



Ultimate Home Loan Terms & Conditions

Version 1
As at June 2021



Better Choice
Make a Better Choice

Golden Eagle Mortgages Pty Ltd

Part A – Loan Terms

1. What are these terms about?

- 1.1 These are the Golden Eagle Mortgages Pty Ltd General Terms and Conditions Version 1 incorporated into loan contracts referring to these terms and conditions. They form part of your *loan contract*.
- 1.2 This document does not contain all the precontractual information required to be given to you. You must read this document together with the document that contains the Financial Table.
- 1.3 Words in *italics* have a special meaning, and are defined as follows:
- (a) *amount of credit* means the amount specified in the Financial Table in your *loan contract*;
 - (b) *amount you owe us* means the total amount outstanding from time to time in respect of all your accounts, including all accrued interest, fees and charges (including where applicable those that accrue on partial or total repayment);
 - (c) *business day* is a day that is not a Saturday or Sunday, or a public holiday on which banks are generally not open to conduct business in Australia;
 - (d) *disclosure date* means the date specified in your *loan contract*.
 - (e) *event of default* means any of the events described in clauses 18 and 19;
 - (f) *final repayment date* means the date on which your loan term ends, the date on which the repayment is due as a result of your default, the date on which you elect to repay the *amount you owe us*, or such other date which we agree with you;
 - (g) *guarantor* means anyone who at any time guarantees to us the payment of all or any part of the *amount you owe us*, and includes the guarantor specified in your *loan contract*;
 - (h) *loan contract* means the loan contract which incorporates these General Terms and Conditions and includes any variations of that loan contract;
 - (i) *loan date* means the date we first advance funds to you;
 - (j) *mortgaged property* means any real estate subject to the security specified in your *loan contract* and, where the context permits, any other property subject to the *security*;
 - (k) *other agreement* means any other agreement or arrangement under which the Lender provides financial accommodation to you or any *guarantor* at any time; and
 - (l) *security* means any security specified in your *loan contract* that secures your obligations and any other security from time to time given to secure your obligations.

2. Is there anything else you need to read and comply with?

2.1 You must read and comply with:

- (a) your *loan contract* (which includes these General Terms and Conditions);
- (b) the Mortgage Common Provisions;
- (c) access methods, if applicable; and
- (d) any other conditions reasonably imposed by us.

2.2 Take particular notice of the things you must do and must not do with the *mortgaged property*, and when your payments are due.

3. When is there a binding legal contract between you and us?

3.1 There is no binding legal contract between us until the *loan date* or such earlier date as we decide. This means that until the *loan date*:

- (a) you are not bound to go ahead; and
- (b) we have the right to change the terms of your *loan contract* or to withdraw it altogether and decline to make an advance of funds to you. We are not obliged to make an advance of funds until all relevant conditions are fulfilled to our satisfaction. You may be liable for costs even if we decide not to proceed.

4. What happens if there are two or more borrowers?

4.1 If there are two or more of you, each of you is individually liable, and all of you are jointly liable. This means we may sue any one of you for all the outstanding amounts.

Each borrower can bind each other borrower. For example, any one of you can authorise a redraw, a split into one or more sub-loans, or any other activity in respect of your loan. Each borrower and any *guarantor* will be liable even though they did not know about or did not agree to the transaction.

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

Despite this clause, we may require all borrowers and *guarantors* to authorise any activity with respect to your loan.

5. Representations and warranties

5.1 You represent and warrant that all information you have given us regarding your financial and personal affairs, and any *mortgaged property* is true and correct. You also represent and warrant that other than as disclosed to us in writing prior to the *loan date*:

- (a) there are no unpaid rates or taxes owing in respect of the *mortgaged property*;
- (b) the *mortgaged property* will be occupied by you;

- (c) there are no notices or proposals from any government or other authority adversely affecting the *mortgaged property*;
- (d) there are no defects or disputes relating to the *mortgaged property*; and
- (e) there are no structural alterations or improvements on the *mortgaged property* which require approval by the council or any other authority which have not been approved.

6. What can we do with your loan account?

- 6.1 We can debit your loan account with any amounts lent to you or due under your *loan contract*.
- 6.2 If a third party makes a payment to you on our behalf, we can debit your loan account on the date that money is made available to you.
- 6.3 We may combine two or more sub-accounts if they have identical repayment types, annual percentage rates, fixed rate periods (if applicable), interest only periods (if applicable), and loan purposes. We may also combine any offset account with another loan account. We will provide notice to you before combining accounts.
- 6.4 You may with our approval split your loan account into two or more accounts or switch account types. The following are examples of switches. Some or all of these options may not be available to you.
 - (a) Convert from variable rate to fixed rate and vice-versa.
 - (b) Consolidate one or more accounts.
 - (c) Convert from interest only to principal and interest repayments and vice-versa.
 - (d) Convert from one type of account to another type of account.).

You may request a change prior to the initial advance being made to you, in which case the change takes effect from the *loan date*.

- 6.5 If a new loan account is created, separate repayment dates and interest debit dates may apply to that new account. If your loan account is split into two or more accounts, or if you switch between types of interest rate, you may have to pay interest on the amount switched or split to the date on which the switch or split occurs.
- 6.6 If you switch from a fixed rate loan to a variable rate loan during the fixed rate period, a fixed rate break cost fee and/or a switch/split administration fee may be payable – see your *loan contract*.
- 6.7 If you do not draw down the total *amount of credit* on the *loan date*, any borrowing of the balance is subject to our approval.

7. What payments must you make?

- 7.1 You must make all payments and pay all credit fees and charges specified in your *loan contract*. In addition, on the *final repayment date*, you must pay us the *amount you owe us* in respect of all your loan accounts.

- 7.2 Payments will be credited to your loan account only when actually received by us. All payments must be made in full when they fall due, without setting off any amounts you believe we owe you and without counterclaiming any amounts from us.
- 7.3 You may with our approval make weekly or fortnightly repayments of the amount specified by us instead of making monthly repayments. If you want to change your payments, please contact us.
- 7.4 Payments are to be made by direct debit, by deduction from your salary, or by any other reasonable method we direct. In any event, you must sign a direct debit authority to authorise us to debit one of your bank accounts and you must keep that account open. You authorise us to obtain any payment due under your *loan contract* by using the direct debit authority.
- 7.5 The amount of each payment may include any applicable direct debit fees, taxes or charges relating to the payment method.
- 7.6 If the interest rate changes, we may change your repayments.
- 7.7 If any payment is due:
- (a) on a day which is not a business day you must pay on the next business day; or
 - (b) if a repayment is due on the 29th, 30th or 31st day of the month but a month does not have that many days, you must pay that month's repayment on the last day of that month.
- 7.8 If any direct debit or cheque used for repayment is dishonoured, the repayment will be treated as not having been made, and interest will continue to accrue on the unpaid daily balance until actual payment is received by us.
- 7.1 If you become liable by a court order to pay any money due under your *loan contract*, you must pay interest at the higher of the rate ordered by the court or the rate payable under your *loan contract*.
- 7.2 The *amount you owe us* must be repaid within 180 days from the date you die (or if there is more than one borrower, the last of you dies) unless other arrangements are made for the continuation of the loan to our satisfaction.

8. How are your payments credited?

- 8.1 We can apply any payment or other credit to any *amount you owe us* in any order we determine.
- 8.2 If you have more than one account with us, and you make a payment without telling us in writing how the payment is to be applied, we can apply it to any one or more of the accounts in any way we think fit.
- 8.3 If any of your loan accounts are in arrears while one or more of your other loan accounts or other accounts with us have funds available to be drawn, you authorise us to appropriate from any one or more of those accounts to pay some or all of your arrears. We are not obliged to do this however we will notify you if this occurs.

9. How is interest applied to your loan?

- 9.1 Interest charges are debited to your loan account monthly in arrears on the same day each month as the *loan date* and on the *final repayment date*. Interest charges may also be debited on the date of any switch or split. If the day is not a *business day*, interest will be debited the next *business day*. If the date for debiting interest does not exist in a month (for example 31 April) interest will be debited on the last *business day* of that month.
- 9.2 Interest charges are calculated by applying the interest rate to the unpaid balance owing to us at the end of each day. The end of each day for calculating interest charges is 5.00 pm Eastern Standard Time. The interest rate applied each day is equal to the annual percentage rate applicable to the loan at the time divided by 365.
- 9.3 In addition to debiting interest to your loan account as specified above, we may debit interest whenever the loan is in default, you repay the *amount you owe us*, there is any principal increase or variation in your *loan contract*.
- 9.4 Interest accrues on a daily basis from the day of the first advance. This applies whether or not any real estate transaction to which the advance relates (eg, refinance or purchase) occurs on that day.
- 9.5 If more than one interest rate applies to your loan accounts, we will apply the applicable daily percentage rate to the relevant portion of the *amount you owe us*.
- 9.6 You can find out the reference rate at any time by contacting us.

10. What happens if you repay early?

- 10.1 You may make additional payments or repay your loan in full or part at any time. If you do:
- (a) fees may be payable if specified in the Financial Table (as varied from time to time), including fixed rate break costs if you repay your loan during a fixed rate period;
 - (b) repayments greater than your scheduled repayment will not be credited to any offset account you have established unless you specifically request so before making the payment; and
 - (c) you may be able to redraw any excess repayments. We will endeavour to give you notice but we are not obliged to do so.

11. What are fixed rate break costs?

- 11.1 When a lender agrees to lend money to a borrower for a fixed rate period, the lender may enter into financial arrangements to enable it to do so. If the loan is repaid or otherwise terminated before the end of the fixed rate period, the lender may still incur costs under those financial arrangements. Lenders normally pass on these costs (commonly known as 'break costs') to borrowers. Break costs are payable irrespective of whether the lender has entered into specific financial arrangements to fund the loan, and may be calculated by reference to retail interest rates (ie the rate at which lenders can lend money on similar terms) or wholesale interest rates (ie the rate at which lenders obtain funding).

Example

The lender lends \$200,000 to you at 9% per annum for a fixed rate period of three years. The lender enters financial arrangements to fund this loan at 8% per annum (the market rate). You decide to repay the loan early at the end of one year. The market rate has reduced to 5% per annum. The break costs will be an assessment of the cost or loss to the lender as a result of the early repayment.

Using the above figures, the lender could calculate the loss by multiplying the amount repaid early (\$200,000) by the difference in interest rates (3%) for the period starting from the date of repayment to the end of the fixed rate term (2 years) = $\$200,000 \times 3/100 \times 2 = \$12,000$. The amount you would have to pay will be slightly less than \$12,000 because the lender is receiving the money at the time of the early repayment rather than over the remaining fixed rate period.

This is an example only to assist your understanding of break costs. We may use various funding techniques, but the underlying principle holds true (even if the formula applied each time is different). Break costs may be payable even if there is no matching borrowing by us.

WARNING: If the fixed rate loan or any part of it is terminated early break costs could be substantial, particularly if market interest rates have reduced during your fixed rate period. Ask us for an estimate of break costs before you arrange to repay a fixed rate loan early.

There are a number of ways we may calculate break costs. We will act reasonably when calculating the break costs that are payable by you and will charge no more than a reasonable estimate of our loss arising from the early repayment plus our average reasonable administrative costs. Because of the changes that occur over time in financial markets, it is not possible to state the method of calculating break costs at the *disclosure date*.

12. How do you use your redraw facility (if applicable)?

- 12.1 We will tell you if redraw facilities are available. We may review, suspend or cancel the redraw facility. We will endeavour to give you notice but we are not obliged to do so. Redraws will be processed as we decide from time to time. If you request a redraw, we have full discretion whether to approve or refuse your request.
- 12.2 While you have one or more split loans, any re-borrowing will be made from the loan account specified by you, or if no loan account is specified, the loan account determined by us.
- 12.3 Subject to this clause 12, if you have made extra payments above your minimum repayment amount, you may redraw up to the *scheduled balance* provided:
 - (a) you have not defaulted under your *loan contract*;
 - (b) the interest rate applying to the loan account to which the extra payments were made is a variable interest rate;
 - (c) no further charge or security interest has been granted over any of the security; and
 - (d) no other redraw restrictions are set out in your *loan contract*.

- 12.4 The amount available for redraw will reduce over the term of your loan because the amount available for redraw is limited to the *scheduled balance* (which reduces over the term of your loan except during any interest only period).
- 12.5 The amount you redraw must not be less than the minimum amount specified by us from time to time. We may reduce the amount you can redraw by the estimated amount of your next scheduled repayment.
- 12.6 You must keep the method of making redraws from your loan accounts (including any offset sub-account(s)) confidential to ensure there are no unauthorised transactions or other dealings with your loan account(s).
- 12.7 You can obtain a redraw:
- (a) if internet access is available under your loan, by using internet access in accordance with our internet access terms and conditions;
 - (b) if telephone access is available under your loan, by using telephone access in accordance with our telephone access terms and conditions; or
 - (c) by any other method we approve from time to time.
- You must ensure that the amount you wish to redraw is not for more than you have paid early.
- 12.8 If you make your request for redraw manually, you should allow at least two *business days* for your redraw to be processed.
- 12.9 If you attempt to redraw more than your available funds limit, we may (but are not obliged to) stop or prevent the payment, including by:
- (a) not processing a direct transfer from your loan account; or
 - (b) dishonouring a cheque (where you have chosen the cheque facility) drawn on your loan account.
- 12.10 You must make sure that you do not draw more than the amount available for redraw. If you do draw more than that amount, you must repay the excess immediately, and we may charge default interest on that amount until it is repaid.
- 12.11 If you request a redraw, and for that loan account your existing repayments are not sufficient to repay the balance over the remaining term, we may recalculate your future repayments for that loan account.

13. What if you have an offset sub-account?

- 13.1 We will tell you if offset facilities are available. We may review, suspend or cancel the offset facility. We will endeavour to give you notice but we are not obliged to do so.
- 13.2 We do not make any representations about the tax effectiveness of any offset sub-account.
- 13.3 Each offset sub-account must be linked to a separate nominated loan account.
- 13.4 Interest payable on each nominated linked loan account will be calculated on the daily balance of that account less the balance in the linked offset sub-account.

- 13.5 Any offset sub-account(s) is not a stand-alone account and cannot be severed from your nominated loan account.
- 13.6 You may not link your offset sub-account(s) to a fixed rate account.
- 13.7 You must ensure that the balance of all your offset sub-accounts does not exceed the amount outstanding on your nominated loan account at any time. Where the balance of your offset sub-account(s) exceeds the amount outstanding on your nominated loan account, we may send the excess funds back to you, or apply them towards another of your loan accounts.
- 13.8 No interest is payable on the amount in your offset sub-account(s) even if that amount exceeds the amount owing under your nominated loan account.
- 13.9 You may draw funds from your offset sub-account(s) in the same way as set out above for redraw accounts.
- 13.10 Your offset sub-account is not a separate deposit account, or a bank account held directly with an Authorised Deposit-taking Institution.

14. What happens if you want to pay third parties by direct debit?

- 14.1 With our approval, you can arrange for third parties to have a right to debit any of your offset account. Once set up, any request by a third party for payment under a direct debit authority will be treated as having been properly authorised by you. We can cancel this arrangement at any time, and we are not liable to you or anyone else if a payment is not made for any reason. Any arrangement must be confirmed before the *loan date* and may not be available after the *loan date* without our approval. We may impose an additional fee for any arrangement requested after the *loan date*. We are not liable for any loss or damage if payment is not made under a third party payment arrangement.

15. Can your obligations under your loan contract change?

- 15.1 Acting reasonably, we can change or vary any term of your *loan contract* to accommodate:
- (a) a change to the pricing of your loan (including credit fees and interest rates but subject to any specific agreement such as a fixed rate period);
 - (b) a change to the day you make repayments or we debit interest to your loan account;
 - (c) a change in law or market practice;
 - (d) a change in technology or other ways of communication;
 - (e) a change in payment methods; or
 - (f) any other reasonable change.
- 15.2 If you are not satisfied with any material change or variation to your *loan contract* (excluding changes to interest rates and repayments under a variable rate loan), you may repay your loan in accordance with clause 10, but we will not charge you any fees for terminating your loan contract except our reasonable third party costs incurred in discharging any security and finalising your loan account and, if a fixed interest rate applies, our reasonable break costs.

- 15.3 You will be notified in accordance with applicable laws on or before the day the change takes effect either in writing or by advertisement in a major newspaper or by electronic means. If notified by newspaper, the change will also be confirmed in your next statement of account. You may not be notified of changes which reduce your obligations.
- 15.4 The interest rates and repayments shown in the Financial Table in your *loan contract* are correct at the *disclosure date* but may change prior to the *loan date* if the interest rate changes.

16. When will you receive account statements?

If you have an offset sub-account, we will issue monthly statements to you. Otherwise, for all other loan accounts, statements of account will be forwarded to you at least once every six months or more frequently if required by law.

Part B – Default

17. Default rate

- 17.1 Acting reasonably, we may change the default rate at any time without your consent. You will be notified of any changes in the default rate in the same way any variations to the interest rate are notified to you.
- 17.2 If any amount due by you is not paid on the due date, you must pay default interest on the amount in default until it is paid. You may also be liable for default fees as specified in your *loan contract*. If for any reason the total *amount you owe us* becomes due, interest at the applicable default rate is payable on the entire amount.
- 17.3 Default interest accrues and is payable in the same way as ordinary interest.

18. Breach of any term

If you breach any term of your *loan contract* or any *other agreement*, if an *event of default* occurs, or if any *security* or guarantee is terminated or is of reduced force and effect:

- (a) we will not be obliged to lend you any more money and we can stop any redraws or withdrawals from your offset sub-account; and
- (b) we may rectify the breach or *event of default* by performing your obligations under your *loan contract* or any *other agreement*.

19. Notification of an *event of default*

Without limiting our rights under your *loan contract* in any way, you must promptly inform us in writing if any *event of default* occurs. Any provision in any *security* which states that an *event of default* occurs if we make a determination that an *event of default* has occurred, and that any such determination is final, is negated and does not apply.

20. Monetary *events of default*

It is an *event of default* if you fail to pay any money due to us under your *loan contract* or any other agreement by the due date.

21. Non-monetary *events of default*

Each of the following is an *event of default*:

- (a) if you are an individual:
 - (i) you become bankrupt;
 - (ii) you are unable to pay your debts as they fall due; or
 - (iii) you make any arrangement with your creditors;
- (b) if you are a company:
 - (i) proceedings are commenced to wind up the company;
 - (ii) a receiver, manager, receiver and manager, administrator, controller, provisional liquidator or liquidator is appointed to any part of the company's assets; or
 - (iii) the company is, or is deemed or presumed by law or a court to be, insolvent;
- (c) you or a *guarantor* no longer have legal capacity;
- (d) enforcement proceedings are taken against you or a *guarantor*, or your or their assets, by another creditor;
- (e) early repayment is required under any *other agreement*, or default based action is taken against you or a *guarantor* by us, in each case due to a non-monetary *event of default* of the kind described in this clause²¹;
- (f) we reasonably believe that you or a *guarantor* have not complied with the law or any requirement of a statutory authority, and such non-compliance has or may have a material adverse effect on any business conducted by you or a *guarantor*;
- (g) it becomes unlawful for you or us to continue with your *loan contract* or any *other agreement*;
- (h) you or a *guarantor* give us information, or make a representation or warranty to us, that is materially incorrect or misleading (including by omission), and is such that we would not have provided the loan, or would only have provided the loan on different terms, if we had known the correct information;
- (i) you use the loan for a purpose not approved by us or;
- (j) you use the loan for an illegal or improper purpose, or to finance an illegal or improper activity;
- (k) your assets or a *guarantor's* assets are dealt with, or attempted to be dealt with, in breach of the terms of your *loan contract* or any *other agreement* without our prior written consent (which will not be unreasonably withheld), including:

- (i) any of the *mortgaged property* becomes subject to a mortgage or charge without a priority agreement being in place between us and the other security holder on terms acceptable to us (acting reasonably);
- (ii) any of the *mortgaged property* becomes subject to a mortgage or charge without our prior written consent (which will not be unreasonably withheld); or
- (iii) the amount secured by any mortgage or charge over the *mortgaged property* is increased without our prior written consent (which will not be unreasonably withheld);
- (l) you or a *guarantor* do not provide financial information required by any agreement with us;
- (m) you or a *guarantor* do not maintain a licence or permit necessary to conduct any business conducted by you or a *guarantor*;
- (n) you or a *guarantor* do not maintain insurance required by any agreement with us;
- (o) legal or beneficial ownership, or management control, of you or a *guarantor* or your or their business changes without our prior written consent (which will not be unreasonably withheld);
- (p) without our prior written consent (which will not be unreasonably withheld), the status, capacity or composition of you or a *guarantor* changes, including:
 - (i) you or a *guarantor* cease to carry on your business or a material part of your business, or dispose of substantially all of your assets; or
 - (ii) if you or a *guarantor* are an individual, you or a *guarantor* are sentenced to jail for a term of longer than 12 months;
- (q) the *mortgaged property* is:
 - (i) substantially damaged or destroyed, and we consider in our reasonable opinion that the *mortgaged property* cannot be expected to be reinstated within a reasonable time and without material loss of any material income from the *mortgaged property*; or
 - (ii) taken out of your control;
- (r) there is a material reduction in the value of the *mortgaged property*;
- (s) you, or any person on behalf of you, breach any material undertaking given to us or any condition imposed by us;
- (t) any repairs necessary to keep the *mortgaged property* in good repair are not made in a timely fashion;
- (u) any amount required to be paid in connection with the *mortgaged property* (including council rates, water rates, land tax or shared title contributions) is not paid within 90 days of the due date; or
- (v) any other event agreed in writing by you to be an *event of default* for the purposes of your *loan contract* occurs.

22. What can we do if an *event of default* occurs?

- 22.1 Subject to clauses 22.2 to 22.6 inclusive, at any time after an *event of default* occurs, we can take any of the following actions.
- (a) Demand and require immediate payment of any money due under your *loan contract*.
 - (b) Call up the loan and require payment of the *amount you owe us*.
 - (c) Exercise any right, power or privilege conferred by law, your *loan contract* or any *security*.
- 22.2 We will only act on a specific non-monetary *event of default* if the event by its nature is material, or we reasonably consider that the event has had, or is likely to have, a material impact on:
- (a) the ability of your or a *guarantor* to meet your or their financial obligations to us (or our ability to assess this);
 - (b) our security risk (or our ability to assess this); or
 - (c) our legal or reputational risk where an event in clause 21(f), 21(g), 21(h) or 21(i) occurs.
- 22.3 We will not:
- (a) require you to repay the *amount you owe us*;
 - (b) take enforcement action against you; or
 - (c) enforce any *security* held to secure repayment of this loan,
- unless:
- (d) we have given you at least 30 days written notice of the *event of default*, and
 - (e) if the *event of default* is remediable, you have not remedied that *event of default* within 30 days; and
 - (f) no *event of default* of the same type has arisen during that period.
- 22.4 We do not need to give you notice to repay an overdraft or on-demand facility.
- 22.5 If your loan is not regulated by the National Credit Code, we may give you less than 30 days notice or no notice if:
- (a) *the event of default is unable to be remedied*;
 - (b) it is reasonable for us to do so to manage a material and immediate risk relating to the nature of the relevant event of default, your particular circumstances, or the value of the *mortgaged property* or any *security*; or
 - (c) we have already given you a notice to rectify a non-monetary *event of default*.

- 22.6 If your loan is regulated by the National Credit Code, we do not need to give you a default notice or wait 30 days before commencing enforcement action if:
- (a) we reasonably believe that we were induced by fraud by you or a *guarantor* to enter into your *loan contract*;
 - (b) we have made reasonable attempts to locate you or a *guarantor*, but without success;
 - (c) a court authorises us to begin enforcement proceedings; or
 - (d) we reasonably believe that you or a *guarantor* have removed or disposed of the *mortgaged property* or that urgent action is necessary to protect the *mortgaged property*.
- 22.7 We can take action even if we do not do so promptly after the *event of default* occurs. We do not lose any rights or forgive any *event of default* unless we do so in writing.
- 22.8 We can exercise these rights with or without taking possession of any *mortgaged property*. If we hold more than one *security*, we can enforce any one of the securities first or all of them at the same time.
- 22.9 Our rights and remedies under your *loan contract* may be exercised by any of our employees or any other person we authorise.
- 22.10 We are not liable for any loss caused by the exercise, attempted exercise, failure to exercise, or delay in exercising any of our rights or remedies, except where such loss arises from the mistake, fraud, negligence or wilful misconduct of us, our employees, our agents or a receiver we appoint.

23. Are you liable for enforcement expenses?

- 23.1 Enforcement expenses may become payable under your *loan contract* and any *security* if you default. We may debit your account with our costs in connection with any exercise or non-exercise of rights arising from any default when we incur them, including:
- (a) legal costs and expenses on a full indemnity basis or solicitor and own client basis, whichever is higher; and
 - (b) our internal costs.
- We may then either require you to pay these costs immediately, collect them with your regular repayments, or require them to be repaid by one or more repayments.
- 23.2 Where the loan is regulated by the National Credit Code or similar laws, enforcement expenses will not exceed our reasonable enforcement costs including internal costs.
- 23.3 Enforcement expenses payable by you include our expenses incurred in preserving or maintaining the *mortgaged property* (including insurance, rates and taxes payable in respect of the *mortgaged property*), collection expenses and expenses resulting from dishonour of a cheque or payment. These expenses may be debited to your loan at any time after they are incurred.
- 23.4 You indemnify us from and against any expense, loss, loss of profit, damage, or liability which we incur as a consequence of a default occurring, except where such

loss arises from the mistake, fraud, negligence or wilful misconduct of us, our employees, our agents or a receiver we appoint, or is otherwise recovered by us.

Part C – General provisions

24. Do you have to pay government charges?

You must pay us any government duties, taxes and other charges on receipts, debits or withdrawals that apply to your loan. This includes (but is not limited to):

- (a) stamp duty;
- (b) income tax payable by you (if the Commissioner of Taxation requires us to deduct this from your loan account);
- (c) withholding tax; and
- (d) goods and services tax (GST).

You must pay these duties, taxes and charges whether or not someone else is liable to pay them and whether or not the loan is made. We may debit these duties, taxes and charges to your loan account as and when they become payable. We do not need to tell you first.

25. What happens if you have a *guarantor*?

You agree to allow us to disclose the following documents to each *guarantor* named in your *loan contract*:

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

26. Must you provide financial statements?

Within 14 days of our request, you must provide to us any information we require relating to your business, assets and financial affairs. For example, we may require a copy of an individual's taxation return or an assets and liability statement. In relation to a company, we might require a balance sheet, a profit and loss account, or both. We may require this information to be certified or audited.

27. What happens if your loan account has a credit balance?

If you repay us more than the *amount you owe us*, we may place the excess funds into a suspense account, deposit it with a bank or pay it to you. We will not pay you interest on that amount.

28. Will we obtain valuations of the *mortgaged property*?

- 28.1 We may obtain valuations or other reports concerning the *mortgaged property* whenever and as often as we decide. Upon request, you must assist this process by providing access to and information about the *mortgaged property*.
- 28.2 Our processes in relation to external expert valuations will be fair and transparent. Our communication will be clear and we will explain the purpose of the valuation to you.
- 28.3 We accept no responsibility if you rely on these valuations. You should obtain your own valuations of the *mortgaged property*.

29. Additional repayment triggers

- 29.1 The *amount you owe us* may become payable if we reasonably believe that continuing with your *loan contract* would cause us to breach an applicable law or would represent an unacceptable level of risk for us because:
- (a) we reasonably believe that you have migrated to a country that we determine is 'high risk' given our obligations under anti-money laundering and counter-terrorism laws in respect of the services we provide;
 - (b) you fail to provide any information or document to us that we have requested for the purpose of our compliance with applicable laws (including any details necessary for us to verify your nationality in accordance with anti-money laundering and counter-terrorism laws); or
 - (c) we reasonably believe that you are 'high risk' given our obligations under anti-money laundering and counter-terrorism laws.
- 29.2 If any of the events in clause 29.1 occur, we will endeavour to give you not less than 90 days notice to repay the *amount you owe us*.

30. Breaches of laws

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

31. What law applies to your loan contract?

- 31.1 If, when your *loan contract* is entered into, each of you reside in the same or territory. Otherwise, your *loan contract* is governed by the laws of the Australian state or territory in which we first provide the loan.
- 31.2 You submit to the jurisdiction of the courts of the Australian state or territory whose laws apply to your *loan contract* and the proper jurisdiction of any other court.

32. How can your loan contract be dealt with?

- 32.1 We may assign, novate or otherwise deal with our rights and obligations under your *loan contract*, any *security*, and any document or agreement entered into or provided under or in connection with your *loan contract* in any way we wish. You must sign anything and do anything we reasonably require to enable any dealing

with your *loan contract*, any *security*, and any document or agreement entered into or provided under or in connection with your *loan contract*. Any dealing with our rights does not change your obligations under your *loan contract* in any way.

- 32.2 You may not assign, novate, or otherwise deal with your rights or obligations under your *loan contract*, any *security*, and any document or agreement entered into or provided under or in connection with your *loan contract*.
- 32.3 We may disclose information about you, your *loan contract*, or any *security* to anybody involved in an actual or proposed assignment, novation or dealing by us with our rights under your *loan contract*.

33. What about any relevant legislation or statutes?

- 33.1 To the extent that your *loan contract* is regulated under consumer legislation (e.g. the National Credit Code) or any other law, any provisions in your *loan contract* which do not comply with that law have no effect, and to the extent necessary, your *loan contract* is to be read so it does not impose obligations prohibited by that law.
- 33.2 If any of the provisions of your *loan contract* are illegal or become illegal at any time, the affected provisions will cease to have effect, but the balance of your *loan contract* will remain in full force and effect, and we may by notice vary your *loan contract* so that the provision is no longer illegal.

34. What happens if you are a trustee?

If you are at any time trustee of any trust, you are liable under your *loan contract* in your own right and as trustee of the trust. Accordingly, we can recover against the trust assets as well as you. An *event of default* occurs if there is a change of trustee, a termination of the trust, or any material change to the terms of the trust without our prior written consent (which will not be unreasonably withheld).

35. What should you do if your contact details change?

You must tell us promptly if your contact details change (including any residential, postal or electronic address, or your phone number), or if you think there is any information that we should be aware of about your ability to comply with your *loan contract*.

36. How can we give you notices about your loan?

- 36.1 Subject to any applicable laws, we may give you a notice or any other document by personal delivery, electronic means or prepaid post, sent to your address shown on your *loan contract*, sent to your registered office (if you are a company), or sent to your last address known to us (including an electronic address). We may also give a notice or any other document in any other way authorised by law.
- 36.2 The notice may be signed by any employee, solicitor or agent on our behalf.

37. What is lenders mortgage insurance or a lenders risk fee?

- 37.1 If your *loan contract* requires you to pay for lenders mortgage insurance or pay a lenders risk fee, this insurance or fee protects us and not you. The amount paid by you under your *loan contract* is usually not refundable if you repay your loan early.
- 37.2 If you default under your mortgage, resulting in the sale of the *mortgaged property* and the sale proceeds are insufficient to fully repay the *amount you owe us*, we

may incur loss. We may recover this loss under its lenders mortgage insurance policy or from its lenders risk fee. However, you are still legally responsible for repaying the amount outstanding under the mortgage because you are not protected by the lenders mortgage insurance policy or any other type of risk cover.

38. What happens if we are a trustee?

If we are at any time trustee of any trust, we enter into your *loan contract* as trustee of a trust. Our liability is limited to the assets of that trust which are available to us to enable us to satisfy that liability.

39. Identification information

On request by us, you must provide us with any information we require about you or anyone authorised to operate your loan account and, if you are a company or trustee, information about beneficial owners of you.

Part D - Interpretation

40. Interpretation

40.1 In this document:

- (a) a reference to the singular includes the plural;
- (b) reference to a document includes any variation or replacement of it;
- (c) headings are for ease of reference only and not to assist interpretation; and
- (d) use of examples is illustrative of the context only and does not limit the natural meaning of the terms of your *loan contract*.

The information statement below will only apply to you if your loan is regulated by the National Credit Code. This statement is prescribed by law. If the borrower is a company, or if the loan is predominantly used for business purposes or investment purposes (except for investment in residential property), the loan will not be regulated by the National Credit Code.

INFORMATION STATEMENT
THINGS YOU SHOULD KNOW ABOUT YOUR PROPOSED CREDIT CONTRACT

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

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

THE CONTRACT	
1.	<p>How can I get details of my proposed credit contract?</p> <p>Your credit provider must give you a precontractual statement containing certain information about your contract. The precontractual statement, and this document, must be given to you before-</p> <ul style="list-style-type: none">• your contract is entered into; or• you make an offer to enter into the contract, <p>whichever happens first.</p>
2.	<p>How can I get a copy of the final contract?</p> <p>If the contract document is to be signed by you and returned to your credit provider, you must be given a copy to keep.</p> <p>Also, the credit provider must give you a copy of the final contract within 14 days after it is made. This rule does not, however, apply if the credit provider has previously given you a copy of the contract document to keep.</p> <p>If you want another copy of your contract write to your credit provider and ask for one. Your credit provider may charge you a fee. Your credit provider has to give you a copy -</p> <ul style="list-style-type: none">• within 14 days of your written request if the original contract came into existence 1 year or less before your request; or• otherwise within 30 days of your written request.
3.	<p>Can I terminate the contract?</p> <p>Yes. You can terminate the contract by writing to the credit provider so long as:</p> <ul style="list-style-type: none">• you have not obtained any credit under the contract; or• a card or other means of obtaining credit given to you by your credit provider has not been used to acquire goods or services for which credit is to be provided under the contract. <p>However, you will still have to pay any fees or charges incurred before you terminated the contract.</p>

4. **Can I pay my credit contract out early?**

Yes. Pay your credit provider the amount required to pay out your credit contract on the day you wish to end your contract.

5. **How can I find out the payout figure?**

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

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

6. **Will I pay less interest if I payout my contract early?**

Yes. The interest you can be charged depends on the actual time money is owing. However, you may have to pay an early termination charge (if your contract permits your credit provider to charge one) and other fees.

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

Yes, but only if your contract says so.

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

That depends on the type of change. For example-

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

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

9. **Is there anything I can do if I think that my contract is unjust?**

Yes. You should first talk to your credit provider. Discuss the matter and see if you can come to some arrangement. If that is not successful, you may contact the AFCA scheme. The AFCA scheme is a free service established to provide you with an independent mechanism to resolve specific complaints. The AFCA scheme can be contacted by phone on 1800 931 678, by email at info@afca.org.au, or in writing to GPO Box 3, Melbourne VIC 3001.

Alternatively, you can go to court. You may wish to get legal advice, for example from your community legal centre or Legal Aid.

You can also contact ASIC, the regulator, for information on 1300 300 630 or through ASIC's website at <http://www.asic.gov.au>

INSURANCE

10. **Do I have to take out insurance?**

Your credit provider can insist you take out or pay the cost of types of insurance specifically allowed by law. These are compulsory third party personal injury insurance, mortgage indemnity insurance or insurance over property covered by any mortgage. Otherwise, you can decide if you want to take out insurance or not. If you take out insurance, the credit provider cannot insist that you use any particular insurance company.

11. **Will I get details of my insurance cover?**

Yes, if you have taken out insurance over mortgaged property or consumer credit insurance and the premium is financed by your credit provider. In that case the insurer must give you a copy of the policy within 14 days after the insurer has accepted the insurance proposal.

Also, if you acquire an interest in any such insurance policy which is taken out by your credit provider then, within 14 days of that happening, your credit provider must ensure you have a written notice of the particulars of that insurance.

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

12. **If the insurer does not accept my proposal, will I be told?**

Yes, if the insurance was to be financed by the credit contract. The insurer will inform you if the proposal is rejected.

13. **In that case, what happens to the premiums?**

Your credit provider must give you a refund or credit unless the insurance is to be arranged with another insurer.

14. **What happens if my credit contract ends before any insurance contract over mortgaged property?**

You can end the insurance contract and get a proportionate rebate of any premium from the insurer.

MORTGAGES

15. **If my contract says I have to give a mortgage, what does this mean?**

A mortgage means that you give your credit provider certain rights over any property you mortgage. If you default under your contract, you can lose that property and you might still owe money to the credit provider.

16. **Should I get a copy of my mortgage?**

Yes. It can be part of your credit contract or, if it is a separate document, you will be given a copy of the mortgage within 14 days after your mortgage is entered into.

However, you need not be given a copy if the credit provider has previously given you a copy of the mortgage document to keep.

17. **Is there anything that I am not allowed to do with the property I have mortgaged?**

The law says you cannot assign or dispose of the property unless you have your credit provider's, or the court's, permission. You must also look after the property. Read the mortgage document as well. It will usually have other terms and conditions about what you can or cannot do with the property.

18. **What can I do if I find that I cannot afford my repayments and there is a mortgage over property?**

See the answers to questions 22 and 23.

Otherwise you may:

- if the mortgaged property is goods - give the property back to your credit provider, together with a letter saying you want the credit provider to sell the property for you;
- sell the property, but only if your credit provider gives permission first; or
- give the property to someone who may then take over the repayments, but only if your credit provider gives permission first.

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

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

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

19. **Can my credit provider take or sell the mortgaged property?**

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

20. **If my credit provider writes asking me where the mortgaged goods are, do I have to say where they are?**

Yes. You have 7 days after receiving your credit provider's request to tell your credit provider. If you do not have the goods you must give your credit provider all the information you have so they can be traced.

21. **When can my credit provider or its agent come into a residence to take possession of mortgaged goods?**

Your credit provider can only do so if it has the court's approval or the written consent of the occupier which is given after the occupier is informed in writing of the relevant section in the National Credit Code.

GENERAL

22. **What do I do if I cannot make a repayment?**

Get in touch with your credit provider immediately. Discuss the matter and see if you can come to some arrangement. You can ask your credit provider to change your contract in a number of ways:

- to extend the term of your contract and reduce payments; or
- to extend the term of your contract and delay payments for a set time; or
- to delay payments for a set time.

23. What if my credit provider and I cannot agree on a suitable arrangement?

If the credit provider refuses your request to change the repayments, you can ask the credit provider to review this decision if you think it is wrong.

If the credit provider still refuses your request you can complain to the AFCA scheme. Further details about this scheme are set out below in question 25.

24. Can my credit provider take action against me?

Yes, if you are in default under your contract. But the law says that you cannot be unduly harassed or threatened for repayments. If you think you are being unduly harassed or threatened, contact the AFCA scheme or ASIC, or get legal advice.

25. Do I have any other rights and obligations?

Yes. The law will give you other rights and obligations. You should also READ YOUR CONTRACT carefully

IF YOU HAVE ANY COMPLAINTS ABOUT YOUR CREDIT CONTRACT, OR WANT MORE INFORMATION, CONTACT YOUR CREDIT PROVIDER. YOU MUST ATTEMPT TO RESOLVE YOUR COMPLAINT WITH YOUR CREDIT PROVIDER BEFORE CONTACTING THE AFCA SCHEME. IF YOU HAVE A COMPLAINT WHICH REMAINS UNRESOLVED AFTER SPEAKING TO YOUR CREDIT PROVIDER YOU CAN CONTACT THE AFCA SCHEME OR GET LEGAL ADVICE.

THE AFCA SCHEME IS A FREE SERVICE ESTABLISHED TO PROVIDE YOU WITH AN INDEPENDENT MECHANISM TO RESOLVE SPECIFIC COMPLAINTS. THE AFCA SCHEME CAN BE CONTACTED BY PHONE ON 1800 931 678, BY EMAIL AT [INFO@AFCA.ORG.AU](mailto:info@afca.org.au), OR IN WRITING TO GPO BOX 3, MELBOURNE VIC 3001.

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