

MORTGAGE MEMORANDUM OF PROVISIONS

Your mortgage comprises the signed mortgage and this document. Please read this document carefully.

I / We acknowledge receipt of this document and have read and understood its terms and conditions in connection to our mortgage and loan contract with La Trobe Financial Services.

.....

Date: í í í í í í í í í í í í í í í í í í í í í í í í

This memorandum is a true copy of:

- the memorandum filed at the New South Wales Land Titles Office as Number AM145973U*
- the Memorandum of Common Provisions retained by the Victorian Registrar of Titles in No. AA3217*
- document number 717818826 filed in the Queensland Land Registry*
- the memorandum of standard terms and conditions deposited at the South Australian Land Titles Office as No. 12676103*
- the memorandum of provisions No. N547647 filed and registered at the Western Australian Office of Titles*
- the memorandum of common provisions recorded in the register as Northern Territory Land Titles Office No. 372231*
- the memorandum of provisions No. 2074405 filed in the Australian Capital Territory Office of the Registrar-General*
- the memorandum filed at the Tasmanian Office of the Recorder of Titles No. M560*

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CLAUSE 1. THE PROMISES, ACKNOWLEDGMENTS AND AUTHORITIES YOU GIVE TO THE MORTGAGEE

1.1 Promises you make to the mortgagee

By signing this mortgage, you state and promise to the *mortgagee* that:

- you are or are entitled to be the registered owner of the *land*;
- there are no other interests (actual or proposed) affecting the *land* that you have not told the *mortgagee* about in writing;
- you have obtained all consents that are required to allow you to own or continue to own the *land* or to enter into this mortgage;
- this mortgage is binding on you and enforceable by the *mortgagee*; and
- you have not withheld any information which might have caused the *mortgagee* not to enter into this mortgage or any related transaction.

You also give the promises set out in any other *related agreement* to which you are a party.

If you know of anything which changes any of those promises, or if you become aware of anything which changes any of those promises during the term of this mortgage, you must tell the *mortgagee* immediately.

1.2 Acknowledgments

You acknowledge that:

- this mortgage secures the *secured money*; and
- the provisions of these mortgage common provisions are part of any *mortgage* which refers to this document.

1.3 Signing other documents

You agree that, if the *mortgagee* asks you to, you will sign and do everything necessary:

- to ensure that this mortgage is binding on you and can be stamped and registered; and
- to protect the *land* or fix any defect in it.

CLAUSE 2. THINGS YOU MUST DO

2.1 Agreements

You must keep all promises and perform all obligations under the terms of this mortgage and any other *related agreement* to which you are a party and must do so at your own expense.

2.2 Financial obligations

(a) Secured money

You must pay the *mortgagee* the *secured money* at the times and in the way agreed with the *mortgagee*. Usually, this agreement appears in a credit contract or loan offer letter or loan agreement. If there is no agreement, you must pay the *secured money* to the *mortgagee* on demand.

(b) Judgments

You must also pay the *mortgagee* interest on any judgments the *mortgagee* obtains against you. That interest is payable from the day the judgment is obtained until the *mortgagee* is paid in full. Interest is payable at the rate that applies to the *secured money* when the judgment is obtained.

(c) Non-merger

None of your obligations under this mortgage or any *related agreement* will merge in or be limited or affected by any judgment obtained by the *mortgagee* or by any other act, matter or things done under or pursuant to or by virtue of or in connection with this mortgage or any *related agreement*.

(d) Rates and taxes

You must punctually pay all rates, taxes, charges, outgoings and assessments (including council rates, water rates, and land tax) payable or assessed in respect of the *land* or on the owner or occupier of the land. You must produce to the *mortgagee* on demand evidence of such payment. If these amounts are not paid by you, the *mortgagee* may decide to pay them for you and such amounts spent by the *mortgagee* will then form part of the *secured money* by the *mortgagee*.

2.3 Land

(a) What you must do

You must:

- keep the *land* clean and tidy and in good repair. The *mortgagee* may require you to promptly carry out any work that the *mortgagee* considers necessary, including any work required by an authority (eg a local council). The *mortgagee's* agents may enter the *land* at any reasonable time to inspect it;

- comply with all lawful requirements about the *land*. In particular, you must comply with *environmental laws*. The *mortgagee* may require a report on environmental issues to be prepared at your cost if the *mortgagee* has reasonable cause to believe this clause has been or is likely to be breached;
- not demolish, extend, or alter the *land* without the *mortgagee's* prior written consent. You must not do or allow anything to be done which adversely affects the value of the *land*;
- pay all money owing to any person or authority in connection with the *land* or because you own it, when it must be paid including rates, taxes and any *strata legislation* levies;
- provide to the *mortgagee* on demand full details of anything relating to the *land* including any leases, licenses, or other agreements relating to the *land* and full details of the use to which the *land* is being put. You must also tell the *mortgagee* if anything happens which materially affects the *land* (eg fire, damage, rezoning);
- maintain any approvals relating to the *land* (eg development approvals, building approvals, licenses and so on), and take any action the *mortgagee* requires in relation to those approvals; and
- keep the *land* free from noxious weeds, pests and vermin.

(b) What you must not do

You must not:

- do anything, or allow anything to happen, which would reduce the value of the *land* or affect the *mortgagee's* rights including demolishing any improvements on the *land*;
- carry on nor permit on the *land* any noxious, loud, illegal or offensive activity; and
- if there are any buildings on the *land*, you must not leave them unoccupied for a continuous period of more than 30 days without the *mortgagee's* prior written consent;

or do any of the following with the *land* without the *mortgagee's* consent in writing:

- sell the *land*;
- rent out any building on the *land* or agree to a surrender or variation of any rental agreement;
- change the use of the *land*. If there is a business conducted on the *land*, you must ensure it is conducted in a proper and efficient manner and kept open at all usual times for that kind of business, and you must ensure any licences held or required in connection with that business are obtained and kept current;
- create another financial obligation in connection with the *land*;
- part with possession of the *land*;
- subdivide or consolidate the *land*;
- create, release or vary an easement, covenant or public right of way which relates to the *land* or allow one to arise;
- deal in any way with the *land*, this mortgage or any interest in them, or allow any interest in them to arise or be varied; or

- grant to any person an interest or a licence in the *land* .

2.4 Access to the *land*

If the *mortgagee* asks, you must let the *mortgagee* or a person appointed by the *mortgagee* enter the *land* to:

- inspect it;
- check that you are complying with this mortgage; and
- do anything which the *mortgagee* is entitled to do under this mortgage.

The *mortgagee* will give you reasonable notice if the *mortgagee* requires access to the *land* under this clause, but you must give the *mortgagee* access immediately if there is an emergency.

2.5 Information

If the *mortgagee* asks you, you must give the *mortgagee*:

- information about the *land*, you, your financial position or that of any *relevant party*;
- a valuation or other expert report about the *land*; and
- proof that you have kept to your obligations in this mortgage and any other agreement.

You must give the *mortgagee* copies of all notices that you receive about the *land* whether or not the *mortgagee* asks you to.

The *mortgagee* may obtain at your cost an independent valuation or other report of the *land* whenever and as often as the *mortgagee* decides. Any valuation or other report is for the *mortgagee*'s use only and the *mortgagee* is not obliged to inform you of anything adverse contained in any of them. If the contents of those documents or any other documents obtained by the *mortgagee* become known to you, the *mortgagee* accepts no responsibility if you rely on them.

2.6 Mortgages

You must keep all promises and perform all obligations under the provisions of any mortgages which are registered before or after this mortgage.

2.7 Depositing documents relating to title

You must deposit with the *mortgagee* any documents of title in relation to the *land* and any other documents requested by the *mortgagee* relating to the *land*.

2.8 Caveats

You must do everything necessary to remove any caveat placed on the title to the *land* without the *mortgagee's* consent.

2.9 Encroachments

If any part of a structure on the *land* encroaches on adjoining land, then, if the *mortgagee* asks, you must:

- correct the encroachment;
- obtain an easement or other permission acceptable to the *mortgagee* to allow the encroachment to continue; or
- become the owner of the encroached land.

You must mortgage to the *mortgagee* as further security for the *secured money* any encroached land of which you become the owner.

If the *mortgagee* asks, you must have any encroachment on the *land* from adjoining land removed.

2.10 Adjoining land

If you acquire any other land to be used or held in conjunction with the *land*, you must immediately notify the *mortgagee* of this and the *mortgagee* reserves the right to require you to immediately mortgage the other land to the *mortgagee*.

CLAUSE 3. INSURANCE

3.1 Things you must do

You must:

- take out and keep current all insurances relating to the *land* that the *mortgagee* reasonably requires including insurance for reinstatement and replacement of buildings for an amount and on such terms which the *mortgagee* agrees is sufficient;
- if the *land* is or includes any land subject to *strata legislation* the *mortgagee's* interest in the *land* must be noted on insurance policies where it is possible to have the *mortgagee's* interest noted;
- give the *mortgagee* evidence that the insurances are current whenever the *mortgagee* asks for it (for example a certificate of currency of insurance); and
- give the *mortgagee* copies of the insurance policies whenever the *mortgagee* asks for it.

All insurances must be:

- with an insurance company acceptable to the *mortgagee*;
- on conditions approved by the *mortgagee* from time to time; and
- noted with the *mortgagee's* interest as mortgagee (where it is possible to have the *mortgagee's* interest noted).

3.2 Insurance claims

(a) About claims

You must give the *mortgagee* and the insurer notice immediately as soon as you become aware of any claim or anything that could lead to a claim under an insurance policy.

You agree that you will only pursue an insurance claim in accordance with the *mortgagee's* reasonable directions.

You authorise the *mortgagee* to control any insurance claim or possible claim and, in particular:

- to compromise or settle all claims under a policy; and
- to conduct legal proceedings against the insurer in respect of any claim.

(b) What happens to insurance money

You agree:

- to tell the insurer to pay the proceeds of the claim directly to the *mortgagee*;
- to pay any money you receive under those insurances to the *mortgagee*; and
- that any money the *mortgagee* receives from the insurance may be used at the *mortgagee's* discretion to either:
 - rebuild any building on the *land* on conditions acceptable to the *mortgagee*; or
 - reduce the *secured money* (but only if the *secured money* is then payable).

(c) Release

You agree that you have no right to any claim against the *mortgagee* in relation to any insurance claim or in relation to insurance of the *land* generally.

CLAUSE 4. DEFAULTS

4.1 When you will be in default

(a) Events of default

Default generally occurs if you fail to do something you are obliged to do, if you do something you are obliged not to do, or if something happens (even though outside your control) which is prohibited or results in default under the mortgage or a collateral security. If any one or more of the following occur the *mortgagee* may decide an *event of default* has occurred.

- Any clause of the *mortgage* is not complied with.
- There is default of any term of any *related agreement*, or other agreement relating to the *secured money*.
- There is default under any collateral security.
- There is default of any other mortgage or charge affecting the *land* (whether or not granted to the *mortgagee*).
- You fail to pay any person (including other banks etc) any money by the due date.
- Any representation made by you to the *mortgagee* or its agents proves to be untrue or misleading.
- Any term of the *mortgage* or any collateral security is or becomes not legally binding, unable to be enforced, or capable of being set aside.
- The *land* is resumed or taken out of your control in any way.
- You become bankrupt or are jailed.
- You are unable to pay your debts as they fall due, or you make any arrangement with creditors.
- Any court order is enforced against you or against the *land*.
- The value of the *land* is materially adversely affected.
- The amount secured by any mortgage or charge over the *land* is increased without the *mortgagee's* prior consent.
- You breach any undertaking given at any time to the *mortgagee*.
- If you are a trustee, if there is a change of trustee, a change of appointer, a termination of the trust, or any change to the terms of the trust without the *mortgagee's* consent.
- If you are a company:
 - there is any change in ownership or control of the company or any company of which you are a subsidiary;
 - proceedings are commenced to wind up the company;

- a receiver, manager, receiver and manager, administrator, controller, provisional liquidator, or liquidator is appointed to any part of your assets;
- the company is or is deemed or presumed by law or a court to be insolvent;
- any action is commenced to strike the company's name off any register of companies; or
- the company reduces or proposes to reduce its authorised capital.

In addition to the other events of default specified in this mortgage memorandum, the *mortgagee* may decide that default occurs if anything occurs or is proposed in relation to the arrangement which materially adversely affects the value of the *land*, your ability to use the *land* or any of the common property, or if there is any alteration, subdivision, consolidation, or other dealing affecting any common property to which the *mortgagee* has not consented.

(b) Multiple parties

If you are not the only *mortgagor*, or if there is more than one *relevant party*, it is an *event of default* if any of the above events occur in relation to any of you or to any one *relevant party*.

(c) Other agreements

A default under a *related agreement* is a default under all other *related agreements*.

<p>4.2 The mortgagee's rights on default</p>

At any time after default occurs, the *mortgagee* can take any of the actions listed below. The *mortgagee* does not lose any rights or forgive any defaults unless the *mortgagee* does so in writing. The *mortgagee* can take action even if the *mortgagee* does not do so promptly after the default occurs. The *mortgagee* can exercise these rights with or without taking possession of the *land*. If the *mortgagee* holds collateral security, it can enforce any one of the securities first or all of them at the same time. The *mortgagee's* costs of exercising these rights will form part of the *secured money* secured by the *mortgage*.

- Demand and require immediate payment of the *secured money*.
- Exercise any right, power, or privilege conferred by any law, the *mortgage*, or any collateral security.
- Do anything the *mortgagee* considers appropriate to recover the *secured money* and deal with the *land* in any way the *mortgagee* sees fit (including the contracts and other property included in the definition of land). For example, the *mortgagee* may:
 - eject you or any other occupants from the *land* and take possession of the *land*. If the *mortgagee* takes possession, the *mortgagee* can subsequently withdraw from possession of the *land*;
 - direct any tenants to pay rent to the *mortgagee*;
 - sell the *land* in one line or by separate lots;
 - rescind, vary, or complete any contract for sale of the *land*;
 - lease or licence the *land* on any terms and for any period (there are some restrictions as to the nature of leases a *mortgagee* may grant, but those restrictions do not apply to the *mortgage*);

- subdivide or consolidate the *land*;
- repair, cleanse, repaint, demolish, rebuild, alter, or construct completely new buildings or structures on the land;
- prepare plans and specifications and obtain approvals from any competent authority;
- give or transfer the *land* to any competent authority; or
- acquire additional *land* for development, sale, or lease in conjunction with the *land*.
- Remove any property from the *land* (eg furniture and personal effects) and sell or otherwise deal with those goods without receiving any money for them.
- Pay any money owing to any person in relation to the *land* or goods on the *land* (eg owing under hire purchase agreements and leases). The amount paid by the *mortgagee* will form part of the *secured money* secured by the *mortgage*.
- Appoint one or more persons to be joint or several agents, receivers, managers, or receivers and managers of the whole or any part of the *land* (including the contracts and other property included in the definition of *land*) on terms and for fees approved by the *mortgagee*. Those persons may exercise any of the powers conferred on the *mortgagee* under the *mortgage*, or conferred by law. The *mortgagee* may remove any of those persons and appoint replacements whenever it wishes.
- Pay and obtain a transfer or a discharge of any other mortgage or charge affecting the *land*.
- Perform any of your obligations under the *mortgage*.

4.3 What notices will the *mortgagee* give

The *mortgagee* will not exercise its rights, powers and remedies under this clause 4 unless:

- it has given you all relevant notices required to be given by law;
- the notice period and any postponement period have elapsed; and
- the default specified in the notice has not been remedied.

In exercising its rights, powers and remedies under this mortgage the *mortgagee* must give any notice period required by law, but if any notice period is capable of being waived or negated by agreement it is waived and negated. If any notice period is not capable of being waived or negated but is capable of being abridged by being fixed as a lesser period, that notice period is fixed as the longer of three (3) days and the minimum period permitted by law to be fixed.

The *mortgagee* may exercise all its rights under this mortgage even if:

- it could have done so before but did not or delayed in doing so;
- it has exercised the right before (in whole or in part);
- it has exercised another right under this mortgage or a *related agreement* before; or
- it holds other securities for payment of the *secured money*.

The *mortgagee* only loses the power to exercise any of its rights under the *mortgage* by an express written statement that the *mortgagee* waives that right.

4.4 If sale proceeds are less than *secured money*

If the proceeds from the sale of the *land* are not sufficient to repay the whole of the *secured money* you remain liable to the *mortgagee* for the balance.

Your liability continues even if the *land* has been released from this mortgage and the *mortgagee* may sue you to recover the amount outstanding.

4.5 Power of attorney

To make sure the *mortgage* is valid and to enable enforcement after default, you give to the *mortgagee* and certain other people your power of attorney as set out below.

You hereby irrevocably and for valuable consideration appoint the *mortgagee* and any receiver, *manager*, or receiver and *manager* appointed by the *mortgagee* and each of the *mortgagee's* directors and *managers* from time to time alone or together to be your attorneys to sign anything, and do anything required to make sure the *mortgage* is valid, including:

- complete any blanks which may be left in this mortgage, date this mortgage and make any changes to this mortgage required to enable it to be stamped and registered; and
- appoint an agent of the mortgagee or someone else to act as attorney of the *mortgagee*; and
- anything which you may do under a *related agreement*; and
- anything which you may do under *strata legislation* or *crown lands legislation*; and
- anything which, in the opinion of the attorney:
 - would give effect to a right, power or remedy of the *mortgagee*; or
 - you should do,

under a *related agreement* or under the law; and

- enter into transactions or execute documents and agreements which, in the opinion of the attorney, you should enter into or execute under a *related agreement*; and
- amend, complete and execute the *mortgage* in your name to enable it to be stamped and registered; and
- use your name to exercise the *mortgagee's* powers under a *related agreement*, the law or otherwise, and
- if an *event of default* occurs and the *mortgagee* has served notice upon you specifying the default) anything which you may lawfully do as owner (whether in the *mortgagee's* name or in your name) including but not limited to:
 - Selling and/or transferring the *property*,

- Leasing the *property*,
- Instituting and/or conducting and/or defending legal proceedings
- Executing any documents including a Contract of Sale and an instrument of transfer
- Giving good and effectual discharges of liability and to settling compounding any proceedings, claims and demands
- Doing any acts and making, amending and executing any documents which the attorney may consider appropriate

and you agree to ratify and confirm anything done by an attorney under this power of attorney.

The *mortgagee* may delegate its power as attorney to the *manager*.

At any time after default occurs your attorneys can sign anything and do anything they wish in relation to the *land* (including the contracts and other property included in the definition of *land*). In addition, the attorneys can exercise any powers, authorities, duties or functions as a trustee if you are a trustee and may sign things and do things which benefit the *mortgagee*.

4.6 What will happen to chattels if you default

This clause deals with chattels which are not mortgaged to the *mortgagee*.

Chattels are things which are not attached to the land or building. Examples are personal effects, television sets, washing machines and furniture. Examples of things which are not chattels are built-in ovens, television antennas, carpets and light fittings.

If an *event of default* occurs you must remove your chattels from the *land* if the *mortgagee* asks you to.

If you do not remove them within 14 days of being asked those chattels will be treated as abandoned by you and the *mortgagee*:

- may remove them and store them in your name and at your cost; and
- may sell them for the price or otherwise dispose of them in the way it chooses.

Storage costs and the cost of selling the chattels will be deducted from the sale price and any surplus will be credited to your account.

If storage and sale costs are more than the sale price, you must pay the difference. If you do not, the *mortgagee* may sue you to recover it.

The *mortgagee* and anyone acting for the *mortgagee* is not responsible for any chattels removed from the *land* and is not liable for conversion of, or for loss or damage to any of the chattels.

CLAUSE 5. SPECIAL PROVISIONS

5.1 If you are a trustee

If you are a trustee of any trust, you acknowledge that you are liable under this mortgage both in your own right and as a trustee.

Accordingly, the *mortgagee* can recover against the trust assets as well as you.

Unless the *mortgagee* agrees otherwise in writing, you must not:

- stop being trustee of the trust or allow anyone else to be appointed trustee;
- deal with any property of the trust;
- change the terms of the trust;
- end the trust or do anything which could lead to it being ended before the time stated in the trust deed;
- distribute any capital of the trust;
- distribute any income of the trust if doing so affects your ability to repay the *secured money*; or
- do anything else in connection with the trust which adversely affects the *mortgagee's* interest in the *land* or your ability to pay or repay the *secured money*.

5.2 Shared title

If the *land* is or includes any land which comprises a lot within a strata scheme, a community title scheme, or any other shared ownership agreement, you must:

- punctually pay all contributions and any other money which at any time is payable in respect of the *land* in connection with the arrangement;
- give the *mortgagee* copies of documents you receive from or about the body corporate;
- sign and give the *mortgagee* all documents the *mortgagee* asks you for in connection with the body corporate;
- have the mortgagee's interest in the land recorded in any appropriate records of the arrangement (eg the strata roll);
- ensure that the body corporate maintains all insurance policies that it is required to take out;
- provide satisfactory evidence to the *mortgagee* of the insurance policies held under *strata legislation*;
- comply with the by-laws applicable to the *land*;
- notify the *mortgagee* of any proposal to vary, substitute or terminate the strata scheme, or its by-laws and notify the *mortgagee* of any breach of the body corporate of its legal obligations; and

- vote at any meeting of the body corporate in accordance with any directions that the *mortgagee* may give you.

You must not, without the *mortgagee's* consent:

- agree to any dealing with the common property, or
- exercise any rights or powers under any legislation affecting the *land*.

You agree that the *mortgagee* is not liable to you if it does not exercise any right to vote at meetings of the body corporate. You also agree that the *mortgagee* is not liable for anything which occurs because it votes or directs you to vote in a particular manner.

5.3 Crown land

If the land is subject to *crown lands legislation*:

You must:

- comply with all of the provisions of *crown lands legislation* that apply to you or the *land*; and
- do everything that is necessary or desirable to exercise any rights or entitlements you have in relation to the *land* under *crown lands legislation*.

You must not:

- do or allow anything to be done which would cause your interest in the *land* to be cancelled or otherwise affected in a way that might prejudice the *mortgagee*; or
- make any application under *crown lands legislation* relating to the *land* without the *mortgagee's* consent.

You must give the *mortgagee* a mortgage in the form required by the *mortgagee* over any new interest in the *land* or interest in any other land you have because:

- the nature of the tenure or holding of the *land* or your interest in the *land* is altered or converted, or
- you obtain rights to other land from exercising your rights or entitlements under *crown lands legislation*.

5.4 Building works

You must obtain the *mortgagee's* prior written consent to any building work to be carried out on the *land*.

You must ensure that all builders are paid and that all necessary certificates and inspections to complete the building works are carried out.

You must complete the building works expeditiously in accordance with the best skills and practices to the satisfaction of the *mortgagee* and in accordance with plans and specifications approved by the *mortgagee* and in accordance with the requirements of any responsible authority (eg a local council).

You must comply with any obligations under any building contract and pay any money due in connection with the building works as it becomes due (eg pay the builder on the due date) including professional and consultancy costs.

You must not contract with any person in relation to the works or alter the plans and specifications or building contract for the works without the *mortgagee's* prior written consent. You must require the builder to promptly and properly perform its obligations under any building contract.

Upon completion of the building works, if required by the *mortgagee*, you must obtain such certificates as the *mortgagee* reasonably requires to evidence that the building works have been properly completed (eg a certificate issued by a local government department or council). At your cost, the *mortgagee* may obtain any reports or other information it requires during and upon completion of the building works.

If you default in completing the building works, the *mortgagee* may (but is not obliged to) complete the works and may do anything and sign anything the *mortgagee* considers appropriate to complete the building works. The *mortgagee* need not complete the works and may sell the *land* in its existing state and condition. Any money that the mortgagee spends completing the building works forms part of the *secured money* secured by the *mortgage*.

If the *mortgagee* is advancing money to fund the building works, the *mortgagee* may decide not to make any additional advances until it is satisfied with the progress of the building works and has received any reports or other information the *mortgagee* requires.

In no circumstances will the *mortgagee* be responsible for the building works even if the *mortgagee* pays the builder direct.

5.5 Compulsory acquisition

(a) Notice of compulsory acquisition

If you become aware that the *land* may be resumed or compulsorily acquired by a public authority:

- you must immediately tell the *mortgagee*; and
- you must give the *mortgagee* copies of all documents about the compulsory acquisition or resumption as soon as you receive them.

(b) How you may exercise your rights

You agree that you will only exercise your rights in relation to the compulsory acquisition or resumption as the *mortgagee* tells you to. You must keep the *mortgagee* informed of progress in any claim for compensation.

(c) What happens to compensation

About compensation:

- if you do not claim compensation, you agree that the *mortgagee* may; and
- you must direct the resuming authority to pay any compensation directly to the *mortgagee*; and
- if you receive any compensation money you must pay it to the *mortgagee*.

The *mortgagee* may apply compensation money towards payment of the *secured money*.

5.6 If you are a corporation

If you are a corporation, you must not do (or allow anyone else to do) any of the following without the written consent of the *mortgagee*:

- approve or register a transfer of any shares or an issue of new shares or other securities; or
- acquire an additional subsidiary or allow a corporation which is a subsidiary at the date of signing this mortgage to cease to be a subsidiary; or
- cease to be a subsidiary of a corporation which is your holding company at the date of this mortgage; or
- reduce your capital or buy back your shares; or
- propose a reorganisation, suspension or postponement of payment or other administration involving any creditor; or
- allow a receiver or similar entity to be appointed to any of your property, or the property of any subsidiary or corporation grouped with you for accounting purposes.

If you are a corporation, unless the *mortgagee* agrees otherwise in writing, you must ensure that:

- there is no change in ownership or control of the corporation;
- no action is taken to wind up or deregister the corporation; and
- the corporation does not alter its memorandum, articles of association, or constitution.

5.7 Rural land

If any part of the *land* is used for grazing, farming, horticultural or agricultural purposes you must:

- manage and preserve it properly and efficiently including keeping it free from pests, noxious animals and harmful vegetation;
- grant to the *mortgagee* a security interest in the form required by the *mortgagee* over any existing or future stock on the *land* or clip or crop produced on the *land* and any machinery plant or water rights on or relating to the *land* and consent to the registration of such security interest in any applicable security register;
- not, without the consent of the *mortgagee*, deal with any quota or contract for producing or selling crops or produce on the *land* or do anything which could cause a quota or contract to be forfeited or cancelled; and
- not, without the consent of the *mortgagee*, deal with any licence attached to or which relates to the *land* (such as a water licence) or do anything which could cause a licence to be forfeited or cancelled.

5.8 Leased land

If all or any part of the *land* is leased to you (ie it is leasehold land), you must comply with all the terms of the lease and must promptly inform the *mortgagee* of any default.

If the lease contains any option to renew, you must exercise the option to renew and grant to the *mortgagee* a mortgage in a form approved by the *mortgagee* over any lease for a further term.

You must not agree to any variation of any term of the lease or to any change in the rent without obtaining the *mortgagee's* prior written consent.

CLAUSE 6. OTHER POWERS

6.1 Certificates

A certificate signed by the *mortgagee* is conclusive proof of the facts stated in it unless you can show that it is wrong.

An example of a certificate is a statement of an amount payable by you under this mortgage.

6.2 Other security

If the *mortgagee* has security for the payment of the *secured money* as well as this mortgage:

- the other security do not affect this mortgage; and
- the *mortgagee* can exercise its rights under the security and this mortgage in any order it chooses.

6.3 Application of payments

The *mortgagee* can apply payments received under this mortgage in any order it chooses, but if obliged by law to pay the money in a particular way, then the *mortgagee* will do so.

CLAUSE 7. PAYMENTS AND RELEASE

7.1 Multiple accounts

The *mortgagee* may use any money in any of your accounts with the *mortgagee* to pay the *secured money*.

If you have more than one account (either alone or with someone else) the *mortgagee* may treat your accounts as one account.

The *mortgagee* does not have to act under this clause but if it does, it does not have to tell you first or get your consent.

7.2 Payments in cleared funds

An amount paid will not be credited until it is actually received by the *mortgagee* in cleared funds and there is no obligation to refund it.

7.3 No deductions

You must pay all money that you owe to the *mortgagee* in full. You must not deduct from any payment any amount including amounts you claim the *mortgagee* owes you.

7.4 Receipts

Anybody dealing with the *mortgagee* can rely on the *mortgagee's* or appointed agent's receipt without making any further enquiries.

7.5 Discharge of mortgage

(a) Mortgagee rights continue

The *mortgagee* need not give a discharge of the *mortgage* until it is satisfied there is no likelihood of any *secured money* being due by you to the *mortgagee* on any account whatever. Even if the *mortgage* is discharged, any of the *secured money* which is outstanding, or becomes outstanding after the discharge, must still be paid.

(b) Effect of release

A full or partial release of this mortgage does not release you from personal liability under this mortgage.

(c) Reinstating or replacing rights

If the *mortgagee* has to repay or refund any money paid in reduction of the *secured money* for any reason:

- the money remains owing and the *mortgagee* may recover the amount of that payment from you;
- you must immediately do everything the *mortgagee* requires to replace or reinstate any *related agreement* which has been released in connection with that payment; and
- you indemnify the *mortgagee* against and must pay on demand all costs and expenses in connection with replacing or reinstating any *related agreement*.

7.6 GST

If any payment to the *mortgagee* is for a taxable supply for the purposes of GST or any similar tax, you must also pay to the *mortgagee* on demand an additional amount equal to the tax relating to that supply.

7.7 Debit and set-off

The *mortgagee* may debit any account held by you with the *mortgagee* with any money due to the *mortgagee* by you at any time. The *mortgagee*, however, is under no obligation to debit any account or allow for any credit balance in any account, and therefore you may be in default of a payment obligation even though there is a credit balance in any other account held with the *mortgagee*.

You must make payments without deducting or setting off any money you think the *mortgagee* owes you for any reason.

The *mortgagee* may combine two or more accounts conducted by you into a single account.

7.8 Costs and stamp duty

You must pay to the *mortgagee* on demand all costs and expenses including any stamp duty, all bank fees, and government charges and taxes of any kind relating to the *mortgage* or the facilities provided by the *mortgagee* to you. This includes any internal costs of the *mortgagee* in relation to the *mortgage*. You must also pay to the *mortgagee* on demand any costs or liabilities of the *mortgagee* arising in relation to the *mortgage*, the *land*, or any collateral security, including the costs of the *mortgagee* exercising its rights under the *mortgage* or recovering the *secured money* or dealing with the *land* (eg lawyer's fees on a full indemnity basis, valuer's fees, and real estate agents commissions).

CLAUSE 8. LIMITATIONS

8.1 Other laws

Your obligations, rights and promises and the *mortgagee's* powers are governed by this mortgage and any *related agreement*. You agree that, so far as lawfully possible, any laws which change those obligations, rights or powers do not apply to this mortgage or any *related agreement*.

Promises or rights given to mortgagees by any laws apply to this mortgage unless this mortgage says that they do not.

8.2 When the *mortgagee* is not liable to you

You agree that so far as is lawfully possible:

- the *mortgagee* is not liable to you or anyone else for its actions, or the actions of people for whom it is responsible; and
- any law which would make the *mortgagee* liable does not apply.

8.3 *Mortgagee as trustee*

You acknowledge that if the *mortgagee* entered into this transaction in its capacity as trustee of a trust the liability of the *mortgagee* is limited to the available assets of the relevant trust except where the liability arises from a breach of the terms of the trust deed by the *mortgagee* or any negligent, fraudulent or wrongful act or omission of the *mortgagee* or its employees, attorneys or agents. You also acknowledge that should the *mortgagee* transfer any of its rights or obligations under this mortgage (see clause 9.1) and the transferee acts in its capacity as trustee of a trust then the liability of the transferee is similarly limited.

8.4 Mortgage's rights are not affected

The *mortgagee's* rights under this mortgage are in addition to any other rights it has. Its rights are not limited by:

- any security now or subsequently held; or
- any other obligations you may have to the *mortgagee*.

There may be some statutes (ie laws passed by parliament) or other law (usually called common law) intended to limit mortgagees' rights. None of those statutes or laws will operate to limit the *mortgagee's* rights under the *mortgage* unless by law those rights cannot be negated. In particular, the *mortgagee* need not give any notice before exercising any right, power (including the power of sale), or remedy under the *mortgage* unless required by law, and if the law does require notice, the *mortgagee* need only give one day's notice or the shortest notice required by that law. If any of the provisions of the *mortgage* are illegal or become illegal at any time, the affected provisions will cease to have effect, but the balance of the *mortgage* will remain in full force and effect.

8.5 Indemnity

You agree to indemnify the *mortgagee* against any loss that it suffers because of a default under this mortgage or because the whole of the *secured money* is not repaid to the *mortgagee* when it is due.

You must pay to the *mortgagee* the amount of any such loss on demand from the *mortgagee*.

Your obligations under this indemnity continue after the *mortgage* is discharged.

CLAUSE 9. TRANSFER OF MORTGAGE

9.1 By the mortgagee

The *mortgagee* may at any time assign, transfer or otherwise deal with or dispose of its interest in this mortgage and any other *related agreement* without your consent and without giving notice to you. Any assignment, transfer of disposal may be to any person or entity whether in a personal capacity or in a capacity as trustee or in both capacities. You must sign anything and do anything the *mortgagee* reasonably requires to enable any dealing with the *mortgage*.

You agree that the *mortgagee* may disclose any information or documents it considers necessary to help it exercise this right. You also agree that the *mortgagee* may disclose information or documents at any time to a person to whom it assigns its rights under this mortgage.

9.2 By you

You may not assign, transfer or dispose of or grant any security rights or interests over any of your rights and obligations under this mortgage without the *mortgagee's* prior written consent. The *mortgagee's* consent may be granted absolutely or conditionally or withheld in its absolute discretion.

CLAUSE 10. SERVICE OF NOTICES AND DOCUMENTS

10.1 How to give or serve a notice

The *mortgagee* may give you a notice or other document by:

- delivering it to you personally;
- leaving it at your home or business address last known to the mortgagee;
- leaving it at the address you have given to the *mortgagee* to send notices to;
- sending it by post to your home or business address last known to the *mortgagee*; or
- by electronic communication (for example email or SMS).

The *mortgagee* may also give you a notice or other document in any other way authorised by law.

10.2 When documents are served

A notice or other document is taken to be given to you:

- if the notice or other document is given personally - on the date shown on it or the date you receive it, whichever is the later;
- if the notice or other demand is sent by post - on the date shown on it or the date it would ordinarily be delivered by post, whichever is the later; or
- if the notice or other document is sent by electronic transmission on the date shown on it or the date when the sending machine produces a report indicating that the notice or other document was sent, whichever is the later.

Service by any of these methods will be valid and effectual even though the *mortgagor* does not receive the document or if the document is returned to the *mortgagor* through the post unclaimed.

The notice may be signed by any employee, solicitor, or agent on behalf of the *mortgagee*. The notice will be validly served even if it is not received by you.

10.3 Who may sign notices

A notice or other document may be signed by the *mortgagee* or *manager*; any solicitor acting for the *mortgagee* or the *manager* and any person authorised by the *mortgagee* or *manager* to sign documents.

If the notice is given electronically, it is properly signed and issued if it appears to have been signed by any person referred to in the last paragraph.

10.4 Change of address

If you change your address, you must promptly tell the *mortgagee* in writing.

10.5 Notices to the mortgagee

You must give the *mortgagee* notices by sending them to the *manager* at the address the *manager* advised to you. If there is no *manager* appointed you must give the *mortgagee* notices at the address set out in this mortgage or at any other address the *mortgagee* advises you and at no other place.

CLAUSE 11. GENERAL PROVISIONS

11.1 If any part of the *mortgage* is unenforceable

If:

- an illegal, void or unenforceable provision can be made legal and enforceable by severing a word or words, that word or those words must be severed; and
- this mortgage is illegal, void or unenforceable unless a whole provision or provisions are severed, the provision or provisions must be severed.

11.2 Governing law

This mortgage is governed by and interpreted in accordance with the law for the time being in force in the jurisdiction where the *land* is located, and the courts of that jurisdiction can deal with any matter relating to the *mortgage*.

11.3 Consents

A consent or approval by the *mortgagee* is not effective unless it is in writing. The *mortgagee* may impose reasonable conditions on a consent or approval.

11.4 Exercising rights and powers

The *mortgagee* may exercise any right under this mortgage without telling you first unless required to tell you by law or because this mortgage says notice must be given to you.

The *mortgagee* may authorise any person to exercise any of the *mortgagee's* powers under this mortgage.

11.5 Changes to this mortgage

The *mortgagee* will not be bound by any changes to this mortgage unless the *mortgagee* agrees to them and they are in writing.

11.6 Your liability continues

Your obligations under the *mortgage* continue irrespective of anything which happens to you, the *secured money*, or anything else. For example, the obligations continue if you die or are made bankrupt, if you are in a partnership and the partnership ends or the members change, or if you are a company and it is wound up.

11.7 Consumer legislation

The *mortgage* may secure partly regulated credit and partly unregulated credit. To the extent the *mortgage* secures regulated credit (ie money due under a loan contract or under some other arrangement regulated by any consumer legislation), the *mortgage* only secures the amount authorised by that legislation in relation to that credit. For example, to the extent the *mortgage* secures money due under a credit contract regulated by the National Credit Code or similar legislation, the *mortgage* only secures the amount due under that credit contract, any reasonable enforcement expenses, and any other money authorised by the National Credit Code or similar legislation. This clause does not restrict how the *mortgage* secures unregulated credit. To the extent that the *mortgage* relates to regulated credit, any provisions which do not comply with the relevant consumer legislation have no effect in relation to that consumer credit *mortgage*.

You must sign anything and do anything the *mortgagee* reasonably requires to make sure the mortgaging of the *land* to the *mortgagee* and the *mortgage* is valid.

You must sign anything and do anything the *mortgagee* requires to more effectively secure the *mortgagee's* rights over the *land* or to effect the stamping and registration of the *mortgage*. The *mortgagee* may complete any blanks in the *mortgage*.

11.8 Notify *mortgagee* of certain things

You must promptly notify the *mortgagee* in writing if default occurs, if there is any damage to the *land* (including the contracts and other property included in the definition of *land*), or if anything happens which materially affects the *land* or its value.

CLAUSE 12. UNDERSTANDING THIS MORTGAGE

12.1 Definitions

In this mortgage, certain words that *look like this* have a special meaning. Those words are listed below.

'*crown lands legislation*' means all laws of the state or territory in which the *land* is located now or in the future relating to the alienation by sale, lease or otherwise, or to the occupancy, settlement, management or improvement of land owned or controlled by a public authority or to closer settlement.

'*environmental laws*' means any law about:

- the use of land for any purpose; or
- pollution of land; or
- fixing pollution of land,

and includes laws about heritage and conservation.

'*event of default*' means the events set out in clause 4.1.

'*land*' means the land specified in the *mortgage* and all improvements, and includes all buildings, fences, structures, carpets, floor coverings, light fittings, blinds, curtains and other objects attached to the *land*. It includes any contract or other rights relating to that *land* such as building contracts, leases, development approvals, building approvals, other approvals, plans, specifications, consents, and licenses relating to the use of the *land*, and all income (such as rent) to be derived from the *land* at any time. It also includes any right to occupy, lease, or licence relating to or adjoining the *land*.

'*manager*' means the person or entity appointed by the *mortgagee* from time to time to manage this mortgage.

'*mortgage*' means the mortgage which incorporates these mortgage common provisions and includes the terms of these mortgage common provisions. If there is an inconsistency between these mortgage common provisions and the mortgage, the provisions of the mortgage prevail.

'*mortgagee*' means the person named as mortgagee on the *mortgage* and includes anyone else who acquires an interest in the *mortgagee's* rights under the *mortgage*.

'*mortgagor*' means the person giving this mortgage to the mortgagee.

'*related agreement*' means any loan agreement or other document relating to the *secured money*.

'*relevant party*' means a person (other than you or the *mortgagee*) who is a party to a *related agreement*.

'*secured money*' means:

- all amounts that are or may become owing by you to the *mortgagee* on any account, now or in the future, including all amounts that you owe the *mortgagee* under:
 - a related agreement;
 - a guarantee and indemnity now or in the future given in relation to a *related agreement*; or
 - a security.
- all money that any agreement says is *secured money* or which an agreement says is secured by this mortgage;
- interest, costs, fees, duties, taxes and any other amount you are obliged to reimburse or pay to the *mortgagee* at any time under the mortgage or otherwise; and
- reasonable expenses of enforcing this mortgage.

Money is part of the *secured money* whether it is:

- provided by the *mortgagee* alone or with anyone else;
- provided to you or anyone whose obligations you have guaranteed alone or with anyone else;
- owing immediately or at some time in the future;
- actually owing or not required to be paid until something else happens; or
- provided before or after this mortgage is signed or at some time in the future.

'*strata legislation*' means all laws of the state or territory in which the *land* is located now or in the future governing vertical, horizontal, underground or air space subdivision of land or a building into lots or units and common property and which applies to the *land*.

12.2 Interpretation

These rules are to help you understand this mortgage.

References to:

- a person include the person's successors and assigns;
- a thing include all or part of that thing;
- a document include that document as changed or replaced from time to time;
- a statute include that statute as amended, repealed or replaced from time to time;
- individuals include corporations and the other way around; and
- ðthis mortgageö are references to the *mortgage*, all schedules, annexures and addenda to the *mortgage* and this document.

Headings for clauses are included for guidance only and must not be used for interpretation.

The use of the word 'may' about a right, power or remedy means the right, power or remedy may be exercised, or not, at discretion.

A reference to 'includes' is given by way of example and is not intended to limit the term it applies to.

Words or phrases which are derived from defined words or phrases have a similar meaning to the defined term.

The singular includes the plural and the other way around.

If you agree not to do something, you will also not attempt to or permit or cause that thing to be done.

If two or more people are named as *mortgagor*:

- 'you/your' refer to each of them alone and any two or more of them together;
- their promises bind each of them alone and any two or more of them together; and
- the release of one of them from their promises does not mean that any of the others are also released.

The parties say that it is their intention that, in the interpretation of this mortgage:

- if possible, words which have an ordinary meaning are given that meaning;
- this mortgage is to be interpreted broadly;
- if a general term is used it must be given a broad meaning; and
- general terms must not be limited because of any legal rules of interpretation.