

Secure Funding Pty Ltd

ABN 25 081 982 872

SuperCredit Deed of Loan and Guarantee Standard Terms and Conditions

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Deed of Loan and Guarantee - standard terms and conditions

This document does not contain all the contract terms or all the information we are required by law to give you before this deed is formed. Further terms and information are in the schedule attached.

The meaning of words printed *like this* and some other key words is explained at the end of these standard terms and conditions or in the schedule.

The parties to this deed are:

- Secure Funding Pty Ltd ABN 25 081 982 872 (we);
- the party or parties named in the schedule as Customer (you); and
- the party or parties named in the schedule as *guarantor* (being a *security provider*).

We may at your request from time to time extend certain or other financial accommodation to you or for your account on the terms of this deed.

1 What we lend and when

1.1 Subject to this clause, we agree to lend you the *amount of credit* at the time you request it. Except to the extent the schedule indicates that the *amount of credit* is to be paid to others, we pay the money to you or as directed by you or your agent. You authorise us to use the *amount of credit* to make these payments.

We can debit any amount we lend you to a *loan account* (so that you pay interest charges on the amount).

1.2 However, we only have to lend if:

- (a) we have received:
 - all *securities* and related documents (*such as* title documents and acknowledgments); and
 - evidence of any insurance we require; and
 - any report or valuation we require; and
 - if requested by us a certificate of independent advice from a solicitor and/or a certificate of financial advice from a financial adviser for each *security provider*; and
 - any other document or information we reasonably require, which are satisfactory to us; and
- (b) you have paid all fees and charges the schedule indicates are payable by you (unless we tell you that the fee or charge is not yet payable); and
- (c) the *amount of credit* is not more than the *loan-to-security percentage* of the value we place on the property secured by the *securities* (we base this value on our most recent valuations); and
- (d) there has been no change to your or a *security provider's* financial circumstances since such circumstances were last disclosed to us; and
- (e) the information you give, or another *person* gives in connection with this deed or a *security* is correct and not misleading and neither you nor another *person* has failed to disclose any information required to be disclosed under or in connection with this deed or a *security*; and

(f) no *security* has been withdrawn or is otherwise ineffective; and

(g) if *you* or a *security provider* enter this deed or a *security* as a trustee, we have received:

- a legal opinion stating that the trustee's obligations are valid and enforceable and that the *security* is valid and enforceable against the trust assets; and
- a copy of the signed and stamped trust deed containing all the terms of the trust certified by the trustee (or, if the trustee is a company, a director or secretary of the trustee) as being true and up-to-date,

which are satisfactory to *us*; and

(h) neither *you* nor a *security provider* is in default under this deed or a *security*; and

(i) *you* have complied with any special terms and conditions relating to the use of the *loan* proceeds we require.

1.3 Our obligation to lend *you* the *amount of credit* terminates:

(a) if *you* do not borrow it within three months of the *disclosure date* (or any longer period we consent to); or

(b) if *you* are in default under clause 8.1; or

(c) if in *our* absolute discretion, we elect to cancel this *loan*. If we exercise this discretion, we will notify *you* in writing.

1.4 Unless we agree otherwise, *you* may only borrow the *amount of credit* at one time. If, after we

have debited the *amount of credit* to a *loan account*, but before *you* actually receive any funds, *you* advise *us* or *our* settlement agent that *you* do not wish to borrow all or part of the *amount of credit*, then we will treat any such funds that are not actually borrowed by *you* as a prepayment of the *loan* to which that unborrowed *amount of credit* relates (which prepayment will be taken to have been made on the day on which *you* give *us* the advice).

1.5 We can keep any fees and charges *you* have paid *us* even if we do not have to lend the *amount of credit*, if *you* do not ask *us* to lend the *amount of credit*, or if this deed is terminated for any reason.

2 Interest rate (the annual percentage rate)

Fixed annual percentage rate

2.1 If we agree that *annual percentage rate* is a fixed interest rate, the *annual percentage rate* which applies to a *loan* on any day during a *fixed rate period* is our *annual percentage rate* for similar fixed rate loans at the *drawdown date*. This rate remains fixed for the relevant *fixed rate period* even if other interest rates change.

2.2 If the *drawdown date* is more than 30 days from the date you sign the schedule, the *annual percentage rate* for a *fixed rate period* may be different to that stated in the schedule (you will be notified of the varied *annual percentage rate* in accordance with clause 2.6).

Variable annual percentage rate

2.3 Except where we agree that a fixed interest rate is to apply, the *annual percentage rate* which on any day during a *variable rate period* applies to a *loan* is our *annual percentage*

rate for similar variable rate loans on that day.

- 2.4 The *annual percentage rate* in the schedule is current at the *disclosure date*. The actual *annual percentage rate* may change by the *drawdown date*.
- 2.5 We may change the *annual percentage rate* and any applicable margin or reference rate at any time during a *variable rate period*.

We tell you of rate changes

- 2.6 If the *annual percentage rate* which applies on the *drawdown date* differs from the rate in the schedule, we will notify you on or before the *drawdown date* of the *annual percentage rate* that applies on the *drawdown date*. We will do this in writing or by a newspaper advertisement.
- 2.7 If the *annual percentage rate* that will apply during a *variable rate period* changes after the *drawdown date*, then:
- (a) if the change reduces your obligations to us, we notify the change in your next statement (unless we have notified you before then); and
 - (b) otherwise, we notify you in writing or by a newspaper advertisement on or before the date on which that *annual percentage rate* applies to you.

End of fixed rate period

- 2.8 At the end of any *fixed rate period* the *annual percentage rate* will revert to our *annual percentage rate* for similar variable rate loans on that day.

3 Interest charges

- 3.1 Interest charges on each *loan account* for each day are calculated at the daily percentage rate on the *balance owing on the loan account* for

the end of that day. (The daily percentage rate is the *annual percentage rate* for that *loan* for that day divided by 365 - or 366 in a leap year.)

- 3.2 Interest charges accrue daily from and including the *drawdown date* (which may occur before we lend you any of the principal part of the *amount of credit*). This applies whether or not any real estate transaction to which the advance relates (eg refinance or purchase) occurs on that day. Interest charges are first debited to a *loan account* one calendar month after the *drawdown date*. For example if the *drawdown date* is 15 October, interest would be first debited to the *loan account* on 15 November.
- 3.3 After that, interest charges are debited on the same date in each following month as the first debiting. If a particular month does not have that date, interest charges are debited on the last day of that month. For example if interest was first debited on 31 August the interest charges would next be debited to the *loan account* on 30 September.
- 3.4 Also, for a period shorter than a month (*such as* if you repay the loan early), we add the interest charges to the *balance owing on the loan account* at the end of the period.
- 3.5 If you are in default, the interest charges are higher (see clauses 8.5 - 8.8). In such cases we exclude from the *balance owing on the loan account* for the purposes of this clause any amount on which interest charges are payable at the *default rate* under clause 8.5 and charge interest instead on that amount under clauses 8.5-8.8.

4 What you must pay and when

What you must pay

4.1 You must repay us all amounts you borrow from us and you must pay us interest charges, our fees and charges and government charges and any enforcement expenses.

Repayments

The repayments set out in the schedule are examples that assume that payments will be made on time, that the *annual percentage rate* and fees and charges will not change after the *disclosure date* and that the *drawdown date* is the *disclosure date*.

4.2 You must pay the repayment amounts we require. The schedule sets out the repayments we require as at the *disclosure date*. If a payment would otherwise be due on a day that is not a *business day* then it becomes due on the preceding *business day*.

Principal and interest repayments

4.3 If repayments set out in the schedule are described as *principal and interest repayments*, the following clauses apply to those repayments.

4.4 We calculate *principal and interest repayments* in relation to a *loan* so that, during the period they are payable, the:

- (a) *balance owing on the loan account* at the start of the period; and
- (b) all:
 - interest charges; and
 - other fees and amounts we notify you as being included in the repayment amount

which accrue or become payable during the period are repaid during the period.

4.5 Under this method, the part of each repayment which repays the *balance owing on the loan account* at the start of the period gradually increases throughout the period but repayments are equal as long as:

- the interest rate; and
- any other fee we notify you as being included in the repayment amount

remain constant. However, the last repayment may be different as it equals the *total amount owing* on the last day of the *loan term*.

Interest only repayments

4.6 If repayments set out in the schedule are described as *interest only repayments* then the following clauses apply to those repayments.

4.7 If monthly repayment amounts are specified in the schedule (or any other notification that we give you of the amount of *interest only repayments*), we calculate any scheduled *interest only repayments* and as subsequently notified to you as follows:

- we take the interest rate specified in the schedule in relation to the *loan* or as subsequently notified to you;
- we work out one year's interest charges at that rate on the *balance owing on the loan account* on the start of the *interest only period*;
- we then divide that amount by 12; and
- we then add government financial institutions duty and any other fees.

Because the scheduled *interest only repayment* amount does not vary according to the

number of days in the relevant month, in the shorter months the repayment amount may be greater than the actual interest accrued (the excess reduces the *balance owing on the loan account* by a small amount); in the longer months, the repayment amount may be slightly less than the actual interest accrued (the small amount of accrued but unpaid interest is therefore added to the *balance owing on the loan account* and is capitalised). This means that the *balance owing on the loan account* fluctuates by small amounts each month.

4.8 If the schedule (or any other notification that we give you in relation to *interest only repayments*) refers to clause 4.8 in relation to the method of calculation of *interest only repayments*, we calculate the *interest only repayments* for the whole or any part of a period as equal to the sum of:

(a) any unpaid interest charges (including any unpaid default interest charges) which have accrued on the *loan account* up to and including the day before the *interest only repayment* for that period is due; and

(b) government financial institutions duty and any other fees up to and including the day before the *interest only repayment* for that period is due.

4.9 At the end of any *interest only period* specified in the schedule you must commence making *principal and interest repayments*.

Method of repayment and variations to repayments

4.10 You must pay by permitting us to debit amounts directly from an account you have with a financial institution. You must not cancel any direct debit authorisation you give us or

close the account referred to in the direct debit authorisation unless you first give us another direct debit authorisation acceptable to us. You must also ensure there is enough money in the account to meet each debit.

4.11 We may vary the amount, method of calculation, number, frequency or time for payment of repayments for the period over which they are to be paid.

Except for where *interest only repayments* apply to a *loan account* and a method of calculation of repayments is provided for (in the schedule or as otherwise notified by us) rather than a repayment amount, we will give you a notice in writing of any such variation, unless it reduces your obligations or extends the time for payment under this deed.

Where *interest only repayments* apply to a *loan account* and a method of calculation of repayments is provided for (in the schedule or as otherwise notified by us) rather than a repayment amount, we will only give you a notice in writing if we vary the method of calculation of *interest only repayments*, except that we will not give you a notice where the variation reduces your obligations or extends the time for payment under this deed.

4.12 If you are to make monthly repayments, the first repayment is due one calendar month after the *drawdown date* but if the *drawdown date* is the 29th, 30th or 31st of the month and the next month does not have that many days, the first repayment is due on the last day of that next month.

Following repayments are then due at monthly intervals - for example, if the first repayment is due on the 15th of October,

each later repayment is due on the 15th of every month.

If a monthly 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 the month.

4.13 *You* must pay *us* the *total amount owing* on the date the final repayment is due, being the last day of the *loan term*, or, if *you* default, on the date it becomes due for payment under clause 8.

4.14 *We* may apply any payments *you* make to any amounts due by *you* in such order as *we* decide.

5 Prepayments

5.1 *You* may prepay any part of the *total amount owing* at any time. If *you* do not tell *us* how to apply a prepayment it will be applied to reduce the *total amount owing*, but will not reduce the amount of any repayments due under this deed without *our* consent.

5.2 If *you* prepay during a *fixed rate period*, then *you* must also pay *us* *break costs* for "breaking" the *fixed rate period* (see clause 9) except that *you* do not have to pay *break costs* in relation to an amount that has been treated as a prepayment under clause 1.4. *Break costs* are payable on the day *you* prepay.

Warning

Break costs can be quite high. We suggest you ask us for an estimate of the break costs and seek independent financial advice before you prepay under a fixed rate loan.

6 Representations and warranties

6.1 Each *obligor* represents and warrants that:

- (a) if the *obligor* is a company, the *obligor* is duly incorporated and validly existing under the laws of its place of incorporation and has power to enter into and comply with, and has taken all necessary action to authorise the entry into and compliance with all *transaction documents* to which it is a party; and
- (b) if paragraph (a) above does not apply, the *obligor* has full capacity to enter into and comply with, and has taken all necessary action to authorise the entry into and compliance with all *transaction documents* to which it is a party; and
- (c) the *obligor* has in full force and effect the authorisations necessary for the *obligor* to enter into all *transaction documents* to which it is a party, to comply with its obligations and exercise its rights under them and to allow them to be enforced; and
- (d) the obligations under all *transaction documents* to which it is a party are valid and binding and are enforceable against the *obligor* in accordance with their terms; and
- (e) the *obligor* benefits by entering into all *transaction documents* to which it is a party; and
- (f) the *obligor's* most recent financial statements last given to *us* are a true and fair statement of the *obligor's* financial position as at the date to which they are prepared and disclose or reflect all the *obligor's* actual and

- contingent liabilities as at that date; and
- (g) if the *obligor* is part of a *consolidated group*, the last *consolidated financial statements* given to *us* are a true and fair statement of the *consolidated group's* financial position as at the date to which they are prepared and disclose or reflect all the *consolidated group's* actual and contingent liabilities as at that date; and
- (h) there are no reasonable grounds to suspect that the *obligor* or any of the *obligor's subsidiaries* are unable to pay their debts as and when they become due and payable; and
- (i) unless disclosed to *us*, the *obligor* is not entering into any *transaction document* as a trustee; and
- (j) the *obligor* and all *subsidiaries* are the beneficial owner of and have good title to all property held by the *obligor* or on the *obligor's* behalf and all undertakings carried on by the *obligor* are free from encumbrances, except for those provided for in the *transaction documents*; and
- (k) no person has contravened or will contravene section 208 or section 209 of the *Corporations Act* by entering into any *transaction document*; and
- (l) there is no pending or threatened proceeding affecting the *obligor* or any of the *obligor's subsidiaries* or any of the *obligor's* assets before a court, authority, commission or arbitrator except those in which a decision against the *obligor* or the *subsidiary* (either alone or together with other decisions) would be insignificant; and
- (m) no *event of default* or *potential event of default* continues unremedied; and
- (n) neither the *obligor* nor any of the *obligor's subsidiaries* is in breach of a law or obligation affecting the *obligor* or any of the *subsidiaries* or the *obligor's* or the *subsidiaries'* assets in a way which is, or is likely to have, a *material adverse effect*; and
- (o) there has been no change in the *obligor's* financial position since the date to which the *obligor's financial statements* last given to *us* were prepared which is, or is likely to have, a *material adverse effect*; and
- (p) if the *obligor* is part of a *consolidated group*, there has been no change in the consolidated financial position of the *consolidated group* since the date to which the *consolidated financial statements* last given to *us* were prepared which is, or is likely to have, a *material adverse effect*; and
- (q) the *obligor* has disclosed in writing to *us* all facts relating to the *obligor* and the *obligor's subsidiaries*, any *transaction document* and all things in connection with them which are material to the assessment of the nature and amount of the risk undertaken by *us* in entering into each *transaction document* and doing anything in connection with them; and
- (r) neither the *obligor* nor any of the *obligor's subsidiaries*

- has immunity from the jurisdiction of a court or from legal process; and
- (s) neither the *obligor* nor any of the *obligor's subsidiaries* are *insolvent*; and
- (t) if the *obligor* enters a *transaction document* as a trustee:
- the trustee has the power and is entitled to enter into any *transaction document* to which the trustee is a party; and
 - the trustee has taken all steps necessary to allow the trustee to enter into and perform the trustee's obligations under any *transaction document* to which the trustee is a party; and
 - the trustee's entry into and performance of obligations under any *transaction document* to which the trustee is a party does not result in or involve a breach of trust; and
- (u) the *obligor* is not in default under any arrangement (including an agreement) which could have a *material adverse affect* on the *obligor's* ability to perform the *obligor's* obligations under any *transaction document* to which the *obligor* is a party; and
- (v) each certificate, resolution and other document provided to *us* in connection with a *transaction document* is true and correct; and
- (w) the transaction contemplated by the *transaction documents*:
- has been consented to by the members of the *super fund* and is in the

interests of the members individually and collectively;

- does not breach the *SIS Act*;
 - conforms with the deed under which the *property trust* is established, all other agreements between *you* and the *property trust* and the trust deed of the *super fund*; and
 - is consistent with the *super fund's* investment strategy.
- 6.2 You must tell *us* if anything has happened which prevents *you* repeating all the representations and warranties in clause 6.1 before *you* ask *us* at any time to lend *you* any of the *amount of credit*.
- 6.3 The representations and warranties in clause 6.1 and in each other *transaction document* are taken to be also made (by reference to the then current circumstances) on each date on which interest charges are debited under clause 3.
- 6.4 The *obligor* acknowledges that *we* have entered into each *transaction document* in reliance upon the representations and warranties included in this clause and in each other *transaction document*.

7 Undertakings

Obligor undertakings

- 7.1 The *obligor* undertakes:
- (a) to keep proper accounting records and ensure that each of the *obligor's subsidiaries* does the same; and
 - (b) to conduct the *obligor's* business (including collecting debts owed to the *obligor*) in a proper,

- orderly and efficient manner; and
- (c) not, without *our* consent, to cease conducting any of the *obligor's* business and not to significantly change the general character of any business the *obligor* conducts; and
 - (d) to give *us* any document or other information that *we* reasonably requests from time to time; and
 - (e) to allow *us* to enter a property secured by a *security* for the purpose of obtaining a valuation or report;
 - (f) to obtain, renew on time and comply with the terms of each authorisation necessary for the *obligor* to enter into each *transaction document* to which the *obligor* is a party, to comply with the *obligor's* obligations and exercise the *obligor's* rights under them and to allow them to be enforced; and
 - (g) not, without *our* consent, to:
 - (i) provide financial accommodation to a *related entity*; or
 - (ii) permit financial accommodation to remain owing to the *obligor* by a *related entity*; or
 - (iii) satisfy any financial accommodation the *obligor* now or in the future will owe to a *related entity*; and
 - (h) to ensure that the *obligor's* capital is not reduced or made capable of being called up only in certain circumstances; and
 - (i) to give *us* information about and copies of documents relating to all land and any interests in land (such as leases) the *obligor* acquires; and
 - (j) to give the *obligor's* *financial statements* for each financial year to *us* within 60 days after the end of that year if requested; and
 - (k) if the *obligor* is part of a *consolidated group*, to give the *consolidated financial statements* for each financial year to *us* within 60 days after the end of that year if requested; and
 - (l) to give the *obligor's* *financial statements* for the first half of each financial year to *us* within 30 days after the end of that half year if requested; and
 - (m) to notify *us* if any representation or warranty made, or taken to be made, by the *obligor* or the *obligor's* behalf in connection with the *transaction documents* is found to have been incorrect or misleading when made or taken to be made; and
 - (n) to do everything necessary to ensure that no *event of default* or *potential event of default* occurs and ensure that each of the *obligor's* *subsidiaries* does the same; and
 - (o) if an event of default or potential event of default occurs:
 - (i) to notify *us* and provide *us* with full particulars of the event and any step taken or proposed to remedy it; and

- (ii) on request from *us*, to give *us* a certificate signed by two of the *obligor's* directors, or in the case of a single director company one director, which states whether an *event of default* or *potential event of default* continues unremedied; and
- (p) to use the *loan amount* only for the purpose set out in the schedule; and
- (q) not without *our consent* to create an encumbrance or allow one to exist on the whole or any part of the *obligor's* present or future property; and
- (r) not without *our consent* to dispose of (or agree to dispose of) all or a substantial part of the *obligor's* property (either in a single transaction or in a series of transactions whether related or not and whether voluntarily or involuntarily) except:
 - (i) disposals made in the ordinary course of the *obligor's* business for arm's length consideration; or
 - (ii) disposals of cash raised or borrowed for the purpose for which the cash was raised or borrowed; or
 - (iii) disposals of investments dealt in or listed on a securities exchange or over-the-counter market, for arm's length consideration; or
 - (iv) disposals of property in exchange for other property of superior or comparable type and value; and
- (s) to ensure that none of the *obligor's subsidiaries* does anything which the *obligor* is prohibited from doing under paragraph (q) and (r) above unless the subsidiary has *our* consent; and
- (t) to ensure that no guarantee (or other assurance against financial loss) is granted or is outstanding in connection with money borrowed or raised by or at the request of the *obligor* or any of the *obligor's subsidiaries*, except:
 - (i) if we have given *our consent*;
 - (ii) for drawings, acceptances and endorsements of bills in the ordinary course of the *obligor's* business; or
 - (iii) if the *obligor's* obligations under *this deed* are equally and rateably secured by a guarantee (or other assurance) in form and substance satisfactory to *us*; and
- (u) to procure that the *property trust* and the *super fund* are properly maintained in compliance with all relevant law and in accordance with the *transaction documents*; and
- (v) not to request, require, perform or allow the amendment of any document or agreement to which the *property trustee* is party (including, without limitation, any agreement between the *you* and the *property trustee*); and

(w) not to request, require, perform or allow the transfer of any *security* from the *property trust* prior to the repayment in full of the *total amount owing*. Without prejudice to the forgoing, in the event of a transfer in contravention of the forgoing, the *obligors* agree that *our security* over the *security property* shall remain in full force and effect; and

(x) not to contest or challenge the absolute priority of *our security* in relation to the *security property* and not to register any interest in relation it (other than the legal ownership interest of the *property trust*).

7.2 The *obligor* acknowledges that we have a right to conduct a review of the *obligor*, the *loan*, the *obligor's* business and the *securities* whenever we require.

Without limiting the undertakings provided in clause 7.1, the *obligor* undertakes to co-operate in all respects with any such review, including by providing any document or other information we request and providing access to any secured property or property controlled by the *obligor* for the purposes of conducting the review.

8 If you are in default

When are you in default?

8.1 You are in default if:

- (a) an *obligor* does not pay on time all amounts due under this deed or any other *transaction document*; or
- (b) an *obligor* fails to comply with any of the terms of any *transaction document*;

(c) an *obligor*, or another *person* gives, *us* incorrect or misleading information in connection with a *transaction document* or if an *obligor* fails or another *person* fails, to disclose information required to be disclosed under or in connection with a *transaction document*; or

(d) we reasonably believe that *you* or another *person* has acted fraudulently in connection with a *transaction document*; or

(e) an *obligor* sells or otherwise disposes of property secured by a *security*, or creates or allows to exist a subsequent *security interest* in connection with property the subject of the *security*; or

(f) an *obligor* is in default under a *security* or withdraws from it; or

(g) the *total amount owing* exceeds the *loan-to-security percentage* of the value we place on the *security property* (we base this value on *our* most recent valuations); or

(h) an *obligor* becomes *insolvent* or steps are taken to make the *obligor* so; or

(i) an *obligor* does not allow *us* to enter a property secured by a *security* for the purpose of obtaining a valuation or report; or

(j) a power of sale arises under any *security interest* over any property which is secured by a *security*; or

(k) any present or future *monetary obligations* of an *obligor* or any of the *obligor's subsidiaries* for amounts totalling more than \$10,000 are not

- satisfied on time (or at the end of their period of grace) or become prematurely payable; or
- (l) distress is levied or a judgment, order or encumbrance is enforced, or becomes enforceable, against any property of an *obligor* or any of the *obligor's subsidiaries*; or
 - (m) an *obligor* or any of the *obligor's subsidiaries* become *insolvent*; or
 - (n) an *obligor* or any of the *obligor's subsidiaries* is unable to pay or stops payment, ceases to carry on its business or a material part of it, or threatens to do either of those things except to reconstruct or amalgamate while solvent on terms approved by *us*; or
 - (o) any *transaction document* becomes (or is claimed to be) wholly or partly void, voidable or unenforceable or does not have (or is claimed not to have) the priority *we* intended it to have ("claimed" in this paragraph means claimed by an *obligor* or any of the *obligor's related entities* or anyone on behalf of any of them); or
 - (p) if an *obligor* is a company:
 - (i) the persons who at the date of this deed have *control* of the company cease to have *control* of the company or one or more persons acquire *control* of the company after the date of this deed; or
 - (ii) the company ceases to be a *subsidiary* of the company which is its holding company at the date of this deed or a company
- ceases to be a *subsidiary* of the company; or
- (iii) without *our consent*, the *obligor* or any of the *obligor's subsidiaries* takes action to reduce its capital or buy back any of its ordinary shares or passes a resolution referred to in section 254N(1) of the *Corporations Act* ("Calls may be limited"); or
 - (iv) a person is appointed under legislation to manage any part of the affairs of the *obligor* or any of the *obligor's subsidiaries*; or
 - (q) an event occurs which is, or is likely to have (or a series of events occur which, together, are, or are likely to have), a *material adverse effect*; or
 - (r) an undertaking given to *us* by the *obligor* or another person in connection with any *transaction document* is breached or not wholly performed within any period specified in the undertaking or, where no period is specified and the undertaking is not an ongoing undertaking, within seven days after the date of the undertaking; or
 - (s) if an *obligor* enters this deed as a trustee:
 - (i) a *receiver* of the trust is appointed; or
 - (ii) any judgment is enforced against trust property; or
 - (iii) the *obligor* suspends payment of the debts of the trust, the *obligor* admits in writing the *obligor's*

inability to pay these debts; or

(iv) the *obligor* ceases, or threatens to cease, to carry on the business of the trust; or

(v) if there is a change of trustee, the trust is terminated, or any change to the terms of the trust instrument is made without *our consent*; or

(t) an *obligor* breaches the *SIS Act*.

What can happen then?

8.2 If *you* are in default, we may give *you*, or the relevant *obligor*, a notice stating that *you* are in default.

If *you* (or the relevant *obligor*) do not, or cannot, correct the default within any period given in the notice or required by law (or if *you* are in default again for a similar reason at the end of that period), then, at the end of that period and without further notice to *you*, the *total amount owing* becomes immediately due for payment (to the extent it is not already due for payment).

We may then sue *you* for that amount, or enforce any *security*, or do both.

8.3 In limited circumstances set down by law (*such as* if we are unable to locate *you*), we need not give the notice or wait until the end of any period given in a notice. Instead, if *you* are in default, the *total amount owing* becomes immediately due for payment without notice. We may then immediately sue *you* for that amount, or enforce any *security*, or do both.

8.4 If *you* are in default and this deed is not governed by the National Credit Code, then the

provisions of clause 13.2 will come into effect.

Higher interest charges

Under this deed a default rate of interest may be charged when payments are in default.

8.5 *You* must pay interest charges at a higher rate - the *default rate* - on the *balance owing* on *your loan account* and any other amount which is due for payment under the *transaction documents* while *you* are in default.

8.6 These charges accrue daily. On each repayment date (and monthly after the end of the *loan term*), we add them to the overdue amount. (This is known as "capitalising" or "compounding" the interest.) *You* are then liable for default interest charges on the new overdue amount.

8.7 The *default rate* at any time equals the *annual percentage rate* applicable to a *loan* plus a margin specified in the schedule and therefore, if the *annual percentage rate* changes, so does the *default rate*.

8.8 *Your* obligation to pay on time is not cancelled by the provisions of this clause.

Limited recourse

8.9 Enforcement of *your* liability under or in connection with this deed is limited in that it can only be enforced to the extent of the *your* rights in relation to the *security property*.

8.10 Enforcement of the liability of the *property trustee* under or in connection with this deed is limited in that it can only be enforced to the extent of the *security* over the *security property*.

8.11 There is no limit on *our* ability to enforce *our* rights against any *guarantor* other than the *property trustee*.

9 Break costs

9.1 Depending largely on movements in market interest rates, we may suffer a loss if before the end of any *fixed rate period*, you:

- (a) prepay an amount; or
- (b) are in default and the *total amount owing* becomes immediately due for payment.

If you "break" any *fixed rate period* in any of these ways, you must pay us an amount equal to our reasonable estimate of any loss that we suffer. However, you do not have to pay *break costs* in relation to an amount that has been treated as a prepayment under clause 1.4. We calculate this estimate based on the difference between our cost of funds at the start of the *fixed rate period* and our cost of funds at the date of prepayment, calculated over the remainder of that period. This is then discounted back to a net present value at a rate equivalent to our cost of funds at that date.

This amount is called "*break costs*". We calculate the *break costs* and our calculation binds you and us.

Warning

Break costs can be quite high. We suggest you ask us for an estimate of the *break costs* and seek independent financial advice before you do any of these things.

10 Other costs and charges

Enforcement expenses may become payable under this deed or any mortgage or other *security* in the event of a breach.

10.1 You must pay us:

- (a) all fees and charges in the circumstances indicated in the schedule and all new fees and charges we impose under clause 10.3; and
- (b) bank accounts debits tax and all additional government stamp and other duties calculated in accordance with relevant legislation and charges payable on receipts or withdrawals in connection with any *transaction document*; and
- (c) when we ask, any reasonable expenses we reasonably incur in connection with:
 - (i) the negotiation, preparation, execution and registration of and payment of taxes on any *transaction document*; and
 - (ii) being satisfied that conditions to drawdown have been met; and
 - (iii) giving and considering *consents*, *waivers*, discharges and releases and producing title documents; and
 - (iv) conducting any review in accordance with clause 7.2, including engaging such accountancy, financial management and other consultants as we may nominate to assist with the review; and
 - (v) enforcing any *transaction document* (including enforcement expenses of us that were reasonably incurred by the use

of *our* staff and facilities) after *you* are in default (*including* in the case of a mortgage, expenses incurred in preserving and maintaining property *such as* by paying insurance, rates and taxes for the property); and

(vi) if we incur a GST liability (where "GST" has the same meaning as in the A New Tax System (Goods and Services) Tax Act (1999) (Cth)) in relation to any supply made by *us* under or in connection with a *transaction document*, an additional amount equal to the consideration payable for that supply multiplied by the prevailing GST rate; and

(c) *our costs* in otherwise acting in connection with any *transaction document*, such as exercising, enforcing or preserving rights (or considering doing so), or doing anything in connection with any enquiry by an authority involving the *obligor* or any of the *obligor's related entities*; and

(d) taxes and fees (including registration fees) and fines and penalties in respect of fees paid, or that we reasonably believe are payable, in connection with any *transaction document* or a payment or receipt or any other transaction contemplated by this deed. However, *you* need not pay a fine or penalty in connection with taxes or fees to the extent that *you*

have placed *us* in sufficient cleared funds for *us* to be able to pay the taxes or fees by the due date.

We may keep any fees and charges shown in the schedule that have already been paid.

10.2 *You* authorise *us* to debit any of these amounts to any *loan account* and to transfer them between *loan accounts* as we choose. We may do so on or after the date we pay them or the date they become due or payable by *you* or *us* (whichever is earlier). For fees and charges payable at or before settlement we will usually agree with *you* which *loan account* is to be debited. Fees and charges relating to a specific *loan account* will usually be debited to that *loan account*.

10.3 The fees and charges current at the *disclosure date* are shown in the schedule. We may change the amount of any fee or charge or change how often they are charged, or impose new fees or charges at any time.

We give *you* advance notice (in writing or by newspaper advertisement) of any new fee or charge or change to existing fees or charges. But some changes in government fees and charges are publicised by the government and not *us*.

Indemnity

10.4 *You* indemnify *us* against any liability or loss arising from, and any costs incurred in connection with:

(a) financial accommodation requested under this deed not being provided in accordance with the request for any reason except default by *us*; or

(b) financial accommodation under this deed being repaid, discharged or made payable other than at its maturity; or

- (c) *us* acting in connection with this deed in good faith on fax or telephone instructions purporting to originate from *you* or *your* offices; or
- (d) an *event of default*; or
- (e) *us* exercising or attempting to exercise a right or remedy in connection with this deed after an *event of default*; or
- (f) any indemnity we give a controller or administrator of *you*.

Items included in loss, liability and costs

10.5 *You* agree that:

- (a) *costs* include legal *costs* in accordance with any written agreement as to legal *costs* (whether or not *you* are a party to the agreement) or, if no agreement, on whichever is the higher of a full indemnity basis or solicitor and own client basis; and
- (b) *costs* include those paid, or that we reasonably believe are payable, to persons engaged by *us* in connection with this deed (such as consultants); and
- (c) loss or liability and any *costs* in any indemnity under this deed may include an amount called *break costs*. These may be calculated by any method we reasonably choose including by reference to any loss we incur because we terminate arrangements we have made with others to fund (or to maintain *our* funding of) financial accommodation under this deed.

Payment of third party losses

10.6 *You* agree to pay an amount equal to any liability or loss and any *costs* suffered or incurred by any of *our* employees, officers, agents or contractors.

Information on current interest rates and fees and charges is available on request by contacting *us*.

11 Transactions

11.1 We may assign any date we consider appropriate to a debit or credit to a *loan account* (except that, in the case of a debit, the date must not be earlier than the date on which the relevant transaction occurs).

However, we credit payments to a *loan account* as soon as practicable after we receive them. This is not necessarily the same day that *you* pay.

11.2 We may subsequently adjust debits and credits to a *loan account* and the *balance owing on the loan account*, so as to accurately reflect the legal obligations of *you* and *us* (for example, because of an error or because a cheque is dishonoured). If we do this, we may make consequential changes (*including* to interest charges).

11.3 We may use any payment we receive in connection with this deed to reduce the *total amount owing* in any way we choose provided that it does not cause a *loan account* to go into arrears when sufficient funds were paid in respect of each *loan account* to allow each *loan account* not to be in arrears.

12 Restricted dealings

12.1 The *obligor* must not create or allow to exist a subsequent *security* in connection with the *security* or a *security interest* or deal in any way with the *security* or a *security interest* or allow any interest in the *security* or a *security interest* to arise or be varied, without *our* consent.

12.2 If a law entitles the *obligor* to create another *security* in connection with the *security* or *security interest* without *our* consent, clause 12.1 does not operate to require the *obligor* to obtain *our* consent before creating that other *security*.

However:

(a) if the *obligor* intend to create another *security*, the *obligor* agree to notify *us* at least seven days before the *obligor* propose to do so; and

(b) if *we* request, the *obligor* agrees to obtain an agreement acceptable to *us* regulating the priority between the other *security* and the *security* or *security interest*.

12.3 The *obligor* must ensure that the amount secured under any other *security* or *security interest* is not increased without *our* consent.

12.4 The *obligor* must comply on time with any obligation in connection with any other *security* or *security interest*.

13 Top up security

13.1 If the *balance owing on your loan accounts* exceeds the *loan-to-security percentage* of the value *we* place on the property secured by the *securities* (*we* base this value on *our* most recent valuations), *we* may ask *you* to provide additional *security* which:

(a) *we* value as being at least equal to the difference; and

(b) is of a type satisfactory to *us*.

You must promptly comply with this request and do anything *we* reasonably request in connection with the provision of this additional *security* (*such as* providing *us* information and signing and providing *us* with documents).

13.2 Provided that this deed is not governed by the National Credit Code, to protect *our* interests under this deed, *you* charge to *us* all of *your* interests in any real property (whether present or future) and any shares and units in any entity which owns real property (whether present or future) as security for your obligations under this deed, which charge becomes immediately and automatically effective if *you* fail to comply with *your* obligations under clause 13.1 within 3 days of *us* making a request for additional security under that clause or are otherwise in default under clause 8.1.

14 Substituting security and partial discharge of security interest or security

14.1 *You* may ask *us* in writing to allow *you* to substitute a new *security interest* for a *security*. *We* don't have to agree but, if *we* do, *we* will almost certainly

impose conditions. These conditions would include:

- (a) the new *security interest* and the property it is over being satisfactory to *us*; and
- (b) *you* or (if relevant) a *security provider* giving *us* any information and signing and providing *us* with any documents we request; and
- (c) *you* paying all *costs*, stamp duty and other amounts payable under the *security* or in connection with *us* taking the new *security interest*; and
- (d) *you* paying *us* the property substitution fee, variation fee, the discharge fees and any other relevant fee (as applicable); and
- (e) obtaining legal advice satisfactory to *us* obtained at *your* expense in relation to compliance with the *SIS Act*.

We can impose other or additional conditions or not agree to the substitution at all. Even if we agree to the substitution, the *security* to be replaced is not affected until (and then only to the extent that) we give a written discharge for it.

14.2 *You* may ask *us* in writing to partially discharge a *security interest* or a *security*. We don't have to agree but, if we do, we will almost certainly impose conditions. These conditions would include:

- (a) *you* giving *us* any information and signing and providing *us* with any documents we request; and
- (b) *you* paying all *costs*, stamp duty and other amounts payable under the *security* or in connection with *us*

partially discharging the *security* or *security interest*; or

- (c) *you* paying *us* the property substitution fee, variation fee, the discharge fees and any other relevant fee (as applicable).

We can impose other or additional conditions or not agree to the partial discharge at all. Even if we agree to the partial discharge, the *security interest* or *security* to be partially discharged is not affected until (and then only to the extent that) we give a written partial discharge for it.

15 Guarantee and indemnity

Consideration

15.1 The *guarantor* acknowledges incurring obligations and giving rights under this deed for valuable consideration received from *us*.

15.2 By executing this deed, the *guarantor* could become liable to pay *us* under the guarantee in clause 15.4, the indemnity in clause 15.5, costs and taxes in clauses 10 and interest under clause 3 and any other provision of this deed or any other *transaction document* imposing liability on a *guarantor* or the *obligor*.

15.3 The *guarantor* is liable for all its obligations under this deed individually and jointly with any other person named in this deed as *guarantor* and its obligations under this deed continue until all amounts payable by *you* have been paid.

Guarantee

15.4 The *guarantor* unconditionally and irrevocably guarantees that *you* will:

- (a) pay all amounts payable