writing no later than the day the change takes effect. If those changes are specific to you and we have notified you by advertising in national media, we will also inform you in your next Statement.
if there is a change to, or introduction of a government charge that you pay directly, or indirectly, as part of your banking service	we will tell you about the introduction or change reasonably promptly after the government notifies us (however, we do not have to tell you about it if the government publicises the introduction or change).

We may give you a shorter notice period, or no notice, of an unfavourable change if we believe that doing so is, in our reasonable opinion, necessary for us to manage a material and immediate risk.

If you do not agree to changes that we make

If you do not agree to a change proposed by us under this clause 10.9 you may cancel the Facility by:

- (b) repaying it in full including by refinancing the Facility; or
- (c) in respect of a Bank Guarantee Facility, by returning all original Bank Guarantees to us.

If you choose to cancel the Facility due to a change made by us under this clause 10.9 which could adversely affect you, you will not be required to pay us any costs for early cancellation, provided that you notify us that you would like to cancel the Facility before the change takes effect, and provided that your Facility Interest Rate is not fixed.

WARNING: If your Facility Interest Rate has been fixed, and you cancel the Facility early under this clause 10.9, then you will still be required to pay us any reasonable costs we may suffer because of your cancellation calculated in accordance with clause 3.4.

10.10 Reading down and severance

- (a) If apart from the operation of this clause 10.10 the application of a law or code would apply to a particular provision such that it would make a clause in the Agreement void, unenforceable or in breach of the applicable law or code, then the relevant provision will be:
 - (i) read down; and
 - (ii) construed as if it were varied such that it is consistent with the relevant law or code.
- (b) This clause 10.10 prevails over any other provision in the Agreement.
- (c) If, despite this clause 10.10 any clause in the Agreement is void, unenforceable or remains in breach of a law or code referred to in clause 10.10(a), then that provision will be treated as ineffective and severed but without invalidating any other clause in the Agreement.
- (d) For Large Business Customers, if the PPSA is amended after the date of the Agreement to permit you and us to agree to not comply with or to exclude provisions of the PPSA, we may notify you that any of these provisions are excluded, or that we will not comply with any of these provisions as notified to you by us.

10.11 Assignment by us

- (a) This clause 10.11 applies and takes precedence despite any inconsistent provision in any other Facility Document.
- (b) Subject to clause 10.11(c), we may assign, novate, transfer, sell or otherwise deal with any of our rights or obligations under any Facility Document:
 - (i) for the purpose of securitisation or funding of all or a relevant part of our business;
 - (ii) as part of a sale of all or a relevant part of our business or business restructure;
 - (iii) where not otherwise captured by (i) and (ii), to:
 - (A) meet our reasonable business objectives;
 - (B) address our prudential requirements;
 - (C) respond to any material changes to our business or systems; or

(D) protect our Legitimate Interests in any circumstance where it is reasonably necessary to do so;

to any Person without your consent.

- (c) Unless you are a Large Business Customer, we will not exercise our rights under this clause 10.11 where under the terms of a Facility Document, you are unable to pay the Moneys Secured, and you are actively working with us to determine a suitable solution or you are complying with the solution we agreed with you.
- (d) Acting reasonably, we can disclose to any potential assignee information about you as we consider appropriate.

10.12 We may set-off your liabilities against your account

We may, where it is reasonably necessary to protect our Legitimate Interests, without prior notice:

- (a) combine, consolidate or merge all or any part of any accounts you have with us, or
- (b) set-off,
- the whole or any part of your liabilities to us against all or any part of your accounts or deposit of funds, or other arrangements under which we may be indebted to you. We will give you notice as soon as practicable after we have done so.

Our rights under this clause 10.12 are in addition to and do not affect any other Power we may have.

We may exercise our rights under this clause 10.12 even though:

- (a) your account may not be in the same currency;
- (b) your liability has been incurred in a different capacity to the capacity which you hold your account, deposit of funds or other arrangements; or
- (c) your account, deposit of funds, or other arrangement has not matured in any manner.

We are authorised, where reasonably necessary to protect our Legitimate Interests, to:

- (a) effect any currency conversions we consider necessary or desirable for the purposes of this clause 10.12;

- (b) debit, set-off and charge any account you have with us with the whole or any part of the Moneys Secured; and
- (c) not take account of any credit balance of your account, despite any conditions to the contrary in respect of your account, deposit of funds or other arrangements.

You agree that the provisions of this clause 10.12 do not affect or limit any other rights, powers or remedies available to us (including any banker's right to combine accounts or a lien or charge arising by operation of law or by custom).

10.13 No Set-off by you

You must not deduct anything from the Moneys Secured that you must pay us under the Facility Documents. This means that you cannot deduct anything that you claim we owe you or could owe you in the future.

10.14 We may freeze your account

We may, without prior notice, freeze all or any part of your account or refuse to meet any further Drawings if:

- (a) we reasonably consider it necessary to mitigate or manage our money laundering and terrorism financing risks;
- (b) we reasonably consider it necessary to meet the requirements of any law or regulatory authority or to mitigate our risks of breaching sanctions of Australia or any other country;
- (c) we reasonably suspect you have engaged in illegal activity in relation to your account;
- (d) we reasonably consider it necessary to protect you or us from fraud;
- (e) an Event of Default has occurred and the conditions in clause 7.5 are satisfied; or
- (f) we reasonably consider it necessary to ensure that you can meet your financial obligations to us.

We are not responsible for any loss you incur as a result, except for any loss incurred as a result of our mistake, fraud, negligence or wilful misconduct. If we do freeze your account or refuse to meet any further Drawings, we will give you notice as soon as practicable after we have done so (provided we are permitted to do so by law).

10.15 Authorised Representative

- (a) You may request that an Authorised Representative be appointed as your representative under the Agreement, including for the purposes of speaking with us and accessing and transacting on your Accounts. We will approve this request provided that the Authorised Representative complies with our requirements, including signing the relevant authority and complying with any know your customer checks as required by law.
- (b) If you appoint an Authorised Representative, you agree that we will rely on any communication or document sent by your Authorised Representative to us if we reasonably believe it to be genuine, without the need for any further enquiry or confirmation.
- (c) You indemnify us against any liability or loss we incur or suffer if we act on any communications or documents provided to us by your Authorised Representative, except for any liability or loss incurred as a result of our mistake, fraud, negligence or wilful misconduct.

11 Part 11 – Large Business Customers

This Part 11 only applies to Large Business Customers. Please refer to your Letter of Offer to determine if you are a Large Business Customer, and therefore whether this Part applies to you.

11.1 Changes to the Agreement

- (a) In addition to how we may change the Agreement as set out in clause 10.9, where you are a Large Business Customer we may also make any other change to the Agreement or a Facility at any time, with prior notice given to you.
- (b) Without limiting paragraph (a), we reserve the right to impose or vary the fees and charges relating to the administration of the Facility and the general provision of our services from time to time and to do so with prior notice being given to you.

11.2 Review of Facility

In addition to clause 2.6, where you are a Large Business Customer:

- (a) continuation of the Facility is subject to Review at any time as may reasonably be requested by us (including in addition to our right to request a Review as set out in clause 2.6(a)); and

- (b) following a Review, we may terminate the Facility (unless it is a Construction Facility and the Works have not reached Practical Completion) or impose any Conditions we consider appropriate for the continuation of a Facility, which may include (but is not limited to) the following:
 - (i) requiring you to provide additional Security; and
 - (ii) requiring you to reduce the Facility Limit and/or the Balance Outstanding under a Facility.

11.3 Event of Default

- (a) In addition to the Events of Default described in clause 7.3, an Event of Default with respect to a Large Business Customer also includes:
 - (i) any undertaking given to us or our solicitors by you or any other Person for on behalf of you or any other Person, where the undertaking relates to:
 - (A) the Security Property;
 - (B) any Security; or
 - (C) any requirements of us or our solicitors, is not performed within any time limits specified in the undertaking or, if no time limit is specified, within 30 days from the date of giving the undertaking.
 - (ii) in our reasonable opinion the value of any Security Property or any Security is materially and adversely affected by any act, matter or thing.
 - (iii) you cease to carry on your business that is subject to a Security or a major part of it, including but not limited to, losing a Licence or Approval necessary to conduct the business or a material part of it.
 - (iv) you are in breach of, or there is an “Event of Default” howsoever defined, under the terms and conditions of any Financial Indebtedness provided to you by any Person other than us.
 - (v) where you are trustee of a trust, and any of the following events occur and they are not required by Legislation:
 - (A) the capital or any part of the capital of the relevant trust fund is distributed without our prior written consent;

- (B) any application or order is sought for:
 - (aa) the removal of you as trustee; or
 - (ab) accounts to be taken in respect of the relevant trust; or
 - (ac) the trust property to be brought into court or administered by the court under its control; or
 - (ad) removal of you as trustee of the relevant trust or of any Security provided to us under the Agreement or any other property or to appoint another Person as trustee; or
- (C) in the case of a unit trust any unit being issued, transferred, redeemed or encumbered or otherwise dealt with, without our prior written consent.
- (vi) where you are a Corporation:
 - (A) without our prior written consent, you Deal with a major part of your assets and undertakings or attempt to do so (except as expressly permitted by the Agreement);
 - (B) your directors change without our prior written consent;
 - (C) you issue shares or equitable rights over your shares without our prior written consent;
 - (D) a transfer or issue of any shares in your share capital occurs without our prior written permission (unless you are a public company whose shares are listed on the Australian Stock Exchange or a foreign stock exchange);
 - (E) we determine that your unpaid share capital will not be called upon except where you are wound up;
 - (F) you resolve or intend to reduce your capital without our prior written consent; or
 - (G) you alter your constituent documents without our prior written consent.
- (vii) it becomes unlawful for you to continue the conduct of your business that is subject to a Security.
 - (viii) any execution or the process of any court or Authority is issued against or levied upon the Security Property or any of your other property and is not stayed within 14 days.
 - (ix) the Agreement or any Security is or becomes void or voidable or ineffective because of an act or omission made by you.
 - (x) any event occurs or circumstances arise, financial or otherwise, which in our reasonable opinion is likely to materially and adversely affect your ability to comply with the Agreement or any of the Securities.
 - (xi) failure to comply with any derivatives master agreement, "other derivative or swap agreements" or any form of "master agreement" related to or governing derivative or swap transactions entered into by you and us.
 - (xii) any event specified as an "Event of Default" under the "Master Agreement" referred to in the confirmation for the rate option.
 - (xiii) failure by you to comply with any Conditions under the Facility.
 - (xiv) the failure by you to comply with any other provision of the Agreement or a Security.
 - (xv) any of the circumstances described in clause 7.3 or this clause 11.3 apply to or arise in connection with a Guarantor or the provider of a Security to us as security for the Moneys Secured.
- (b) Notwithstanding Part 7, where an Event of Default occurs in respect of a Large Business Customer (including Events of Default described in clause 7.3), we reserve the right to require immediate repayment of a Facility, to immediately take any of the other actions described in clause 7.6, to charge you interest at the Default Interest Rate, and to exercise our rights under any Security, any derivatives master agreement, other derivative or swap agreements or any form of master agreement related to or governing derivative or swap transactions entered into by you and us.
- (c) This clause 11.3 overrides any notice requirements as set out in Part 7 in respect of Large Business Customers.

11.4 Default Interest Rate

- (a) In addition to clause 3.3, you must pay the Default Interest Rate upon the occurrence of any Event of Default.
- (b) The Default Interest Rate will be applied to the daily balance of:
 - (i) for Commercial Term Loans and Business Essentials Term Loans, the Balance Outstanding; and
 - (ii) for Overdraft and Business Line of Credit Facilities, the Arrears,and in each case will be payable from the day following the Event of Default until the Event of Default has ceased as reasonably determined by us.

11.5 Valuations

- (a) In addition to clause 10.5, we may require that an Acceptable Valuation be carried out at your expense in respect of the Security Property at any time, including but not limited to:
 - (i) if we believe (acting reasonably) that there has been a material diminution in the value of all or part of the Security Property or property in the location of any Security Property;
 - (ii) if you announce any impairment losses in relation to all or part of the Security Property;
 - (iii) if we believe that there are events or circumstances which amount to a material adverse effect on you or your business.
- (b) We may proceed with a valuation of your Security Property notwithstanding that you may not have authorised payment of the valuation fee.
- (c) Any inspection, valuation, report, opinion or certificate made or received by us will be for our information and purpose alone.
- (d) We are under no obligation to disclose the contents or effect of any document referred to in this clause 11.5 to a Large Business Customer or to inform a Large Business Customer of any adverse matter or opinion contained within the valuation.

- (e) If the contents of any of those documents become known to a Large Business Customer, that Large Business Customer acknowledges that it is not entitled to rely on them for any purpose and we will not under any circumstances be liable in any way as a result of this unless the liability arises from fraud, negligence or wilful misconduct of us or our Authorised Officers.

11.6 Set-off

In addition to clause 10.12, where you are a Large Business Customer, we may:

- (a) freeze all or any part of an Account for any reason we consider necessary without notice (including a refusal by us to meet any further Drawings); or
- (b) unilaterally vary the terms and conditions of any relevant Account, deposit of funds or other arrangements including acceleration of its maturity.

Section B – Business Essentials Term Loan

This Section B applies to all Business Essentials Term Loans and should be read together with Section A (General Terms and Conditions) and your Letter of Offer.

1 Using your Facility

- 1.1 You can make Drawings up to the Facility Limit. Unless we agree to a shorter period, you must provide us with 2 Business Days' written notice before we are required to make a Drawing under the Facility.
- 1.2 Unless indicated otherwise in your Letter of Offer, you must Draw the full amount of the Facility as a single advance.
- 1.3 The Facility must be used for the purpose specified in your Letter of Offer, or such other purpose as agreed to by us under the terms of this document.
- 1.4 Where you have a Redraw Facility, except during a Fixed Rate Period, you may request to make a Drawing against the Available Redraw Amount. We reserve the right to decline a request under this clause 1.4 or to withdraw this feature entirely at any time without notice, if reasonably necessary to protect our Legitimate Interests. This may be because we determine that allowing you to redraw creates an unacceptable level of credit risk, or funding risk for us. We may ask you to give us additional supporting information to assist us to evaluate your request to redraw.
- 1.5 If you make a Drawing against the Available Redraw Amount:
 - (a) that amount will be immediately added to the Balance Outstanding;
 - (b) your Repayment Amount may change after the Drawing is processed; and
 - (c) for the purpose of calculating any remaining Advance Payments, your total repayments will be taken to be reduced by the amount you have redrawn.

- 1.6 We may from time to time allow you to access the Available Redraw Amount through internet banking subject to the following conditions:
 - (a) you must be registered for internet banking in the manner required by us from time to time;
 - (b) you must agree to any additional conditions required by us from time to time, in such a manner as we may require; and
 - (c) we have the right to withdraw access to the Available Redraw Amount through internet banking at any time, without prior notice.

- 1.7 You must pay the fees as set out in the "Facility fees" section of your Letter of Offer, via direct debit transfer from the Account (or as otherwise indicated).

2 Interest

- 2.1 Interest is calculated on daily balances (based on a 365-day year) at the Facility Interest Rate and, unless we have agreed that interest may be paid in advance, charged in arrears on the same day of each Billing Cycle commencing from the date of Settlement.
- 2.2 The Facility Interest Rate is the per annum rate of interest that applies to the Facility as specified in your Letter of Offer or as otherwise determined by us from time to time as permitted by the Agreement and it is calculated as the sum of the Base Rate and the Facility Margin. The Facility Margin may be expressed as a discount for your Facility, meaning that the Facility Interest Rate is calculated by subtracting the Facility Margin from the Base Rate.
- 2.3 The Facility Interest Rate in your Letter of Offer is indicative only. The Base Rate may change and will be determined on the day of Settlement. We will notify you of the Facility Interest Rate payable in a confirmation letter following Settlement and in your first Statement.
- 2.4 If you fail to make a payment by the Repayment Date, you will be in Arrears and we may apply the Default Interest Rate to the Balance Outstanding (instead of the Facility Interest Rate) in accordance with clause 3.3 of Section A "General Terms and Conditions".

3 Fixed Rates

- 3.1 Where you request a Guaranteed Rate prior to Settlement, the relevant Fixed Rate will be the applicable Base Rate for the Fixed Rate Period. A Guaranteed Rate Fee is payable to secure a Guaranteed Rate.
- 3.2 If you repay part or all of your Facility during a Fixed Rate Period, we may require you to pay an Early Payment Interest Adjustment. For circumstances where an Early Payment Interest Adjustment may apply to your Facility, please refer to clause 3.4 in Section A "General Terms and Conditions".
- 3.3 At the expiry of your Fixed Rate Period, the Facility Interest Rate will be the Variable Rate applicable to your Facility (known as the 'Small Business Basic Mortgage Rate') plus the Facility Margin applicable at that time, unless you request to fix the rate for a further period and we approve that request.
- 3.4 If you request to fix the rate for a further period, then we may request additional supporting information to assist us to evaluate your request. Any request to fix a rate for a further period can only be for the exact duration that Fixed Rates are offered and must not exceed the remaining Facility Term.
- 3.5 Fixed Rates may only be applied to a Facility that is fully drawn, and not subject to progressive Drawing.

4 Repayments

- 4.1 You are required to make repayments (whether principal and interest or interest only) on or before each Repayment Date, regardless of whether the Repayment Date falls on a Business Day.
- 4.2 You may make additional repayments or fully repay a Facility with a Variable Rate at any time during the Facility Term.
- 4.3 The type of repayments for your Facility will be set out in your Letter of Offer and may be one or a combination of the following:
- (a) principal and interest; and
 - (b) interest only (in arrears or in advance).

- 4.4 In addition to the repayment types at clause 4.3, your repayment obligations may include payment of a Residual Amount at the end of the Facility Term. Where this applies to your Facility it will be specified in your Letter of Offer.
- 4.5 The type of repayment may change during the Facility Term. Where this applies to your Facility it will be specified in your Letter of Offer. If your repayment type changes, we will notify you of the new Repayment Amount prior to the next Repayment Date.
- 4.6 The Repayment Amount and Repayment Date will be notified to you in one of the following ways:
- (a) in a confirmation letter following Settlement; or
 - (b) in a repayment change letter following a variation of the Facility; or
 - (c) in a repayment change letter otherwise issued from time to time.
- 4.7 In addition to any notice we are required to provide to you under clause 4.5 of this Section or clause 10.9 of Section A "General Terms and Conditions", any change to your Repayment Amount from the amount payable in the preceding Billing Cycle will be confirmed to you on the next Statement following the change.

5 Offset

- 5.1 You may request to establish an offset against your Facility at any time during the Facility Term.
- 5.2 Offset is only available whilst your Facility is on a Variable Rate and is linked to an eligible business transaction account.
- 5.3 If during the Facility Term you elect to take up a Fixed Rate, the offset link to your business transaction account will be removed. If you want an offset following the Fixed Rate Period, you will need to request for the offset link to be re-established to your business transaction account.
- 5.4 When an offset is established, interest on your Facility is calculated daily by deducting the balance in your linked business account from the Balance Outstanding under the Facility. The balance in your linked business account may not be the end of day balance as the interest on your Facility may be calculated before the end of day.

5.5 We reserve the right to change or withdraw this feature at any time with the appropriate notice as defined in clause 10.9 in Section A "General Terms and Conditions".

6 Changes to your Facility

6.1 Where you request any changes to your Facility under this clause 6, we:

- (a) may ask you to give us additional supporting information to assist us to evaluate your request; and
- (b) will notify you in writing where we agree to your request.

6.2 Changing your Base Rate

You may at any time request to switch your Base Rate to a Fixed Rate or a Variable Rate on part or whole of the Balance Outstanding under your Facility. Any request to switch rates is subject to:

- (a) The minimum amount that can be fixed under any Fixed Rate is \$100,000; and
- (b) You must give us 5 Business Days' written notice of your request including the:
 - (i) amount to be fixed or variable; and
 - (ii) period for which you request to fix the rate (if applicable).

6.3 Changing your repayment type

You may at any time request to switch your repayment type to principal and interest or interest only under your Facility subject to:

- (a) your Facility being on a Variable Rate; and
- (b) you giving us 5 Business Days' written notice of your request including the period for which you request the interest only period (if applicable).

6.4 Changing the interest charging type

You may at any time request to switch the loan structure to paying interest "in advance" or "in arrears" on part or whole of the Balance Outstanding under your Facility. If you request to switch interest payment methods, your request is subject to:

- (a) The minimum amount that can be altered is \$100,000; and
- (b) The Billing Cycle for loans "in arrears" being monthly; and
- (c) The Billing Cycle for loans "in advance" being annual and the applicable Base Rate will be fixed for any such period; and
- (d) You must give us 5 Business Days' written notice of your switch request, including:
 - (i) the amount of principal for which you request that interest changes from "in advance" or "in arrears"; and
 - (ii) the period for which you request this change to apply.

Section C – Commercial Term Loan

This Section C applies to all Commercial Term Loans and should be read together with Section A (General Terms and Conditions) and your Letter of Offer.

1 Using your Facility

- 1.1 You can make Drawings up to the Facility Limit. Unless we agree to a shorter period, you must provide us with 2 Business Days' written notice before we are required to make a Drawing under the Facility.
- 1.2 Unless indicated otherwise in your Letter of Offer, you must Draw the full amount of the Facility as a single advance.
- 1.3 The Facility must be used for the purpose specified in your Letter of Offer, or such other purpose as agreed to by us under the terms of this document.
- 1.4 Where you have a Redraw Facility, except during a Fixed Rate Period, you may request to make a Drawing against the Available Redraw Amount. We reserve the right to decline a request under this clause 1.4 or to withdraw this feature entirely at any time without notice, if reasonably necessary to protect our Legitimate Interests. This may be because we determine that allowing you to redraw creates an unacceptable level of credit risk, or funding risk for us. We may ask you to give us additional supporting information to assist us to evaluate your request to redraw.
- 1.5 If you make a Drawing against the Available Redraw Amount:
 - (a) that amount will be immediately added to the Balance Outstanding;
 - (b) your Repayment Amount may change after the Drawing is processed; and
 - (c) for the purpose of calculating any remaining Advance Payments, your total repayments will be taken to be reduced by the amount you have redrawn.

- 1.6 We may from time to time allow you to access the Available Redraw Amount through internet banking subject to the following conditions:
 - (a) you must be registered for internet banking in the manner required by us from time to time;
 - (b) you must agree to any additional conditions required by us from time to time, in such a manner as we may require; and
 - (c) we have the right to withdraw access to the Available Redraw Amount through internet banking at any time, without prior notice.
- 1.7 You must pay the fees as set out in the "Facility fees" section of your Letter of Offer, via direct debit transfer from the Account (or as otherwise indicated).

2 Interest

- 2.1 Interest is calculated on daily balances (based on a 365-day year) at the Facility Interest Rate and, unless we have agreed that interest may be paid in advance, charged in arrears on the same day of each Billing Cycle commencing from the date of Settlement. Where this day does not fall on a Business Day, we will use the Base Rate (as applicable to your Facility) from the last Business Day immediately prior to the Base Rate being reset to determine your Facility Interest Rate for the next Billing Cycle.
- 2.2 The Facility Interest Rate is the per annum rate of interest that applies to the Facility as specified in your Letter of Offer or as otherwise determined by us from time to time as permitted by the Agreement and it is calculated as the sum of the Base Rate and the Facility Margin.
- 2.3 The Facility Interest Rate in your Letter of Offer is indicative only. The Base Rate may change and will be determined on the day of Settlement. We will notify you of the Facility Interest Rate payable in a confirmation letter following Settlement and in your first Statement.
- 2.4 If you fail to make a payment by the Repayment Date, you will be in Arrears and we may apply the Default Interest Rate to the Balance Outstanding (instead of the Facility Interest Rate in accordance with clause 3.3 of Section A "General Terms and Conditions").

2.5 Where you are a Large Business Customer, we may also apply the Default Interest Rate to the Balance Outstanding where there is any other Event of Default. For the circumstances in which we may do this for an Event of Default, please see Part 7 and Part 11 of the Section A "General Terms and Conditions".

3 Fixed Rates

3.1 Where you request a Fixed Rate Lock-in prior to Settlement and this is accepted by us, the Fixed Rate will be confirmed to you in writing prior to Settlement. That Fixed Rate will be the applicable Base Rate for the Fixed Rate Period.

3.2 If you repay part or all of your Facility during a Fixed Rate Period, we may require you to pay an Early Payment Interest Adjustment. For circumstances where an Early Payment Interest Adjustment may apply to your Facility, please refer to clause 3.4 in Section A "General Terms and Conditions".

3.3 At the expiry of your Fixed Rate Period, the Facility Interest Rate will be the Variable Rate applicable to your Facility (known as the 'Business Variable Rate') plus the Facility Margin applicable at that time, unless you request to fix the rate for a further period and we approve that request.

3.4 If you request to fix the rate for a further period, then we may request additional supporting information to assist us to evaluate your request. Any request to fix a rate for a further period can only be for the exact duration that Fixed Rates are offered and must not exceed the remaining Facility Term.

3.5 Where you elect to pay interest in advance on your Facility, your Billing Cycle will automatically revert to monthly at the end of the Fixed Rate Period, even where the Billing Cycle was previously quarterly or half yearly.

3.6 Fixed Rates may only be applied to a Facility that is fully drawn, and not subject to progressive Drawing.

4 Repayments

4.1 You are required to make repayments (whether principal and interest or interest only) on or before each Repayment Date, regardless of whether the Repayment Date falls on a Business Day.

4.2 You may make additional repayments or fully repay a Facility with a Variable Rate at any time during the Facility Term.

4.3 The type of repayments for your Facility will be set out in your Letter of Offer and may be one or a combination of the following:

- (a) principal and interest;
- (b) interest only (in arrears or in advance);
- (c) principal and interest with principal reductions; and
- (d) interest only with principal reductions.

4.4 In addition to the repayment types at clause 4.3, your repayment obligations may include payment of a Residual Amount at the end of the Facility Term. Where this applies to your Facility it will be specified in your Letter of Offer.

4.5 The type of repayment may change during the Facility Term. Where this applies to your Facility it will be specified in your Letter of Offer. If your repayment type changes, we will notify you of the new Repayment Amount prior to the next Repayment Date.

4.6 Where prior to Settlement you have elected, and we have agreed to, a first Repayment Date that is not a full Billing Cycle, the Repayment Amount will be pro-rated according to the number of days in the first Billing Cycle. Similarly, if the Facility matures on a date that results in a partial Billing Cycle, the final Repayment Amount will be pro-rated according to the number of days in the last Billing Cycle.

4.7 The Repayment Amount and Repayment Date will be notified to you in one of the following ways:

- (a) in a confirmation letter following Settlement; or
- (b) in a repayment change letter following a variation of the Facility; or
- (c) in a repayment change letter otherwise issued from time to time.

4.8 In addition to any notice we are required to provide to you under clause 4.5 of this Section or clause 10.9 of Section A "General Terms and Conditions", any change to your Repayment Amount from the amount payable in the preceding Billing Cycle will also be confirmed to you on the next Statement following the change.

5 Capitalisation of interest and fees

5.1 Where we have agreed that ongoing fees and interest may be capitalised for your Facility, this feature will be indicated in your Letter of Offer including the applicable Capitalisation Limit.

5.2 On each date interest and fees are due and payable, we will increase the Balance Outstanding of your Facility by the amount of such interest and fees, until such time as the aggregate amount of interest and fees so capitalised reaches the Capitalisation Limit.

5.3 Interest and fees due will be payable by direct debit once the Capitalisation Limit has been reached.

5.4 If the aggregate amount of capitalised interest and fees exceeds the Capitalisation Limit, the excess amount will become Arrears under the Facility and the Default Interest Rate will apply until payment is received for these outstanding amounts.

5.5 Where the purpose of the Facility relates to Works, capitalisation of interest and fees will not commence until we are satisfied that the Works have commenced, and the First Works Drawing under the Facility has been made. All interest and fee payments due until that time are your responsibility. If, in our reasonable opinion, we consider that the Works have ceased or been suspended, we reserve the right to suspend capitalisation of interest and fees.

6 Changes to your Facility

6.1 Where you request any changes to your Facility under this clause 6, we:

- (a) may ask you to give us additional supporting information to assist us to evaluate your request; and
- (b) will notify you in writing where we agree to your request, along with any changes to your Repayment Amount and/or Repayment Date following the change.

6.2 Changing your Base Rate

You may at any time request to switch your Base Rate to a Fixed Rate or a Variable Rate on part or whole of the Balance Outstanding under your Facility. Any request to switch rates is subject to:

- (a) the minimum amount that can be fixed under any Fixed Rate being \$100,000; and
- (b) you must give us 5 Business Days' written notice of your request including the:
 - (i) amount to be fixed or variable; and
 - (ii) the period for which you request to fix the rate (if applicable).

6.3 Changing your repayment type

You may at any time request to switch your repayment type to principal and interest or interest only under your Facility subject to:

- (a) your Facility being on a Variable Rate.
- (b) you must give us 5 Business Days' written notice of your request including the period for which you request the interest only period (if applicable).

6.4 Changing the interest charging type

You may at any time request to switch the loan structure to paying interest "in advance" or "in arrears" on part or whole of the Balance Outstanding under your Facility. If you request to switch interest payment methods, your request is subject to:

- (a) the minimum amount that can be altered being \$100,000; and
- (b) the Billing Cycle for loans "in arrears" being either monthly, quarterly or half-yearly; and

- (c) the Billing Cycle for loans “in advance” being annual and the applicable Base Rate will be fixed for any such period; and
- (d) you must give us 5 Business Days’ written notice of your switch request, including:
 - (i) the amount of principal for which you request that interest changes from “in advance” or “in arrears”; and
 - (ii) the period for which you request this change to apply.

6.5 Changing your Repayment Date and/or Billing Cycle

You may at any time request to change your Repayment Date and/or Billing Cycle under your Facility subject to:

- (a) for a change in Repayment Date, your Repayment Date following the change falling within the next Billing Cycle;
- (b) for a change in Billing Cycle, the requested Billing Cycle being one permitted for your Facility;
- (c) you must give us 5 Business Days’ written notice of your request including the details of the requested new Repayment Date and/or requested new Billing Cycle.

Where a change is made to your Repayment Date due to a request by you to change your Repayment Date and/or Billing Cycle and your next Repayment Date is not a full Billing Cycle (or the number of days to your next Repayment Date is greater than the period of your current Billing Cycle), the Repayment Amount will be pro-rated. Similarly, if the Facility matures on a date that results in a partial Billing Cycle, the final Repayment Amount will be pro-rated according to the number of days in the last Billing Cycle.

Section D – Overdraft and Business Line of Credit

This Section D applies to all Overdraft and Business Line of Credit Facilities and should be read together with Section A (General Terms and Conditions) and your Letter of Offer.

1 Using your Facility

- 1.1 You can make Drawings up to the Facility Limit. Unless we agree to a shorter period, you must provide us with 2 Business Days’ written notice before we are required to make the Initial Drawdown under the Facility.
- 1.2 The Facility and the Account must be used for the purpose specified in your Letter of Offer, or such other purpose as agreed to by us under the terms of this document.
- 1.3 If, at the time of a Review, you have not used the Facility for the purpose set out in the Letter of Offer then, we may:
 - (a) determine that an Event of Default has occurred under clause 7.3(j) of Section A “General Terms and Conditions”, and follow the process set out in clauses 7.4 and 7.5 of Section A “General Terms and Conditions”;
 - (b) reduce or cancel the available Facility Limit; or
 - (c) with your consent, transfer the non-fluctuating portion of the Facility into an existing or new principal and interest repayment loan.
- 1.4 The Facility is an ongoing credit facility repayable on demand. We can require you to repay all or part of the Balance Outstanding and reduce or cancel the Facility Limit at any time by providing you with written notice.
- 1.5 If we do, we will provide you with a notice of demand and if applicable, set out your new Facility Limit. If we exercise our right to reduce or cancel the Facility Limit, we may notify you that you are required to repay all or part of the Balance Outstanding to below the new Facility Limit, or to nil, as may be applicable.

- 1.6 You may also reduce or cancel the Facility Limit at any time by notifying us in writing.
- 1.7 The Account is only available while you have a Facility Limit. Your Account will be converted to a transaction account if the Facility Limit is removed from your Account or your application does not proceed. If the Account is closed, any amounts which would otherwise be debited to that Account will still be payable by you to us.
- 1.8 Any repayments that amount to Uncleared Funds will not be considered as repayments of the Facility until the funds have cleared.
- 1.9 You must pay the fees as set out in the "Facility fees" section of your Letter of Offer, via direct debit transfer from the Account (or as otherwise indicated).

2 Interest

- 2.1 Interest is calculated on daily balances based on a 365-day year at the Facility Interest Rate and charged to the Account on which the Facility Limit is established each month in arrears on the last calendar day of each month.
- 2.2 The Facility Interest Rate is the per annum rate of interest that applies to the Facility as specified in your Letter of Offer or as otherwise determined by us from time to time as permitted by the Agreement and it is calculated as the sum of the Base Rate and the Facility Margin. The Facility Margin may be expressed as a discount for your Facility, meaning that the Facility Interest Rate is calculated by subtracting the Facility Margin from the Base Rate.
- 2.3 The Facility Interest Rate in your Letter of Offer is indicative only. The Base Rate may change and will be determined on the day of Settlement. We will notify you of the Facility Interest Rate payable in a letter following Settlement and in your first Statement.
- 2.4 If you exceed the Facility Limit, then the Default Interest Rate will apply to the amount in excess of the Facility Limit, from the date that the Facility Limit is exceeded until the date that the Balance Outstanding is brought within the Facility Limit.

- 2.5 Where you are a Large Business Customer, we may also apply the Default Interest Rate to the Balance Outstanding where there is any other Event of Default. For the circumstances in which we may do this for an Event of Default, please refer to Part 7 and Part 11 of the Section A "General Terms and Conditions".

3 Repayment

- 3.1 You may elect when repayments to the Facility are made, subject at all times to the Balance Outstanding not exceeding the Facility Limit. The minimum repayment each month is therefore that amount which will ensure that the Balance Outstanding does not exceed the Facility Limit.
- 3.2 You must not exceed your Facility Limit without prior written approval from us. If you exceed your Facility Limit without our prior written approval, the amount in excess of the Facility Limit is payable immediately.
- 3.3 If you have repaid the Balance Outstanding, you will still be able to access the Facility Limit and will need to continue paying the applicable ongoing fees under the Facility.
- 3.4 If you wish to cancel the Facility, please contact us to arrange this. If the Facility is cancelled the Facility Limit will no longer be available and no ongoing fees will be charged under the Facility.

4 Additional conditions where the Facility purpose is specific to paying GST

- 4.1 This clause 4 will apply where we have agreed that this Facility may be used towards the payment of GST in connection with your associated Construction Facility.
- 4.2 You must lodge a Business Activity Statement at monthly intervals with the ATO to claim GST input tax credits on costs incurred for the Works to be eligible for this Facility.
- 4.3 At our request, you must obtain a certificate from your qualified accountant containing full details of a Business Activity Statement lodged at the ATO for any period specified by us. This certificate shall contain all details as we may specify to enable us to ascertain your relationship with the ATO including your ability to repay the Facility from GST input credits arising from the Works.

- 4.4 You are required to make prepayments towards the Facility equivalent to the Drawings for GST payable in connection with the Works and which are funded under this Facility. Prepayments are due and payable by no later than the last day of the month which is two months after each relevant Drawing.
- 4.5 If you do not lodge a Business Activity Statement each month this will not affect your liability to make the prepayments required under clause 4.4. The required prepayment will not be reduced even if, because of the lodgement of the Business Activity Statement for the relevant month, the ATO has reduced or eliminated the GST input tax credit refund on account of other outstanding taxes.

Section E – Bank Guarantee

This Section E applies to all Bank Guarantee Facilities and should be read together with Section A (General Terms and Conditions) and your Letter of Offer.

1 Using your Facility

- 1.1 The aggregate value of all current Bank Guarantees issued at any one time must not exceed the Facility Limit.
- 1.2 We will provide a Bank Guarantee under a Bank Guarantee Facility at your request for any amount up to the Facility Limit in a form and for the purpose that we (acting reasonably) consider acceptable.
- 1.3 You may request that we issue a Bank Guarantee by providing us with 5 Business Days' written notice.
- 1.4 You must pay the fees as set out in the "Facility fees" section of your Letter of Offer, via direct debit transfer from the Account (or as otherwise indicated).

2 Demand by Beneficiary

- 2.1 You acknowledge that we:
- (a) must comply with any demand made by a Beneficiary, whether or not we receive any notice from you to do so;
 - (b) are not required to investigate the purpose of any payment made to a Beneficiary; and
 - (c) may at any time pay the sum referred to in the Bank Guarantee to the Beneficiary where we consider it necessary to protect our Legitimate Interests, with or without receiving a demand from the Beneficiary.
- 2.2 You must pay us immediately on demand any Amount Paid.

3 Interest

- 3.1 The Facility Interest Rate is the per annum rate of interest that applies to the Facility as specified in your Letter of Offer or as otherwise determined by us from time to time as permitted by the Agreement and it is calculated as the sum of the Base Rate and the Facility Margin.
- 3.2 You must pay interest at the Facility Interest Rate on the Amount Paid from the date that the Amount Paid is paid by us until you pay us the entire Balance Outstanding.
- 3.3 Interest is calculated on daily balances based on a 365-day year at the Facility Interest Rate which is set and charged monthly on the Repayment Date.
- 3.4 If you fail to pay interest on the Amount Paid by the Repayment Date, then you will be in Arrears and we may apply the Default Interest Rate to the Balance Outstanding (instead of the Facility Interest Rate) from the day following the date that the interest became due until the date that you pay all outstanding Arrears.
- 3.5 Where you are a Large Business Customer, we may also apply the Default Interest Rate where there is any other Event of Default. For the circumstances in which we may do this please see Part 7 and Part 11 of the Section A "General Terms and Conditions".
- 3.6 We reserve the right to capitalise interest payable under this clause 3 on a monthly basis should interest remain unpaid for a period of one month from the date of demand for payment of the Amount Paid. Interest unpaid may then be added to the Balance Outstanding and such total shall bear interest accordingly.

4 Indemnity

- 4.1 You indemnify us against any loss, cost, charge, liability or expense that we suffer, sustain or incur that is:
- (a) as a direct or indirect consequence of any claim made or purported to be made under any Bank Guarantee; or
 - (b) anything done by any Person who is, or claims to be, entitled to the benefit of any Bank Guarantee,
- except to the extent that loss, cost charge, liability or expense arises from mistake, fraud, negligence or wilful misconduct of us, our Authorised Officers or Independent Consultants.

5 Return of Bank Guarantee

- 5.1 You must return all Bank Guarantees issued under the Bank Guarantee Facility to us at the end of the Facility Term.
- 5.2 A Bank Guarantee will be regarded as current until one or more of the following occurs:
- (a) you return to us the original Bank Guarantee; or
 - (b) the Beneficiary provides us with written confirmation that it no longer requires the sum referred to in the Bank Guarantee. This notification must be in a form satisfactory to us (acting reasonably); or
 - (c) we pay the Beneficiary the sum referred to in the Bank Guarantee; or
 - (d) the expiry date of a Bank Guarantee has passed.
- 5.3 We reserve the right (acting reasonably) to require the notification listed in clause 5.2(b), in addition to the return of the original Bank Guarantee document in paragraph (a) where we require the Bank Guarantee document in order to confirm that the Bank Guarantee document is the original issued Bank Guarantee. This does not prevent us from cancelling the Bank Guarantee on receipt of the original Bank Guarantee document solely and we are under no obligation to require that notification in addition to the original Bank Guarantee document.

Section F – Definitions and Interpretation

This Section F explains the meaning of words and terms used in this document and your Letter of Offer and should be read together with Section A (General Terms and Conditions) and Sections B to E (Product Terms and Conditions).

1 Definitions

The following definitions apply to the Agreement.

Acceptable Valuation means a valuation prepared by a registered valuer appointed or approved by us which:

- (a) is addressed or assigned (as applicable) to us;
- (b) is on the terms of reference approved by us;
- (c) includes confirmation from the valuer that the valuation complies in all respects with our standard instructions and that it is acceptable for mortgage security purposes; and
- (d) is in all other respects in form and substance to our reasonable satisfaction.

Account means, for a Facility, the account held with us to which the Facility is linked as nominated by you.

Accounting Standards means the accounting principles and practices applying by law or otherwise generally accepted in Australia, consistently applied at the time of preparation.

Additional Facility means any other Facility provided by us to you whether alone or with someone else.

Advance Payments is calculated using the following formula:

Advance Payments = A – B which results in a positive number

where:

A is the amount of all repayments you have actually made (or are taken to have made) at that time;

B is the amount of all repayments you have been required to pay under the Agreement to that time.

Agreement means each and every contract or other arrangement or commitment in writing whether formed by acceptance of a letter or letters of offer or otherwise now and in the future made or existing in relation to the Moneys Secured in which we have expressly provided for the terms of payment or repayment of the Moneys Secured or other obligations, and includes this document, any Letter of Offer and any confirmation letter provided after Settlement which details the amount of your payments or repayments under a Facility. It does not include the Securities.

Amount Paid means the amount paid by us to a Beneficiary under a Bank Guarantee.

Approved Development Budget means a detailed feasibility study and cash flow for the Development, which includes a monthly breakdown by category of cash flow showing the expected revenues and costs advised by you to undertake the Development and the budget will be set out in the Letter of Offer, or as otherwise approved in writing by us from time to time.

Arrears means the amount by which you are behind in your repayments for a Facility, calculated using the following formula:

$$\text{Arrears} = B - A$$

where:

A is the amount of payments that you have made at that time; and

B is the amount of payments you were required to pay under the Agreement at that time.

ATO means the Australian Taxation Office.

Authorised Officer means any director, associate director, secretary or any class of manager of us or any other Person authorised by us.

Authorised Representative means any Person nominated by you to act as your authorised representative in connection with your Facilities.

Authority means any government and any governmental, semi-governmental, statutory municipal, local or other authority, tribunal or corporation having jurisdiction in respect of you or the Security Property.

Available Redraw Amount means, the difference between the Advance Payments and any Uncleared Funds under a Redraw Facility.

Balance Outstanding means, in relation to a Facility, at the relevant time, the aggregate principal amount of all outstanding Drawings including interest, Costs and fees or other financial accommodation made under that Facility that may be capitalised, owing or accrued.

Bank Guarantee means a bank guarantee issued by us under a Bank Guarantee Facility.

Banking Code of Practice means the Banking Code of Practice as issued by the Australian Banking Association (as amended or replaced from time to time).

Base Rate means:

- (a) for a Business Essentials Term Loan, Business Line of Credit or an Overdraft Facility, the Base Rate is a reference rate that we set from time to time (rounded to two decimal places) for these products;
- (b) for a Commercial Term Loan, the Commercial Term Loan Base Rate; and
- (c) for a Bank Guarantee Facility, BBSY Reference Rate.

Refer to your Letter of Offer for the Base Rate that applies to your Facility as at the date of your Letter of Offer.

BBSY Reference Rate means:

- (a) the applicable rate expressed as a percentage per annum to maturity (rounded up to the nearest four decimal places) which is the average of the bid rates of bills having a tenor as nearly as practicable equal to the relevant Interest Period displayed on the 'BBSY' page of the Thompson Reuters screen (or any replacement system which displays that rate) at or about 10:30am on the first Business Day of the relevant Billing Cycle; or
- (b) if the rate described in paragraph (a) is not available for any reason, the arithmetic mean (rounded up to the nearest four decimal places) of the rates quoted to us by "Reference Banks" nominated by us at or about 10.30am on the first Business Day of the relevant Billing Cycle (after disregarding the highest and lowest rates quoted) for the purchase of a bill accepted by us or "Reference Banks" having a face amount equal to the amount subject to the relevant Billing Cycle and a period equal to the relevant Billing Cycle; or

- (c) if the rate described in paragraph (a) or (b) is not available for any reason or fewer than two "Reference Banks" are willing to provide quotes, the rate reasonably determined by us to be our cost of funds having regard to prevailing market conditions,

but in each case if that rate is less than zero BBSY Reference Rate will be deemed to be zero. For the purposes of this definition "Reference Banks" means National Australia Bank Limited, Westpac Banking Corporation, Commonwealth Bank Limited and Australia and New Zealand Banking Group Limited.

Beneficiary means the beneficiary of a Bank Guarantee issued by us and includes an Authority or Person as you nominate and notify to us from time to time

Billing Cycle means:

- (a) the frequency at which your Base Rate is set for your Facility and interest is charged to your Facility; and
- (b) the frequency at which you agree to make payments (principal and interest or interest only) to us as specified in your Letter of Offer which can be:
 - (i) for payments under any Facility: monthly;
 - (ii) for payments under a Facility that permits interest only in advance: annually;
 - (iii) for payments under a Commercial Term Loan: quarterly or half yearly.

Borrower means each Person named as 'Borrower' in your Letter of Offer.

Business Activity Statement means a business activity statement lodged with the ATO.

Business Day means any day other than a Saturday, Sunday or a public holiday in Brisbane.

Business Lending Fees and Charges Guide means the document entitled 'Business Lending Fees and Charges' as updated from time to time and published on our website www.suncorp.com.au/banking/business.

Capitalisation Limit means the maximum amount we will allow to be capitalised under your Facility as set out in your Letter of Offer.

Commercial Term Loan Base Rate for a Commercial Term Loan means the Base Rate that is either:

- (a) the reference rate we set for each of the interest types and periods (rounded to four decimal places); or
- (b) BBSY Reference Rate.

Refer to your Letter of Offer for the commercial term loan base rate that applies to your Facility as at the date of your Letter of Offer.

Conditions means the conditions that apply to your Facility, and includes:

- (a) the conditions set out in clause 2.4 of Section A "General Terms and Conditions"; and
- (b) any conditions, representations, undertakings, obligations or events of default (including Continuing Conditions) as set out in your Letter of Offer.

Contractor means, where relevant:

- (a) the builder or civil works contractor (as appropriate) appointed to carry out the Works; and
- (b) any other contractor we agree is a "Contractor" under your Letter of Offer.

Construction Contract means any agreement (including sub-contracts, as applicable) between you and the Contractor for the Works.

Construction Facility means a Facility which is used for construction or development purposes.

Control of an entity includes the power to directly or indirectly:

- (a) determine the management or policies of the entity;
- (b) control the membership of the board or other governing body of the entity; or
- (c) control the casting of more than one half of the maximum number of votes that may be cast at a general meeting of the entity,

regardless of whether the power is in writing or not, enforceable or unenforceable, express or implied, formal or informal or arises by means of trusts, arrangements, understandings, practise or otherwise.

Continuing Conditions means the Conditions that may apply to your Facility after Settlement, as specified in your Letter of Offer.

Corporation means a company or corporation and includes a "corporation" as defined in the Corporations Act.

Corporations Act means the *Corporations Act 2001 (Cth)*.

Cost Overrun means the amount by which the Cost to Complete exceeds the sum of all Undrawn Commitments.

Costs means all costs incurred by us in connection with a Facility, including but not limited to:

- (a) valuation fees;
- (b) surveyors fees;
- (c) other professional advisor fees;
- (d) all legal costs for preparing the Facility Documents;
- (e) stamp duty and other registration charges (including under the PPSA);
- (f) settlement fees; and
- (g) search fees.

Cost to Complete means, at any time, the amount reasonably determined by us or by an Independent Consultant (based on information provided by us and you) to be the amount required to be expended to achieve Practical Completion and repayment of the Construction Facilities, including but not limited to the sum of the following amounts:

- (a) the likely cost to you under the Construction Contract;
- (b) the likely fees and charges to be paid to an Authority in connection with the Development and Development Approvals;
- (c) estimated contingency in connection with the Development;
- (d) the likely payments of interest, fees, indemnities and other similar transaction costs to be paid by you in connection with the Construction Facility; and
- (e) the likely payments of rates, taxes and other holding costs (due or owing), Insurance and consultants' fees in connection with the Real Property Security and Development to be made by you.

Dealing means:

- (a) leasing or subleasing or granting a licence in respect of a Security Property;
- (b) parting with possession;
- (c) mortgaging or charging;
- (d) creating an easement;
- (e) consolidating, sub-dividing or strata titling;
- (f) altering or varying any term or condition of or novating the Securities;
- (g) altering, adding to or demolishing;
- (h) selling, assigning, transferring or surrendering; and
- (i) pledging or granting of liens;
- (j) allowing a surrender or variation of any lease or licence in respect of any Security Property;
- (k) giving or allowing control of any Security Property to any Person (other than us);
- (l) abandoning, settling, compromising or discontinuing any proceedings against any Person (other than us) in respect of rights in connection with any Security Property;
- (m) exercising or waiving any rights or releasing any Person (other than us) from obligations in connection with any Security Property;
- (n) granting a Security Interest in any Security Property to, or taking a step to or otherwise causing or permitting a Security Interest in any Security Property to arise in favour of, any Person (other than us);
- (o) allowing other goods or property to become commingled with, or accessions to, any Security Property or allowing any Security Property to become an accession to any other goods or property;
- (p) allowing any Security Property to become a fixture to any property; and
- (q) creating or granting rights to, or for the benefit of, any Person other than us in connection with Security Property.

and **Deal** has a corresponding meaning.

Debt Schedule means a schedule of all Financial Indebtedness, which details:

- (a) the face value of each Financial Indebtedness;
- (b) its expiry or due date;
- (c) interest rate percentage;
- (d) interest rate type (fixed or variable);
- (e) repayment type (interest only, amortising, capitalised);
- (f) repayment frequency (monthly, quarterly, half yearly or annually); and
- (g) security provided as surety for the associated Financial Indebtedness including its value and the date valued.

Debt Service Cover Ratio or DSCR means the ratio calculated as follows:

$$\text{Debt Service Cover Ratio} = \frac{((EBIT, EBITDA \text{ or } Net \text{ Passing Income}))}{(total \text{ principal \& interest repayments})}$$

Your Letter of Offer will outline whether EBIT, EBITDA or Net Passing Income is used to calculate the debt service cover ratio for your Facility, which Facility the total principal and interest repayments relate to and the period over which the calculation is made.

Default Interest Rate means, the Facility Interest Rate at any time plus 2.00% per annum.

Development means the Works being undertaken by or on behalf of you, in accordance with the Development Approvals and Construction Contract, including any ancillary works undertaken on the Real Property Security.

Development Approvals means all Licences or Approvals, Plans and Specifications necessary to carry out the Development to obtain Practical Completion and, if applicable, registration of the survey plan for the Development.

Difference in Interest means, for the purposes of calculating the Early Payment Interest Adjustment in clause 3.4 of Section A "General Terms and Conditions", is calculated as follows:

- (a) the Swap Reference Rate for the week of the date which the Fixed Rate commenced; less
- (b) the Swap Reference Rate for the period remaining in the Fixed Rate Period at the time of pay out, or the time of the excess repayment or the time of variation (as applicable),

provided the difference in interest, when applied to the remaining component of the Facility as described in clause 3.4(c) of Section A “General Terms and Conditions”, will not be less than zero and will not be greater than the difference between:

- (a) the Fixed Rate that applies to the Facility; less
- (b) our Fixed Rate for the period equal to the remaining Fixed Rate Period of the Facility at the time of payout, or the time of the excess repayment or the time of variation (as applicable).

Draw means each utilisation or any other provision of financial accommodation under a Facility, and Drawing has a corresponding meaning.

Early Payment Interest Adjustment means the interest adjustment as outlined under clause 3.4 of Section A “General Terms and Conditions”.

Earnings Before Interest and Taxes or **EBIT** means, in relation to Group Members and in respect of any given period, the consolidated operating profit or loss, as the case may be, determined in accordance with Accounting Standards, but excluding any Total Interest Expense, income tax and any extraordinary items for the period.

Earnings Before Interest, Taxes, Depreciation and Amortisation or **EBITDA** means, in relation to Group Members and in respect of any given period, EBIT and excluding depreciation and amortisation.

Enforcement Proceedings means:

- (a) commencing proceedings in a court to recover a debt or to recover possession of property subject to security;
- (b) otherwise enforcing security by taking (or seeking to take) possession of Security Property, exercising a power of sale over Security Property, appointing receivers or receivers and managers, appointing voluntary administrators, or making application to a court for the appointment of provisional liquidators or the appointment of a trustee in bankruptcy; or
- (c) enforcing a judgement against you, or your assets.

Environmental Issue means any complaint, order, directive, claim, citation, registration or notice by any Authority or other person relating to any breach of, or alleged breach of law or arising out of any emission, leak, spill, release, escape or discharge of any contaminant.

Event of Default means any event that is set out in Part 7 of Section A “General Terms and Conditions”.

Facility means a facility or other arrangement offered or provided by us to you as set out in a Letter of Offer.

Facility Document means:

- (a) each Agreement;
- (b) each Security;
- (c) any other document entered into between us and you as a consequence of the Agreement or any transaction contemplated by it; and
- (d) each other document which we agree in writing is a Facility Document.

Facility Interest Rate means the per annum rate of interest that applies to a Facility as specified in your Letter of Offer or as otherwise determined by us from time to time as permitted by the Agreement.

Facility Limit means the amount specified as the ‘Facility Limit’ for a Facility in your Letter of Offer.

Facility Margin means the margin (if any) specified as the ‘Facility Margin’ for a Facility in your Letter of Offer. Your Facility Margin may be positive or negative, depending on the type of Facility.

Facility Term means the period from the date of Settlement until the expiry of the period, and the length of this period is specified as the ‘Term’ for each Facility in your Letter of Offer.

Financial Indebtedness means any indebtedness or other liability (present or future, actual or contingent), relating to any financial accommodation including indebtedness or other liability:

- (a) for money borrowed or raised;
- (b) relating to the sale or negotiation of any negotiable instrument;
- (c) as lessee under any finance lease (as defined in the applicable Accounting Standards), hirer under any hire purchase agreement or as purchaser under any title retention agreement;
- (d) relating to any redeemable preference share;
- (e) the deferred purchase price of any property or services other than indebtedness for the purchase price of trading stock incurred in the ordinary course of business;

- (f) under any commodity, currency or interest rate swap agreement, forward exchange rate agreement or under any future contract; and
- (g) of a type (not referred to in paragraphs (a) to f)) having the commercial effect of a borrowing.

Financial Information means the following information:

- (a) Financial Statements for the most recent financial year;
- (b) management accounts (profit and loss and balance sheet) up to the prior month end;
- (c) monthly cash flow projections (including any underlying assumptions) for at least the following 12-month period;
- (d) statement of financial position (including a Debt Schedule where we request one);
- (e) aged debtor and creditor listings up until the prior month end (as applicable);
- (f) aged stock or inventory listing up until the prior month end (as applicable);
- (g) details of any repayment arrangements entered into with suppliers or customers (as applicable);
- (h) confirmation of current Statutory Payment liabilities and any repayment arrangements for those liabilities; and
- (i) other financial information reasonably requested by us, including information required to comply with Legislation.

Financial Statements means the following statements prepared by a qualified accountant as per the Accounting Standards for the relevant financial period (as determined by us):

- (a) statement of financial position;
- (b) statement of profit or loss and other comprehensive income;
- (c) statement of changes in equity;
- (d) statement of cash flows; and
- (e) notes, including significant accounting policies and other explanatory information; and
- (f) any directors' declaration, director's report and auditor's report attached to, intended to be read with or required by the Corporations Act to accompany all or any of the documents specified in paragraphs (a) to (e),

in each case as required under the Corporations Act and by Accounting Standards, together with all other information required to give a true and fair view.

First Works Drawing means, after Settlement, the first Drawing made with respect to Works under a Construction Facility.

Fixed Rate means a Base Rate that is fixed for the duration of the Fixed Rate Period.

Fixed Rate Lock-in means a process through which you and we agree to a Fixed Rate that is set in advance to apply to a future Settlement (rather than you accepting whatever rate is applicable on the day of Settlement) and is evidenced by a signed acceptance by you. The forward Fixed Rate will have an expiry date agreed to by you and us.

Fixed Rate Period means any period of the Facility Term where you and we agree a Fixed Rate. Confirmation of duration of the fixed rate period and its commencement date is provided to you in writing at or about the time the fixed rate period is established.

Gaming Machine Authorities or Entitlements means, in relation to a hotel or motel or club, the gaming machine "authorities" or "entitlements" required to operate each gaming machine as issued by an Authority relevant to your Facility.

Group Member means those Persons identified in the Letter of Offer as Group Members used for the purpose of testing financial covenants (where applicable).

Government Fees and Charges means all amounts charged by an Authority in connection with the Facility and the Account, including but not limited to:

- (a) stamp duty;
- (b) registration fees; and
- (c) financial institutions duty.

Government Requirement means any order, direction, requisition, notification, demand or other requirement of an Authority.

GST means goods and services tax imposed under the *Goods and Services Tax Act 1999 (Cth)*.

Guaranteed Rate means a process through which you request a Fixed Rate which is guaranteed to apply to a future Settlement (rather than you accepting whatever rate is applicable on the day of Settlement) for up to 90 days following receipt of your application.

Guaranteed Rate Fee means the fee payable to secure a Guaranteed Rate which is calculated as a percentage of the Facility Limit that is subject to a Fixed Rate.

Guarantor means each Person named as 'Guarantor' in your Letter of Offer.

Independent Consultant means any independent or other expert (including accountants) appointed by us, to advise and report to us on such matters as we or they may reasonably require in connection with the Agreement, each Security, the Security Property, the Development (where applicable), you or your business or operations.

Initial Drawdown means the date of the first Drawing under a Facility.

Insolvent means a Person who:

- (a) is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);
- (b) is in liquidation, in provisional liquidation, under administration or wound up or has had a controller (as that term is defined in the Corporations Act) appointed to its property;
- (c) is subject to any arrangement (including a deed of company arrangement or scheme of arrangement), assignment, moratorium, compromise or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by us);
- (d) an application or order has been made (and in the case of an application which is disputed by the Person, it is not stayed, withdrawn or dismissed within 14 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that Person, which is preparatory to or could result in any of the things described referred to in paragraphs (a) to (c);
- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which we reasonably deduce it is so subject);
- (g) is otherwise unable to pay its debts when they fall due; or
- (h) has something substantially similar to any of the things described in paragraphs (a) to (g) happen in connection to that Person under the law of any jurisdiction.

Insurance means:

- (a) fire and all risks insurance for the full replacement value of all Security Property as set out in the most recent Acceptable Valuation; and/or
- (b) public liability insurance for a minimum of \$20,000,000; and/or
- (c) insurance required under a Security; and/or
- (d) other insurance appropriate to your business, assets and operations as reasonably requested by us;

in each case, acceptable to us, acting reasonably, and where it is customary to do so noting us as an interested party that benefits from the Insurance.

Interchangeable Facility means a Facility which is subject to an Interchangeable Facility Limit, as specified in your Letter of Offer.

Interchangeable Facility Limit means the total combined limit specified in your Letter of Offer of two or more individual Facilities, which may be interchanged between each Facility.

Interest Cover Ratio or **ICR** means the ratio calculated as follows:

$$\text{Interest Cover Ratio} = \frac{((\text{EBIT, EBITDA or Net Passing Income}))}{(\text{Total Interest Expense})}$$

Your Letter of Offer will outline whether EBIT, EBITDA or Net Passing Income is used to calculate the Interest Cover Ratio for your Facility, and the period over which the calculation is made.

Large Business Customer means a Person, including a Guarantor, who we have notified is a "Large Business Customer", either in their Letter of Offer or by other means of communication. We may provide this notification if one or both of the following is applicable to the Person at the time of obtaining a Facility:

- (a) not meeting the definition of a "Small Business" under the Banking Code of Practice; and
- (b) not meeting the definition of a "Small Business" under the *Australian Securities and Investments Act 2001*.

Legislation means the law and any act, statute, by-law, regulation or ordinance.

Legitimate Interests means our legitimate funding (including securitisation), business risk management, prudential or security requirements, and any other requirements that are reasonably necessary to protect us against a material risk to us of:

- (a) a monetary default by you;
- (b) our ability to enforce our rights against the Security;
- (c) the value of the Security being materially compromised; or
- (d) our financial detriment.

Letter of Offer means a document prepared by us and provided to you, which sets out the details of a Facility offered to you, and any subsequent document (including, without limitation, a Letter of Variation) prepared by us and provided to you which varies any existing Agreement between us and you.

Letter of Variation means a document prepared by us and provided to you, which varies any existing Agreement between you and us.

Licence or Approval means any notification, permit, licence, authority, consent, registration or approval from or with or by an Authority required, held or necessary in relation to:

- (a) the *Security Property*;
- (b) the occupation, acquisition or use of the *Security Property*; or
- (c) any business or other activity carried on or in or using the *Security Property* or your business,

and includes "licence" as that term is defined in the PPSA.

Loan to Cost Ratio or LCR means, at the relevant time, the ratio (expressed as a percentage) of the total Balance Outstanding under the Construction Facilities to the Total Development Cost.

Loan to Value Ratio or LVR means, at the relevant time, the ratio (expressed as a percentage) of the total Balance Outstanding under the Facilities to the value (excluding GST) of all the Real Property Security as determined by the most recent Acceptable Valuation/s. The ratio may be calculated using Facilities and Real Property Security contained in separate Letters of Offer.

Lot means any lot which forms part of the Real Property Security or which is created by the subdivision, amalgamation or both of any lot which forms part of the Real Property Security.

Moneys Secured means:

- (a) all money which has and or may become due, owing or payable by you either alone or with any third party to us now or in the future, either directly or indirectly, and whether certain or not such as money arising from:
 - (i) any guarantee, indemnity, bond, account, document, negotiable instrument, undertaking or other agreements in writing including any Security;
 - (ii) any matter or thing by which we are or may become in any manner a creditor of you;
 - (iii) debiting the account of any Person on the order, request, or under your authority;
 - (iv) anything done or omitted to be done by you which gives rise to a payment, expense, or loss for us;
 - (v) us drawing, accepting, endorsing, paying or discounting any order, draft, cheque, promissory note, bill of exchange, or other negotiable instrument on your behalf;
 - (vi) any bond, guarantee, letter of credit, undertaking or indemnity issued or given by us on your behalf;
 - (vii) interest referred to in clause 3.2 of Section A "General Terms and Conditions";
 - (viii) interest that has been capitalised;
 - (ix) any moneys or financial accommodation provided to you, or otherwise mentioned or referred to in an Agreement or a Security; or
 - (x) moneys debited to an account you have with us;
- (b) all money which has or may become due, owing or payable by you to us now or in the future, either directly or indirectly, contingently or otherwise;
- (c) stamp duties, financial institutions duties, bank account debits taxes and any other similar duties or taxes paid or payable by us:
 - (i) in respect of an Agreement or the Securities;
 - (ii) in connection with any transactions entered into on account of or on the order, request or under your authority;
- (d) charges, expenses, fees, discounts, exchanges and commissions incurred or charged in accordance with an Agreement;

- (e) reasonable fees and expenses including legal expenses incurred by us in connection with:
 - (i) the preparation, execution, registration and stamping of;
 - (ii) enforcement or attempted enforcement of;
 - (iii) variation, release or discharge of; or
 - (iv) the exercise of any Power under, a Security or an Agreement. For the avoidance of doubt, our reasonable fees and expenses will not include any amount which arises from mistake, fraud, negligence or wilful misconduct by:
 - (v) us;
 - (vi) any Authorised Officer; or
 - (vii) any Receiver appointed by us over any Security Property;
- (f) damages we incur in connection with any Agreement and any amounts that you have indemnified us for.

Mortgagor means each Person named as 'Mortgagor' in your Letter of Offer.

Net Passing Income means, in respect of any period, the sum of:

- (a) the gross passing rent actually paid to and received from each tenant leasing any part of the Real Property Security; and
- (b) the Outgoings recovered from the tenant under any lease of all or any part of the Real Property Security;
- (c) less any Outgoings payable.

Net Sale Proceeds means, unless otherwise stated in your Letter of Offer, the contract price of a Lot less any GST payable in respect of the contract, agents commission, conveyancing costs and any other costs agreed to by us in writing.

Net Tangible Assets means the difference between Total Tangible Assets and Total Liabilities.

Outgoings means all outgoings incurred by you in respect of all or any part of the Real Property Security including but not limited to, the amount accrued, paid or payable by or levied on and the costs and expenses incurred by you in respect of the following:

- (a) rates, charges and other levies (including charges for excess water) payable to any local or other Authority responsible for the provision of such services;
- (b) all Insurance premiums and other charges including stamp duty payable by you;
- (c) levies contribution and/or other amounts payable to any local or other Authority or Corporation or other business in relation to fire protection services;
- (d) all rates, taxes, charges, assessment and impositions;
- (e) any additional costs in relation to the cost of operating, servicing, repairing, cleaning and maintaining any common area; or
- (f) any management and consultancy fees paid.

Person includes an individual, a Corporation, a body corporate, a partnership, a joint venture, an unincorporated association and an Authority or any other entity or organisation.

Plans and Specifications means all approvals, permits, architectural drawings, plans, working plans, specifications, schedules, feasibility studies and all other documents relating to the Works.

Power includes any right, power, authority, benefit or remedy of ours under:

- (a) the Agreement,
- (b) a Security; or
- (c) Legislation,

and where used in relation to a Receiver includes any right, power, authority, benefit or remedy given to the Receiver under Legislation.

PPSA means the *Personal Property Securities Act 2009 (Cth)*.

Practical Completion means the achievement of completion of the Works and/or Development (as applicable) in accordance with the requirements of the Construction Contract and the Development Approvals reasonably as determined by us in consultation with an Independent Consultant.

Pre-Sale Contract Certification means a written certification from your solicitor, addressed to us which:

- (a) attaches a schedule of Qualifying Pre-Sale Contracts, and confirms each pre-sale contract in that schedule is a Qualifying Pre-Sale Contract and the information contained in that schedule is correct and up to date;
- (b) confirms the aggregate contract value of Qualifying Pre-Sale Contracts (inclusive of GST and net of rebates or other incentives that will be deducted from the contract price);
- (c) declares the solicitor holds all original Qualifying Pre-Sale Contracts and except as disclosed in the schedule, the terms of each contract (including disclosure statements) are identical to the pro-forma contract approved by us;
- (d) confirms that each Qualifying Pre-Sale Contract complies with all laws applicable to the sale of the relevant Lot;
- (e) provides an undertaking to:
 - (i) notify us in writing if a Qualifying Pre-Sale Contract is cancelled, terminated or rescinded; and
 - (ii) ensure that any deposit held by the solicitor is not released to anyone without our written consent (which will not be unreasonably withheld, having regard to our Legitimate Interests);
- (f) confirms, in relation to a deposit the solicitor holds for a Qualifying Pre-Sale Contract, the solicitor has received an irrevocable instruction from you to pay to us amounts that would be payable to you and the solicitor (as deposit holder for the Lots) undertakes to us to adhere to the instruction and to notify us in writing if you seek to amend or revoke the instruction you have given the solicitor;
- (g) attaches certified copies of the execution pages of each Qualifying Pre-Sale Contract;
- (h) acknowledges that we are relying on the certification in providing financial accommodation to you.

Qualifying Pre-Sale Contract means a contract for the sale of a Lot which in form and substance satisfies each of the following (unless otherwise agreed in your Letter of Offer):

- (a) contracts must be unconditional, comply with all applicable laws, be substantially in the format of the pro-forma contract as approved by us and have an acceptable deposit paid as advised in your Letter of Offer. The deposit can be paid by way of cash or bank guarantee. Deposits paid in cash are to be paid into the trust account of the stakeholder under the contract.
- (b) the expiry date of any bank guarantee used for a deposit must be at least two months after the contract's sunset date, or the contract must contain a provision requiring the purchaser to replace the bank guarantee at least one month prior to its expiration with cash or a substitute bank guarantee, failing which the purchaser is in default and the seller can terminate the contract and enforce the bank guarantee. Bank guarantees must be issued by an entity acceptable to us.
- (c) the sunset date (however defined or described) in the contract must be a minimum of six months after the anticipated date of Practical Completion unless otherwise indicated in your Letter of Offer. Where permitted by law, the contract must contain a right for the seller to extend the sunset date if there are delays beyond its control.
- (d) the sale price for each Lot must be at least 95% of the valuation of that Lot in the most recent Acceptable Valuation.
- (e) purchasers of each Lot must be at "arm's length" from you and not a Related Entity. Sales of more than two Lots in the Development to a single purchaser will not be treated as qualifying pre-sale contracts.
- (f) where a purchaser is a Corporation, the contract must be guaranteed by the directors of that Corporation unless otherwise approved by us.
- (g) purchasers must be Australian or New Zealand residents unless otherwise indicated in your Letter of Offer.
- (h) the contract must not allow the purchaser to rescind or terminate the contract, including should the seller be placed in liquidation, or any other form of administration, or should a mortgagee assume control of the Development for any reason.

- (i) the contracts should only require completion of the Development in accordance with the Plans and Specifications, and issue of titles for individual Lots before the sunset date, to facilitate settlement. No other conditions are to apply, including 'subject to finance' and insolvency provisions.
- (j) contracts and any bank guarantees provided as deposits must otherwise be in a form and substance satisfactory to us.

Real Property Security means at any time all real property that is currently, or is proposed by a Letter of Offer to be, subject to the Securities by way of a real property mortgage, including any such substituted or additional property in favour of us from time to time.

Receiver means any receiver or receiver and manager.

Redraw Facility means a Facility where we have agreed, as specified in your Letter of Offer, to allow you to Draw on the Available Redraw Amount.

Related Body Corporate and **Related Entity** have the meaning given by section 9 of the Corporations Act.

Related Party Loan means all obligations and Financial Indebtedness of the Borrower that is owing to a Related Body Corporate or a Related Entity.

Repayment Amount means the repayment amount that applies to a Facility as notified to you by us from time to time.

Repayment Date means the dates upon which repayments are due on a Facility. Your Repayment Date will depend on your Billing Cycle, and will be as follows (unless otherwise agreed between you and us):

If the Billing Cycle is:	The Borrower must pay the repayment by the date that is:
Monthly	a. The first Repayment Date as we notify to you; and b. the same day each month after that.
Quarterly	a. The first Repayment Date as we notify to you; and b. the same day each three months after that.
Half yearly	a. The first Repayment Date as we notify to you; and b. the same day each six months after that.
Annually	a. The first Repayment Date as we notify to you; and b. the same day each year after that.

If your Repayment Date falls on the 29th, 30th or 31st of a month, and a particular month does not have that date, your Repayment Date will be the last day of that month.

Residual Amount means the amount which you must pay to us at the end of the Facility Term as set out in your Letter of Offer.

Review means a review of a Facility by us as set out in clause 2.6 of Section A "General Terms and Conditions".

Security means:

- (a) each Security Interest listed under the heading 'Securities' in a Letter of Offer;
- (b) a Security Interest granted by you in relation to the Moneys Secured or the performance of any obligations under an Agreement; and
- (c) a Security Interest granted or required to be granted by any Person to secure payment of the Moneys Secured or any part of them or the performance of any obligation arising under an Agreement

whether that Security Interest is granted now or in the future.

Security Interest means:

- (a) any security or arrangement for the payment of money or performance of obligations including a mortgage, charge, lien, pledge, trust, title retention arrangement, assignment or guarantee;
- (b) a "security interest" as defined by the PPSA; or
- (c) any document which has the same commercial effect of granting or creating anything referred to in either paragraphs (a) or (b) or which gives a creditor priority over any other creditor with respect to any asset.

Security Property means at any time all real or personal property that is currently, or is proposed by a Letter of Offer to be, subject to the Securities, including any such substituted or additional property in favour of us from time to time.

Settlement means:

- (a) in the case of a Business Essentials Term Loan or a Commercial Term Loan Facility, the day of Initial Drawdown;
- (b) in the case of an Overdraft Facility, Bank Guarantee Facility or Business Line of Credit Facility, the day the limit is established (i.e. the limit is applied to the Account).

Statement means a statement of account provided in accordance with clause 10.3 of Section A "General Terms and Conditions".

Statutory Payments includes all taxation, GST, land tax, council rates and superannuation guarantee payments.

Supply has the meaning given to that term in the *Goods and Services Tax Act 1999 (Cth)*.

Swap Reference Rate means the relevant "Swap Rate Quarterly in Arrears" published daily by Reuters, or if such rate is not published, then as determined by us.

Tenancy Report means a schedule that details the:

- (a) name of each lessee;
- (b) areas occupied or vacant;
- (c) lease term;
- (d) rent and other income payable;
- (e) arrears owing;
- (f) amount of any unexpired rent abatements or other incentives; and
- (g) status of any leases due for expiry.

Today's Value means the value of money in present day terms, which involves the process of discounting future cash flows using a discount rate which is derived from the current market yield curve as provided by Reuters data.

Total Development Cost means the project costs (certified by an Independent Consultant) relating to the Development, plus any other costs not certified but included as part of the Approved Development Budget.

Total Interest Expense means in respect of any given period, all interest, discounts and all other interest payments in respect of the Financial Indebtedness (and in respect of other amounts stipulated below), paid or payable for a period, including but not limited to:

- (a) any dividend or distribution payable on any marketable security (other than a dividend on ordinary shares);
- (b) lease payments under any finance lease;
- (c) the interest component of instalments paid under any hire purchase agreement;
- (d) the face amount on any negotiable instrument drawn, issued, endorsed or accepted, less the net proceeds of those negotiable instruments after discount or issue and payment of any acceptance, endorsement, underwriting or similar fee; and
- (e) all line, facility, letter of credit, guarantee and similar fees and all fees and other amounts of a regular or recurring nature payable in respect of all financial accommodation but not:

- (i) unused limit fees; or
- (ii) establishment, arrangement and other fees payable once only on the initial provision of financial accommodation

Total Liabilities means at any time the total amount shown by the latest accounts of all secured and unsecured direct and contingent liabilities including but not limited to Financial Indebtedness, adjusted as necessary to:

- (a) include (without limitation or duplication):
 - (i) the total amount of all secured and unsecured liabilities of any corporation that has become a Related Entity or a Related Body Corporate of yours since the date of the latest accounts;
 - (ii) all provisions for estimated liabilities for tax and long service leave and for dividends recommended, declared or accrued but not paid since the date of the latest accounts; and
 - (iii) the unrepaid principal (including the principal component of such liability in respect of any finance lease) of any liability in respect of Financial Indebtedness when the proceeds or the benefits of the same have been received by you or any of your Related Entities or Related Bodies Corporate since the date of the latest accounts, but excluding the amount of any such proceeds that have been applied in reduction of any liabilities otherwise included in the definition;

(b) and deduct:

- (i) the total amount shown by the latest accounts of all secured and unsecured liabilities of any Corporation that has ceased to be a Related Entity or a Related Body Corporate since the date of the latest accounts; and
 - (ii) any provision for deferred income tax appearing as a liability in the latest accounts;
- (c) and eliminate all inter-company balances between you and your Related Entities or Related Bodies Corporate.

Total Tangible Assets means at any time all assets, which according to Accounting Standards, are or would be regarded as tangible assets.

Uncleared Funds means, an amount of any repayments made to the Facility, where the funds are not yet available in relation to those repayments. For example, this may include repayments made by cheque or direct debit, or some cash payments made at some approved agencies.

Undrawn Commitment means in relation to a Facility, at the relevant time the Facility Limit under that Facility less the Balance Outstanding under that Facility.

Vacancy Rate means the ratio of projected Net Passing Income of the vacant areas to the total projected Net Passing Income assessed in the most recent Acceptable Valuation.

Variation Date means the effective date of any change to the terms and conditions of the Facilities as agreed between you and us.

Variable Rate means a Base Rate that is not fixed and may change during the Facility Term.

we, us and **our** means Suncorp-Metway Ltd ABN 66 010 831 722.

Works means all planning, management, decontamination, remediation or any construction, demolition, alteration, repair, civil works or subdivision of the Real Property Security.

you and **your** means any Person who agrees to be a party to an Agreement as outlined in the Letter of Offer, individually and collectively.

2 Interpretation

Headings are for convenience only and do not affect interpretation. Unless the contrary intention appears, in this document:

- (a) labels used for definitions are for convenience only and do not affect interpretation;
- (b) the singular includes the plural and vice versa;
- (c) a reference to a document includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);
- (d) a reference to a document also includes any variation, replacement or novation of it;
- (e) the meaning of general words is not limited by specific examples introduced by "including", "for example", "such as" or similar expressions;
- (f) a reference to a particular Person includes the Person's executors, administrators, successors, substitutes (including Persons taking by novation) and assigns;
- (g) a reference to a time of day is a reference to Brisbane time;
- (h) a reference to dollars, \$ or A\$ is a reference to the currency of Australia;
- (i) a reference to "**law**" includes common law, principles of equity and legislation;
- (j) a reference to any legislation (whether generally or specifically) includes all statutes, codes, ordinances, regulations, rules or by-laws and any consolidation, amendment, re-enactment or replacement of any of them from time to time;
- (k) a reference to "**property**" or "**asset**" includes any present or future, real or personal, tangible or intangible property, asset or undertaking and any right, interest or benefit under or arising from it; and
- (l) where there are two or more Persons specified as a party to the Agreement, any reference in the Agreement to them shall be taken to mean each of them severally and all of them jointly and the obligations contained in the Agreement bind each of them severally and all of them jointly.

3 How to contact us with a complaint

Let us know

If you experience a problem, are not satisfied with our products or services or a decision we have made, let us know so that we can help.

Contact us:

By phone: 13 11 55

Or visit a branch

Complaints can usually be resolved on the spot or within 5 business day.

Review by our Customer Relations Team

If we are not able to resolve your complaint or you would prefer not to contact the people who provided your initial service, our Customer Relations team can assist:

By phone: 1800 689 762

By email: customer.relations@suncorp.com.au

By Fax: 1300 767 337

In writing: Reply Paid 1453 Suncorp Bank
Customer Relations (4RE058) GPO Box 1453
BRISBANE QLD 4001

Customer Relations will contact you if they require additional information or when they have reached a decision.

When responding to your complaint you will be informed of the progress of and the timeframe for responding to your complaint.

Seek review by an external service

We expect our procedures will deal fairly and promptly with your complaint. However, if you remain dissatisfied, you may be able to access the services of the Australian Financial Complaints Authority (AFCA). AFCA provides fair and independent financial services complaint resolution that is free to consumers. Any determination AFCA makes is binding on us, provided you also accept the determination. You do not have to accept their determination and you have the option of seeking remedies elsewhere.

AFCA has authority to hear certain complaints. Time limits may also apply, you are generally required to lodge a complaint with AFCA within two years of our final response to your complaint. Contact AFCA to confirm if they can assist you.

You can contact AFCA:

Online: www.afca.org.au

By email: info@afca.org.au

By phone: 1800 931 678

In writing: Australian Financial Complaints Authority,
GPO Box 3, Melbourne VIC 3001.

How to contact us



Call
13 11 55



Online
[suncorp.com.au](https://www.suncorp.com.au)



Local
branch