

# MMF General

## Terms and Conditions

2 June 2023

### Introduction

These are the MMF General Terms and Conditions which apply to any *loan offer* which incorporates these *Terms and Conditions* by reference, and this document forms part of each *loan offer*. This document does not contain all the information required by law to be given to you. The *loan offer* and this document form the contract between you and ING. You must read this document together with your *loan offer*.

The meaning of the words in italics is explained in Part N of this document.

### Part A - Interest

#### A.1 How we calculate interest

- (a) We calculate interest each day by applying the daily percentage rate to the *amount you owe us* at the end of that day. For these purposes:
- (i) The daily percentage rate is equal to the interest rate applicable to your *account(s)* on that day divided by 365.
  - (ii) The end of each day for calculating interest charges is 5.00pm Sydney time. If more than one interest rate applies to your *account(s)*, we will apply the applicable daily percentage rate to the relevant portion of the *amount you owe us*.
- (b) We do not take into account the balance in your nil interest Visa *account* when calculating interest under this clause A.1.

#### A.2 When interest accrues and is debited

- (a) Interest charges accrue daily. This means that we are entitled to the interest charges each day even if they have not been debited to your *account*.
- (b) Interest charges are debited to your *account* on the last day of each month. When you pay out your *account(s)*, interest charges for the final period will be debited on the day you pay out the *account(s)*. We may also debit interest on any day when you split an *account*, close an *account*, make a permanent reduction of principal, or on any other date there is a change to the terms applicable to your *account*.

#### A.3 Interest rates

##### A.3.1 Variable interest rate

- (a) We may change any variable interest rate (including *line of credit* interest rates) at any time without your consent. We will exercise this right fairly and reasonably and in accordance with our business needs.
- (b) We will tell you of a change in the variable interest rate on or before the day it takes effect by writing to you or by publishing an advertisement in a newspaper.
- (c) The variable interest rate shown in your *loan offer* is only a guide and may change by the date on which it starts applying to your *loan*. You can find out about current interest rates by asking the Manager.

##### A.3.2 Fixed interest rate

- (a) Unless the financial table says otherwise, we will determine the interest rate that applies for the *fixed interest period* on or about the day on which that period starts.
- (b) During the *fixed interest period*, even if interest rates fall, the interest rate applying to the *account(s)* will not change. When deciding to borrow on a fixed rate basis, you should rely on your own view as to future movement of interest rates.
- (c) At the end of the *fixed interest period* the interest rate applying to that *account* will automatically change to the standard variable interest rate unless we agree to a further *fixed interest period*.
- (d) You cannot select a *fixed interest period* that extends beyond the term of the *loan*.

#### A.4 When we may charge default interest

- (a) If you do not pay an amount you are required to pay us under your *contract* (called an "**overdue amount**") we may charge you a higher rate of interest.
- (b) The higher rate of interest is called the default rate. The default rate is the interest rate applying to your *account(s)* at the relevant time plus a margin. The margin is set out in your *loan offer*. If more than one interest rate applies to your *account(s)*, then more than one default rate will apply to your *account(s)*.
- (c) Default interest charges may be debited to your *account* at the same times as ordinary interest would be debited.

#### A.5 How we calculate default interest

We will charge you the default rate of interest on any overdue amount for each day the overdue amount remains unpaid. We calculate the default interest each day by applying the default rate to the overdue amount and dividing it by 365.

## Part B - Repayments

### B.1 Variation in payments

- (a) The amount of each payment or repayment (based on the applicable interest rate or reference rate as at the *disclosure date*) is set out in your *contract*. The actual amount you must pay will change if the applicable interest rate or reference rate changes. If your interest rate and the amount of your repayments changes, we will give you a written notice telling you about this change – refer to clause I.12 for further information.
- (b) You can find out about your current interest rate and repayments by asking the Manager.

### B.2 Payments due on a non-business day

If any payment or repayment date is not a *business day*, the payment or repayment must be made on the following *business day*.

### B.3 Fortnightly/monthly payments

With our consent you can make payments monthly or fortnightly. Fortnightly payments may not be available in respect of certain loan types.

### B.4 Payments

- (a) Payment must be made by direct debit or by such other method as we approve. You must sign the necessary direct debit form before the *settlement date*. While this *loan* continues you must maintain an account with direct debit authorisation to us.
- (b) Direct debits are not usually used for *line of credit accounts*, and you must arrange for all payments to be made by the due date. Payments may be made by:
- (i) direct crediting (for example, of all or part of your salary);
  - (ii) depositing money at a bank or financial institution approved by us; and
  - (iii) posting us a cheque made payable to you or cash or correctly endorsed to you.
- (c) Payments will be credited to you only when actually received by the *Lender*.
- (d) Please note that unless we inform you otherwise, you cannot make payments by depositing money at an *ATM*.
- (e) If you deposit money at a bank or financial institution approved by us and the pre-encoded deposit slips are not used, there may be a delay in crediting your *account*, we may charge you an additional fee and we may be unable to process the deposit. You can find deposit slips in the back of your cheque book or alternatively, contact the Manager who can arrange for a deposit book to be mailed to you.
- (f) Payments cannot be made using a cheque issued under your *contract*.

### B.5 Repayment at the end of your loan

- (a) You must pay us the *amount you owe us* on the date on which your *loan* ends. This is the date set out in your *loan offer*, or such other date which we agree with you.
- (b) Ten *business days* before your *loan* ends, or if you require the *mortgaged property* to be discharged or if we terminate the *loan*, you must immediately:
- (i) return any unused cheques to us (if you have chosen the cheque facility);
  - (ii) return your *Visa Credit Card(s)* to us, cut in half for your own protection (if you have the *Visa Credit Card* facility);
  - (iii) tell us of any *Visa Credit Card* or cheque transactions completed by you within the previous 30 days; and
  - (iv) pay us the *amount you owe us* on demand, including any transactions which have not yet been processed and any fees, charges, taxes or duties which are payable.
- (c) You cannot use the *loan* or cheque facility or *Visa Credit Card* facility after the date we cancel the *loan*. You must repay us any amounts that are debited to any of your *accounts* after the date we cancel your *account*.
- (d) If you do not return the card we will hold an amount equal to your nil interest *Visa account* limit for 10 days after the *loan* is cancelled. If the card is not used for any transactions during that time then we will refund an amount equal to your nil interest *Visa account* by cheque or to a bank account you nominate.

### B.6 Repaying your loan early and additional payments

You may repay the whole or any part of the *amount you owe us* at any time. There may be fees and charges payable and these will be set out in your *loan offer*. If you have a fixed interest rate *account* at the time you repay, you may also have to pay break costs. Refer to Part G for an explanation of break costs.

### B.7 Redraw facility (principal and interest and interest only loans only - for redraw under line of credit see Part C of this document)

- (a) If you have made extra payments that total \$2,000 or more, you may redraw all or any part of those extra payments provided:
- (i) you are not in default of your obligations under your *contract*;
  - (ii) either:
    - (A) you are making principal and interest payments on your *account* (i.e. repayments under your *loan* are not currently interest only); or
    - (B) if repayments under your *loan* are currently interest only, you have made early or *additional payments*;
  - (iii) the interest rate applying to your *account(s)* is a variable interest rate; and
  - (iv) you have that amount or more available funds in your redraw facility, and such amount is within the limit you set through *Internet Banking* or as we otherwise agree.
- (b) We may reduce the amount otherwise available to you to redraw by an amount approximately equal to the payments due for the next month.

- (c) Redraw will no longer be available if you or your representative request a final payout figure on your *loan* (this is usually just before settlement).
- (d) We may suspend, reduce or cancel the redraw facility if:
  - (i) you're in default under this *contract*;
  - (ii) in our reasonable opinion, your financial circumstances have significantly changed in respect of your ability to perform your obligations under this *contract* since the *settlement date*; or
  - (iii) in our view, it is reasonably necessary for compliance with anti-money laundering obligations.
- (e) The redraw facility may not be available with certain *loan* types.
- (f) You can redraw using *Telephone Banking* and/or *Internet Banking* (if these services have been made available to you by the Manager). We may accept any other method of authorising a redraw approved by us from time to time. The funds will be made available by direct credit to the bank account from which you make payments or to such other account or such other way as we agree. If you use *Telephone Banking* and/or *Internet Banking*, funds may not be credited until 2 *business days* after your request.
- (g) If you have a redraw facility connected to a *loan* to co-borrowers in their personal capacity and any borrower can make withdrawals from the redraw facility, any one of the co-borrowers may ask us to change the account authority so all borrowers must approve any future withdrawals from the redraw facility.

## B.8 Adjustments to the balance of your *loan*

- (a) We may adjust the balance of your *account*, including back dating debits or credits or *account* corrections, to take into *account* any processing error, because a payment has been dishonoured, because there are refunds or corrections to your *loan account* or otherwise so as to accurately reflect the legal position between you and us.

## Part C - Amount you may borrow – *line of credit accounts* only

This part only applies to the *line of credit accounts*.

- (a) Subject to any restrictions set out in these *Terms and Conditions* or in your *contract*, you may borrow any amount up to your available funds limit. The minimum amount you may borrow at any one time is \$1.
- (b) We calculate your available funds limit on each day by taking your credit limit and deducting the following from it:
  - (i) the *amount you owe us*;
  - (ii) any withdrawal amounts for which we have received instructions but which have not yet been processed (not including future periodical payments);
  - (iii) the amount of any payments by cheque which have been credited to your *account*, but which have not cleared yet; and
  - (iv) the amount of any other proposed payments on your *Visa Credit Card* which we have been told about, but which have not yet been debited to your *account*, e.g. certain types of deposits for goods or services.
- (v) If you attempt to borrow more than your available funds limit, we may stop or prevent the payment including by:
  - (A) not processing a direct transfer from your *account* or nil interest *Visa account*;
  - (B) not authorising a transaction using your *Visa Credit Card*; or
  - (C) dishonouring a cheque (where you have chosen the cheque facility) drawn on your *account*.
- (c) You must make sure that the *amount you owe us* does not go over your *line of credit* limit. If it does go over the *line of credit* limit, you must repay the excess immediately. You must also ensure that you do not exceed either your *line of credit* limit or your nil interest *Visa account* limit.
- (d) We may reduce the *line of credit* limit at any time, even if you are not in default. We do not have to review the *loan* before we reduce the *line of credit* limit. If we do so we will tell you in writing as soon as possible. We may reduce the credit limit applying to either your *line of credit* or your nil interest *Visa account* or both.

## Part D - Ways in which you may borrow money - *line of credit accounts* only

This part only applies to *line of credit accounts*.

### D.1 How you can get an advance

- (a) You may get an advance on your *line of credit account* in the following ways:
  - (i) Direct transfer. This is a direct transfer from your account to another *account*. This can be done three ways.
    - (A) For regular direct debits and one-off payments, you must give us in writing the account number and BSB number of the account to which the payment is to be made and the amount of the payment.
    - (B) You can request payments to a bank account by *Telephone Banking* or *Internet Banking*. Usually we will only pay to accounts you have nominated to us prior to requesting the payment, and usually you can nominate up to four accounts for this purpose. You must first give us the following in writing:
      - (I) your *account* number;
      - (II) your nominated bank account number and BSB number; and
      - (III) your chosen password, if applicable.
    - (C) You can authorise someone else to debit your *account*, for example to pay for services such as health insurance premiums.
  - (ii) By using your *Visa Credit Card*.
  - (iii) Any other method which we agree to make available to you from time to time. If you have chosen the cheque facility option and we have agreed to make that facility available to you, you can write a cheque against your *account*. Details of how your cheque facility operates are set out in Part E.

- b) You may not transfer money from your nil interest Visa *account* to your *line of credit account* or other *accounts*.
- (c) We may refuse to make any transfers or payments at any time if:
  - (i) you're in default under this contract;
  - (ii) your financial circumstances have significantly changed in respect of your ability to perform your obligations under this contract since the settlement date;
  - (iii) we suspect fraudulent use of your *line of credit account*; or
  - (iv) in our view, it is reasonably necessary for compliance with anti-money laundering obligations.

## D.2 Stopping a direct payment

You can ask us to cancel a direct transfer from your *account* or ask us to investigate an unauthorised transfer on your behalf. If you have authorised someone else to debit your *account* or your nil interest Visa *account*, we suggest you tell the other party to stop debiting your *account*.

## Part E - Cheque account – line of credit accounts only

This part only applies to *line of credit accounts*.

### E.1 When the cheque facility is available to you

This part applies if we agree to make a cheque facility available to you. The cheque account facility will be provided by a bank or other cheque account provider nominated by us (the cheque facility provider). You must ensure that the cheque facility provider does not suffer any loss by making the cheque facility available to you, and any loss incurred can be recovered from you by us or by the *cheque facility provider*.

### E.2 Authorised signatories

- (a) You may specify authorised signatories to operate the cheque facility. Each borrower will be an authorised signatory. Any one borrower may operate the cheque facility. Each authorised signatory, by issuing cheques, will be bound by the terms and conditions applying to your *contract* except that they are not liable to pay the *amount you owe us*. Cheques may be drawn on the *account* by each authorised signatory. However, all of the borrowers named in your *loan offer* will be liable for amounts debited to the *account* by cheque.
- (b) You will be responsible for each authorised signatory's use of the cheque facility. In particular you will be liable to pay us any amounts paid by us to, or at the direction of, the authorised signatory. You consent to us giving to each authorised signatory information about your *account*.
- (c) You may cancel the authority of the authorised signatory by sending us a request in writing. You are liable for any cheque issued by the authorised signatory before their authority is cancelled.

### E.3 Completing cheques

- (a) You may only write cheques on the cheque books we give you. To complete a cheque you must write:
  - (i) the name of the person or company who the cheque is made out to;
  - (ii) the amount (in words and numbers);
  - (iii) the date on which the cheque is written; and
  - (iv) the signature of an authorised signatory.
- (b) If the cheque is not completed correctly we may dishonour the cheque or we may still debit the cheque amount to your *account*. Each borrower may sign cheques. Each borrower is liable for the amount of the cheque.
- (c) If you postdate a cheque, we may pay the cheque as soon as we receive it and need not wait until the date of the cheque.

### E.4 Stopping a cheque

- (a) You may cancel or stop payment on a cheque before we have cleared it (paid it to the person stated on the cheque) by notifying the Manager. To do so you must give us the following information:
  - (i) your *account* number;
  - (ii) the cheque number;
  - (iii) the cheque amount;
  - (iv) who the cheque is payable to; and
  - (v) the reason for stopping the cheque.
- (b) We will not be responsible to you if any cheque you want to cancel or stop is paid even if you have directed that it be cancelled or stopped, and we may still debit your *account*.

### E.5 When a cheque will be dishonoured

- (a) A cheque may be dishonoured (i.e. it will not be paid) in the following circumstances:
  - (i) it's a forgery or unauthorised;
  - (ii) it's been physically altered;
  - (iii) it's been reported lost or stolen;
  - (iv) a court has made an order to restrain payment; or
  - (v) the bank doesn't receive payment for the cheque.

## E.6 Cheques not negotiable

All of the cheques provided to you are crossed with the words "not negotiable" between the parallel lines. This means that the cheque cannot be cashed but must be paid through an account. This does not stop the person who you pay the cheque to endorsing it to another person. Endorsing means directing us to pay someone else. However the ultimate holder of the cheque who presents it for payment into their account, gets no better title to the money than the person who transferred (endorsed) it to them. The words "account payee only" on your cheque means that the cheque may only be paid into the account of the person you make the cheque in favour of. Deleting the words "or bearer" on your cheque will mean the cheque is payable to the named payee only.

## E.7 Crossing out 'or bearer'

- (a) 'Or bearer' means that a bank may pay the cheque to the person or company presenting the cheque (not just the person or company to whom the cheque is made out to). By crossing out these words, you will make the cheque payable only to the person or company to whom the cheque is made out.
- (b) Other general information regarding cheque books:
  - (i) Cheques will normally take up to 5 *business days* to clear. You may ask for a cheque to be specially cleared upon paying a fee.
  - (ii) If a cheque you draw is dishonoured, a fee may apply. A cheque may be paid even though it is dated after the date on which it is presented to us for payment and we may pay on a cheque even though it has become a "stale cheque" because it was dated a long time before it was presented for payment.

## E.8 Lost or stolen cheque books

- (a) You should look after your cheque book and keep it in a safe place. Do not leave signed blank cheques in your cheque book. You must tell the *Manager* immediately if:
  - (i) you lose your cheque book;
  - (ii) your cheque book is stolen; or
  - (iii) there is unauthorised use of your cheque book.
- (b) We will not be responsible to you if any cheque is paid even if you have told us any of these things, and we may still debit your *account*.

## E.9 Ending the cheque facility

- (a) If you or we decide to end the cheque facility (which either of us can do at any time), we may dishonour any cheque that is presented later, unless you make other arrangements with us.

## Part F - Loan variation

- (a) You may with our approval from time to time affect a *loan variation* under this *contract*. The following are examples of loan variations you can ask to make.
  - (i) Convert from variable rate to fixed rate, and vice versa.
  - (ii) Split the loan into one or more *accounts*.
  - (iii) Consolidate one or more *accounts*.
  - (iv) Convert from interest only to principal and interest repayments and vice versa.

## Part G - Fees and charges

### G.1 Our fees

You must pay us the credit fees and charges set out in the *loan offer* which are payable at the times specified in the *loan offer*. These include fees for dishonoured transactions and fees that apply when your *loan* is in arrears or you are in default under these *Terms and Conditions*.

### G.2 Government charges

- (a) You must pay us any government duties, taxes and other charges on receipts, debits or withdrawals that apply to your *loan* or which we are required to deduct from your *account*. This includes (but is not limited to):
  - (i) stamp duty;
  - (ii) income tax payable by you (if the Commissioner of Taxation requires us to deduct this from your *account*);
  - (iii) withholding tax; and
  - (iv) goods and services tax.
- (b) You must pay these duties, taxes and charges whether or not someone else is liable to pay them. We may debit them to your *account* as and when they become payable. We do not need to tell you first. If you terminate this *contract* before the *loan* is made, you must pay any duties, taxes and charges we still have to pay in respect of services we have provided to you or carried out in preparation for providing the *loan* to you.

### G.3 Enforcement expenses

You must pay us for reasonable expenses, including legal expenses and our internal administrative costs, we reasonably incur in enforcing your *contract* or any *security* because you have defaulted in your obligations under your *contract* or any *security* given for this *loan*. In the case of a mortgage, these may include expenses for preserving or maintaining the property such as paying rates, insurance and taxes. We can debit these expenses to your *account* and they are payable when they are debited.

## G.4 Break costs

- (a) If you have a *fixed rate loan* you may be charged break costs if, before the expiry date of the *fixed interest period*:
- (i) you make an *additional payment* of \$10,000 or more, or make *additional payments* totalling \$10,000 or more in any one year period (starting on an anniversary of the *settlement date* (inclusive));
  - (ii) you pay out that *fixed rate loan* or an amount becomes due and payable under Part H; or
  - (iii) we agree to change a *fixed interest period* that applies to your *loan*. For example, if we agree to a request from you to a *loan* variation which results in a 5 year *fixed rate loan* converting to a 2 year *fixed rate loan* or to a variable rate *loan*.
- (b) In the remainder of this Part, the actions detailed in G.4(a) (i), (ii) and (iii) above are referred to collectively as an "early payment".
- (c) When we provide a *fixed rate loan* to you we need to fund it through the financial markets.
- (d) To do this, we lock in our funding costs at a particular rate for the full *fixed interest period*. If you make an early payment during the *fixed interest period*, the interest we receive from the fixed rate loan for the amount of that early payment stops but our funding costs continue for the remaining *fixed interest period*.
- (e) We do not make a profit from charging break costs. These costs simply compensate us for any financial loss we incur.

## G.5 How break costs are calculated

- (a) In calculating break costs, we look at the movement in our costs of borrowing funds from the market. We do this by comparing:
- (i) the cost of funds for the full *fixed interest period* either at the date we provided the funds to you or if Fixed Rate Lock In applies, at the time of full approval of your *loan* application; and
  - (ii) the cost of funds for the remaining term of the *fixed interest period* at the date you make an early payment.
- (b) We work out the movement in our cost of funds by reference to the movement in the rates at which banks lend to each other, or "wholesale interest rates", between the relevant dates. Specifically, we look to the wholesale market swap rates.
- (c) If the wholesale swap rate applicable for the remaining term of the *fixed interest period* on the date you make an early payment is less than the wholesale swap rate on the date we provided the funds to you or, if Fixed Rate Lock In applies, the date of full approval, we will make a loss, as we must continue to pay interest on those funds at a higher rate for the remainder of your *fixed interest period*.
- (d) Break costs are calculated by multiplying the amount of *loan* principal remaining at the time of the early payment by the remaining term of the *fixed interest period* and by the change in our cost of funds (adjusted for receiving the money earlier than we otherwise would have).

### Example

Assume that you borrowed \$250,000 from us for a *fixed interest period* of four years. Two years later, you tell us you would like to pay out your *fixed rate loan* in full. On this date, you have two years remaining of your *fixed interest period* and your *loan* balance has reduced to \$240,000.

Say that on the date we provide you the funds (*settlement date*), the wholesale swap rate for 4 year fixed terms was 7.00%p.a. and now two years later, the wholesale swap rate for 2 year fixed terms (the amount of your *fixed interest period* remaining) is 4.00%p.a. The difference, or the movement in our cost of funds, will be 3.00%p.a.

The break cost calculation will be the present day value of the amount calculated as follows:

$$\begin{array}{ccc} \text{the amount of loan principal} & & \text{the remaining term of the} \\ \text{remaining outstanding} & \times & \text{fixed interest period} \\ & & \times \\ & & \text{the movement in our} \\ & & \text{cost of funds} \end{array}$$

For the purposes of this example, the calculation will be \$240,000 x 2 x 3.00%p.a., which equals \$14,400.

This amount is then "discounted" back to the present day value using a formula that calculates how much the inflow of that value in the future would be worth if it were made in full today. In the example above, the discount period remaining is two years.

The above example is based on a situation where you pay out your *fixed rate loan* in full, and would also apply to a situation where you wish to switch your *fixed rate loan* to a variable rate or to a different *fixed interest period*. However, the calculation would be different if you made *additional payments* in accordance with G.4 (a) above. In that case, we would only multiply the amount of any *additional payment* by the remaining term of the *fixed interest period* and the movement in our cost of funds.

**Warning:** Break costs could be substantial, particularly if interest rates fall during the *fixed interest period*. Before you decide to repay a portion of or pay out a *fixed rate loan*, or ask us to change your *loan* type or *fixed interest period*, contact us for an estimate of the amount of the break costs.

## Part H - Default

### H.1 Financial difficulty

You should inform the Manager as soon as possible if you are in financial difficulty. The Manager will discuss your problems with you, with a view to finding a suitable solution.

### H.2 When you are in default

You're in default if we, acting reasonably, make a determination that an *event of default* has occurred. A determination by us will be final and binding on you, and any guarantor or *security provider*. You must promptly inform us in writing if any *event of default* occurs.

#### H.2.1 Monetary default

A *monetary default* occurs if you fail to pay any amount due to us, or any other person, by the relevant due date under this contract or any *security* document (such as a mortgage or guarantee).

## H.2.2 *Non-monetary default that applies to all borrowers*

Each of the following events is a *non-monetary default*:

- (a) you default under any charge or *security* provided in favour of any person, and that other person commences enforcement proceedings against you;
- (b) if you are a *small business customer*:
  - (i) you or a *security provider* becomes insolvent or goes into bankruptcy;
  - (ii) steps are taken to wind you or a *security provider* up, appoint a liquidator, receiver or administrator to you or a *security provider*, or to place any part of your assets or the *security provider's* assets into administration;
- (c) if you are an individual, you:
  - (i) commit an act of bankruptcy; or
  - (ii) no longer have legal capacity, pass away or become incapable of managing your affairs;
- (d) early repayment is required under a separate financing agreement you or a *security provider* has with us, or default based action is taken against you or a *security provider* by us, due to an *event of default* which is described in clause H.2.1 or clause H.2.2;
- (e) if you are a trustee, and there is:
  - (i) a change of trustee;
  - (ii) a termination of the trust;
  - (iii) or any change to the terms of the trust, without our consent (which will not unreasonably be withheld);
- (f) you are convicted of a criminal offence or are jailed;
- (g) any representation, warranty, reply to requisition, or any financial or other information provided to us in connection with the *contract* or *security* document is untrue, false, or misleading (including by omission);
- (h) you or any *security provider* use any of the funds advanced under the *contract* for an illegal or improper purpose or to finance an illegal improper or terrorism activity;
- (i) we believe on reasonable ground that you, any of your agents or any *security provider* have not complied with the law or any requirement of a statutory authority, or it becomes unlawful for you or us to continue with the *loan*;
- (j) you or any *security provider* use any amount advanced under your *contract* for a purpose other than the purpose provided in your *loan offer* and we, acting reasonably, have the view that because of the event we are unlikely to recover any amounts that you owe;
- (k) you or any *security provider* do not provide financial information required under this *contract* or any other agreement with us;
- (l) you or any *security provider* do not maintain a licence or permit necessary to conduct your business;
- (m) you or any *security provider* do not maintain insurance required by this *contract*;
- (n) you or a *security provider* default under the terms of a *security* or withdraw from a *security* without our prior written consent (which will not be unreasonably withheld);
- (o) we reasonably believe you, or another person acting with your knowledge or permission, have acted fraudulently in connection with this *contract*;
- (p) a power of sale arises under any *security interest* you or a *security provider* has given to us over any *mortgaged property*;
- (q) legal or beneficial ownership, or management control of you or any *security provider*, or the business of you or any *security provider* changes, without our consent; and
- (r) status, capacity or composition of you or any *security provider* changes without our consent.

## H.2.3 *Non-monetary default that applies to some borrowers*

Each of the following events is a *non-monetary default* if you are not an individual or a *small business customer*:

- (a) you materially default in the performance of any term, covenant, agreement, or condition contained in or implied by these *Terms and Conditions*, the *loan offer* or *security* document with us or the *Manager*;
- (b) in our opinion there is a material adverse change in your financial condition;
- (c) you fail to pay any amount payable to any of your creditors, and the creditor is entitled to declare any indebtedness due and payable before its specified maturity date;
- (d) if you are a company:
  - (i) any action is initiated by any competent authority to cancel your registration as a company on any register of companies;
  - (ii) where your shares are at any time listed on any stock exchange, the listing is suspended or revoked and the suspension or revocation remains in force for a period greater than 14 days;
  - (iii) you reduce your capital or attempt to do so without our prior written consent (which will not be unreasonably withheld);
  - (iv) you change your constitution in a way that would change your status, capacity or composition, without our prior written consent (which we will not unreasonably withhold).

## H.3 *Our rights on an event of default*

(a) If an *event of default* occurs under clause H.2 we may take any one or more of the actions listed below:

- (i) We will send you a default notice telling you what the default is, what you have to do to remedy the default, and that you will have at least 30 days from the date of the notice to remedy the default. If you do not comply with a default notice, or if the law does not require us to give a default notice, or for the default notice to require that your default be remedied, you will become liable to pay us the *amount you owe us* immediately and we may:
  - (A) require you to pay us the *amount you owe us*;

- (B) exercise our other rights under your *contract* or available to us under the law;
  - (C) exercise our rights under any *security*; or
  - (D) apply any money in any *account* you may have with us against the *amount you owe us*. We can take action even if we do not do so promptly after the default occurs.
- (ii) We can exercise these rights with or without taking possession of any *mortgaged property*. If we hold more than one *security*, we can enforce any one of the securities first or all of them at the same time.
- (b) Where a *non-monetary default* occurs and you are either an individual or a *small business customer*, we may not take any action unless we make an assessment (acting reasonably) that your *non-monetary default* is material. We might consider your *non-monetary default* to be material either by its nature or because it had, or is likely to have a material impact on:
- (i) your ability to meet your financial obligations with us (or our ability to assess this);
  - (ii) a *security provider's* ability to meet their financial obligations to us (or our ability to assess this);
  - (iii) our credit or security risk (or our ability to assess these risks); or

## Part I - General

- (iv) our legal or reputation risk.

### 1.1 Account opening

You can obtain information about how to open an *account* from the Manager. We do not have to lend you all or any money or can end this *contract* before we have lent you any of the *loan* if you have not provided us with all of the information we require to determine your *Foreign Tax Residency Status* and that of any *controlling person*.

### 1.2 Loan extensions

- (a) You may request a *loan* extension.
- (b) We may, at our sole discretion, grant a *loan* extension and are not required to do so on the same terms.
- (c) If you are not in default and the *loan* is not due to be fully repaid at the end of its scheduled term by its normal, scheduled repayments, we will give you notice of our decision not to extend the *loan* at least three months before the date on which you are required to repay the *loan* amount in full.

### 1.3 Guarantee

- (a) You agree to allow us to disclose the following documents to each guarantor named in your *loan offer*:
  - (i) copy of any notice, including correspondence, to us or to you;
  - (ii) any credit report received in relation to you;
  - (iii) any financial statements you have given us;
  - (iv) any notice of demand, or information regarding a dishonour, on any loan with us;
  - (v) information on any excess or overdrawing;
  - (vi) a copy of your *account* statement and your nil interest Visa statement; and
  - (vii) any other information about you and your *accounts* with us.
- (b) If you are an individual or *small business customer* (and you are not a commercial asset financial guarantor, sole director guarantor or a trustee guarantor), in addition to the documents above, you allow us to disclose these additional documents to each guarantor named in your *contract*:
  - (i) the proposed *loan contract*;
  - (ii) a list of any related security *contracts*;
  - (iii) any current credit-related insurance contract that is in our possession;
  - (iv) any financial accounts or statements of financial position that you have given us in the previous two years for the purposes of the guaranteed *loan*;
  - (v) a copy of the latest statement of account relating to the *loan* for a period in which a notice of demand was made by us;
  - (vi) any other information about you and your *accounts* with us (this does not include our internal opinions).
- (c) These documents, any unsatisfied notice of demand we have issued to you in relation to the guaranteed *loan* and a current credit report will be provided to the guarantor, if you are an individual or *small business customer* and we agree to your request to increase your limit.

### 1.4 Lenders Mortgage Insurance and Reduced Equity Fee

- (a) We may take out and maintain Lenders Mortgage Insurance in relation to your *loan*. *Lenders Mortgage Insurance* is not the same as property insurance. It protects us as the *Lender* in case you default under your *contract* and we are still owed money after enforcing any *security*. It does not protect you as borrower and you may be responsible for repaying the insurer for any amount that it has paid to us. You must pay the premium for the *Lenders Mortgage Insurance* or reimburse us if we have paid it. You will be responsible for repaying any amount owed to us that we cannot recover from the insurer, and you may become legally responsible for repayment to the insurer of the amount outstanding under this *contract*.
- (b) Alternatively, you may be eligible for the Reduced Equity Fee. In certain circumstances, this fee can replace *Lenders Mortgage Insurance*. The Reduced Equity Fee will be included in the total *loan* amount and is non-refundable.



## 1.5 What happens when your *security* includes a mortgage?

- (a) If your *security* includes a mortgage, you need to be aware of what's involved and what you're actually agreeing to. It's better to know than to have any surprises.
- (b) If the *security* includes a mortgage:
  - (i) you must ensure you meet your obligations under the mortgage;
  - (ii) any expenses incurred by us in preserving or maintaining the *mortgaged property* (including insurance, rates and taxes payable for that property) after a breach occurs and which are authorised by the mortgage will be an enforcement expense under Part G; and
  - (iii) if the *mortgaged property* can be insured, you must ensure that the *mortgaged property* is adequately insured and that the insurer knows and notes on the policy, us as mortgagee. If you do not, we may take out that insurance and any premium we pay will be an enforcement expense under Part G.

## 1.6 Statements

- (a) We will forward a statement of your *account* at least once every six months and more frequently when required by law.
- (b) You will receive separate statements for the *line of credit account* and the nil interest Visa *account*. The amount debited to your *line of credit account* from the nil interest Visa *account* will be reflected as one amount. The nil interest Visa *account* statement will itemise all individual transactions on the *Visa Credit Card*.
- (c) You should check the entries carefully and tell us immediately if you want to question a transaction shown on the statement. You may ask us for extra statements at any time, as long as you pay any charge we may have for this service.

## 1.7 Credit balances

- (a) If you repay us more than the *amount you owe us* for the *line of credit account*, your *line of credit account* will have a positive balance. We will not pay you interest on that positive balance. We calculate the fees and charges payable on the positive balance as if the *line of credit account* has a nil balance.
- (b) You are not able to have a positive balance for any other *loan account*.

## 1.8 Foreign Tax Residency Status

- (a) We collect certain information about you and your *controlling persons* in order to determine your *Foreign Tax Residency Status* and that of any *controlling person*. Where required by law, we will report that information, as well as information about any account you hold, to the Australian Taxation Office. The Australian Taxation Office is required to exchange that information with equivalent foreign country tax authorities in accordance with the Australian Government's international obligations.
- (b) In order to determine your *Foreign Tax Residency Status* and that of any controlling person, we may need to obtain additional information from you, including documentation and certifications. If you don't provide any information we reasonably request by the time we require it, we may seek the information from a third party.
- (c) Any determination made by us regarding your *Foreign Tax Residency Status* does not constitute tax advice.

## 1.9 Valuation

- (a) We will only inspect or have your *mortgaged property* valued:
  - (i) when you apply for the *loan*;
  - (ii) when you apply to vary the *loan*;
  - (iii) if the *loan* is in default; and
  - (iv) you propose to sell the *mortgaged property* for an amount which is less than the *loan* balance.
- (b) We use the valuation specifically for our own purposes. If you wish to have a valuation for your own personal needs, we recommend you organise this separately.
- (c) Any valuations will be at your cost.
- (d) If you are a *small business customer*:
  - (i) we will provide copies of property valuations and valuer instructions (except when enforcement action has already commenced); and
  - (ii) we will only appoint appropriately qualified and experienced valuers who are members of professional organisations which abide by a similar code of practice.

## 1.10 Changes we can make to these *Terms and Conditions*

- (a) Acting reasonably, we can change this *contract* (such as by varying an existing provision or adding a new provision) at any time without your consent for one or more of the following reasons:
  - (i) to comply with any change or anticipated change in any relevant law, code of practice, guidance or general banking practice;
  - (ii) to reflect any decision of a court, ombudsman or regulator;
  - (iii) to reflect a change in our systems or procedures, including for security reasons;
  - (iv) as a result of changed circumstances (including adding benefits or new features);
  - (v) to respond proportionately to changes in the cost of providing the *loan* (including by changing interest rates); or
  - (vi) to make them clearer.

- (b) The types of changes we may make by notifying you include:
  - (i) imposing a new credit fee or charge or changing the amount or frequency of payment of a credit fee or charge;
  - (ii) changing the amount of repayments, the way in which repayments are calculated or when they're due;
  - (iii) changing the way interest is calculated or applied;
  - (iv) changing any interest rate (other than fixed rates during a *fixed interest period*); and/or
  - (v) any other change to this *contract* if the change is not adverse to you.
- (c) If any law regulates a change we decide to make, we can only make the change to the extent permitted by law.
- (d) If we make a change that you are not happy with, then you can repay your loan at any time (if you repay your loan during a *fixed interest period* refer to Part G for further information on the fees or break costs which may apply).
- (e) We will notify you no later than the date of the change when we make a change in relation to credit fees or charges, repayments or the way in which interest is calculated or applied that does not reduce your obligations or extend the time for payment.
- (f) Where we change the amount of a credit fee or charge or introduce a new credit fee or charge, we will give you at least 30 days' notice (in writing to you). For the other changes, where the change does not reduce your obligations or extend the time for payment, we will give you at least 30 days' notice in writing.
- (g) If a change to credit fees or charges or repayments reduces your obligations or extends the time for payment, we will notify you of the change in your next statement of account after the change is made.
- (h) Where we change an interest rate or a reference rate and the change does not reduce your obligations, we will notify you in writing no later than the day the change takes effect and will confirm before or when we give your next statement of account.
- (i) Where we make any other changes to this *contract* that are not adverse to you, we will advise you at least 30 days' in advance in writing.
- (j) You can find out about current fees and charges by asking the Manager.

### 1.11 Identification and other information

You must promptly produce documents or other evidence we require to enable us to verify your identity or other information about you regarding 'know your customer' or similar identification procedures. Sometimes we may be required to obtain additional information about you such as documents and certification evidencing your *Foreign Tax Residency Status*.

### 1.12 Notices

We may send you notice or any document by any means permitted by law, including by personal delivery, sending it electronically (including email) or sending it by post to your:

- (a) address shown in the loan offer;
- (b) registered office (if you are a company); or
- (c) last address known to us.

Electronic communication may include sending you the notice or document by email, or making it available for a reasonable period of time on our website.

If you agree, in writing, for us to send you notices electronically (including email):

- (a) we don't have to give you paper documents, unless required to do so by law;
- (b) you should regularly check your emails for notices (if you've agreed to receive notices by email); (c) you may withdraw your consent to the giving of notices electronically at any time; and
- (d) you can change your nominated email address.

A notice may be signed by any of our employees, solicitors or agents on our behalf. The notice will be deemed to be validly served even if you don't receive it.

You may give us notice by email, personal delivery, fax or by post to the address stated in the contract.

If, in reliance on notices received by us from you, you or we suffer loss or damage because your instructions were:

- (a) in error;
- (b) a result of fraud; or
- (c) unclear, illegible or not accurate,

you'll be liable for any such loss or damage.

If the contract is a small business contract, you will not be liable to the extent that the costs or loss arises from negligence, fraud or wilful default by ING or its officers, employees, contractors or agents or any receiver appointed by us.

### 1.13 Copies of documents

- (a) If you are an individual or a *small business customer*, we will provide you with a copy of the following documents at your request:
  - (i) your *contract* (i.e. your *loan offer* and these *Terms and Conditions*);
  - (ii) any *security* document, such as mortgage or guarantee;
  - (iii) statements of your *account*, unless we have already provided you with a statement within the last 3 months; and
  - (iv) any notice issued to you which is relevant to us exercising our rights, unless the notice required you to take action and you took that action within the last two years.
- (b) We may charge a reasonable fee for providing you with a copy of these documents. However, in certain circumstances we may waive or refund the fee.

### 1.14 If there are two or more borrowers

- (a) If there are two or more of you, your obligations as borrowers are both joint (meaning we can take action against any one or more of you) and several (meaning that we can take action against any one of you).

- (b) We may accept instructions in any matter relating to your *loan* from any one of you.
- (c) If your *account* has a positive balance, we may pay the balance to any one of you.
- (d) We may deliver any documents, deeds, or other items that we hold to any one of you.
- (e) If you are an individual co-borrower (excluding where you are a trustee, company, partnership or joint venture), you may request in writing to end your liability under the *contract*:
  - (i) where the *loan* has not yet been provided or relied upon; or
  - (ii) for any future advances under the *loan*, where we can terminate any obligation we have to extend further credit to any other co-borrower under the same *loan*.
- (f) If one or more of the borrowers die:
  - (i) the remaining co-borrower(s) under a *loan* may continue to operate the *account* subject to the terms of the *contract*; and
  - (ii) title to any positive balance in your *account* will vest in the surviving co-borrower(s).

### 1.15 Assignment

- (a) We may assign or otherwise deal with our rights under your *contract* in any way we consider appropriate. We do not have to tell you first or obtain your consent. You must sign or do anything we reasonably require to enable us to do this. Any dealing with our rights will not change your obligations under your *contract*.
- (b) Your rights are personal to you and you must not assign your rights or obligations under your contract without obtaining our written consent.

### 1.16 Consumer credit legislation

To the extent that the National Credit Code applies to your *contract* and:

- (a) the National Credit Code would otherwise make a provision of your contract illegal, void or unenforceable; or
- (b) a provision of your *contract* would otherwise not comply with a requirement of the National Credit Code or impose an obligation or liability which is prohibited by the National Credit Code, then your contract is to be read as if that provision were varied to the extent necessary to comply with the National Credit Code or, if necessary omitted.

### 1.17 Your warranties

- (a) You warrant that all representations you make and all information and documents you, or another person acting with your knowledge or permission, give to us in connection with this *contract* are true and correct.
- (b) You acknowledge that we have relied upon the accuracy of those representations, information and documents in entering into this *contract* and will continue to do so in dealing with you.

### 1.18 Disputes

- (a) You can notify the *Manager* of any concern you may have with the products or services.
- (b) The aim is to resolve your concern at your first point of contact. If we're unable to resolve your concern or complaint we'll give you details in writing of our procedures for investigating and resolving problems. We'll let you know in writing the outcome of the investigation, that we need more time to complete our investigation or we're awaiting further information from you. We usually provide this information within 30 days of receiving the relevant details of your complaint.
- (c) In the unlikely event that your complaint cannot be resolved directly with the *Manager* you can seek assistance from the Australian Financial Complaints Authority (**AFCA**). AFCA provides a free and independent dispute resolution service. You can contact them by:
  - calling** 1800 931 678;
  - emailing** [info@afca.org.au](mailto:info@afca.org.au);
  - going to** [afca.org.au](http://afca.org.au); or
  - writing to** Australian Financial Complaints Authority,  
GPO Box 3,  
Melbourne VIC 3001.

### 1.19 If you are a trustee

- (a) If you are at any time trustee of any trust, you must disclose this information to us. You are liable under your *contract* in your own right and as trustee of the trust. We can recover against the trust assets as well as from you. You acknowledge that:
  - (i) your *contract* is for a proper purpose and for the benefit of the trust;
  - (ii) you have the power and authority to enter into your *contract*; and
  - (iii) you have the right to be indemnified fully out of the trust property for all liabilities that you incur under your *contract*.
- (b) You must not amend or change any of the terms of the trust without obtaining our consent first (which will not be unreasonably withheld).

### 1.20 Banking Code of Practice

The *Lender* has subscribed to the Banking Code of Practice, a voluntary code which sets standards of good banking practice when dealing with individual and *small business customers* and their guarantors, published by the Australian Bankers Association. The Banking Code of Practice will apply to the facility if you are an individual or *small business customer*.

### 1.21 ePayments Code

To the extent that the *ePayments Code* applies to transactions made under this *contract*, we warrant that will comply with the requirements of the *ePayments Code*. We have done our best to ensure that this *Terms and Conditions* is consistent with the *ePayments Code*. However, if there is any difference, the processes and requirements in the *ePayments Code* will apply.

## 1.22 Change of circumstances and address

- (a) You must tell us if you change your residential or postal address, or if you think there is any information that we should be aware of about your ability to comply with your *contract*.
- (b) If you believe that there has been a change to your *Foreign Tax Residency Status* or that of any *controlling person*, you need to let us know within 30 days. We may require you to provide additional information, documentation and certification regarding your *Foreign Tax Residency Status* or that of any *controlling person*. If you don't provide any information we reasonably request by the time we require it, we may seek the information from a third party.

## 1.23 The Manager

- (a) The *Lender* has appointed the *Manager* to manage this *loan* for the *Lender*. The *Lender* may by notice appoint a replacement *Manager* at any time.
- (b) If there is a conflict between directions to you by the *Manager* or the *Lender*, notices given by the *Lender* prevail. Normally, notices in relation to your *loan* will be given to you by the *Manager* and you should contact the *Manager* regarding any aspect of your *loan*.
- (c) The *Manager* may deal with a number of different funders. In this way, the *Manager* is able to provide borrowers with a broad range of *loan* products. As a result, interest rates may differ from time to time between the *Manager's* different products. Accordingly, you may see the *Manager* advertising a different rate to the rate applicable to your *loan*; this will probably be because that rate applies to a different funder.

## 1.24 Privacy

This clause contains information about how the *Manager* and the *Lender* (133 464, [ing.com.au](http://ing.com.au)) deal with your personal information.

The *Manager* and the *Lender* may collect personal information about you to provide you with information about financial products or services; to assess your application and eligibility for a financial product or service; to provide you with the financial products and services that you've requested (including arranging, providing or insuring credit); the administration of their relationship with you; and for direct marketing of products and services offered by the *Manager*, the *Lender* or any organisation the *Manager* or *Lender* is affiliated with or represents. The *Manager* and the *Lender* may also collect any personal information necessary for the purposes of complying with legal and regulatory obligations, including to identify customers under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 and to determine and report in respect of your Foreign Tax Residency Status.

The *Manager* and the *Lender* generally collect this information either from you directly, or from publicly available sources.

The information provided by you, and any information collected from publicly available sources, will be held by the *Manager* and/or the *Lender*. You have the right to request not to receive direct marketing material from either or both of the *Manager* and *Lender*.

If you do not provide personal information, the *Manager* and *Lender* may be unable to provide credit.

The general rule is that neither the *Manager* nor the *Lender* will use or disclose your personal information other than for the purposes stated at the time of the collection. If the *Manager* or the *Lender* want to use your personal information for another purpose, either the *Manager* or the *Lender* (as applicable) will seek further consent from you, unless that other purpose is related to one of the original purposes of collection and you would reasonably expect us to use your personal information for that other purpose.

It may be necessary for the *Manager* or the *Lender* to disclose your personal information to certain third parties in order to assist in providing, managing and administering your products or services or for other related purposes.

These include:

### 1.24.1 Other financial institutions

Other financial institutions, such as banks, credit unions and building societies, in order to set up and manage your account and manage banking transactions.

### 1.24.2 Other organisations

Other entities such as:

- *Lender's* Group companies in order to service other of the *Lender's* products you may have within the *Lender's* Group and portfolio analysis;
- *Lender's* Group entities located in the Netherlands, Slovakia, the Philippines, Poland and Singapore for account administration, security purposes or to comply with Australian and global regulatory requirements that apply to us or the ING Group;
- government bodies and agencies, such as the Australian Taxation Office, in order to satisfy legal and regulatory requirements;
- any third party product and service supplier that either the *Manager* or the *Lender* have an arrangement with (so that either the *Manager*, the *Lender* or they may provide you with the product or service you have requested or in which you have expressed an interest);
- organisations undertaking reviews of the integrity of the *Manager's* or *Lender's* operations, including the completeness of information;
- authorised organisations providing services or functions on the *Lender's* or *Manager's* behalf (including mailing services, document storage services, direct marketing, data verification services, information technology support and printing standard documents and correspondence);
- the *Manager's* or the *Lender's* solicitors, valuers and insurers;
- credit reporting or information verification bodies (or their affiliated entities) in order to obtain and provide details about your credit history or status, to verify other information about you including your identity, to carry out your request to correct your credit information or to resolve your complaint about the handling, use or disclosure of your credit information; and
- any person acting on your behalf including mortgage intermediaries, your financial adviser, power of attorney, solicitor or accountant.

Any example used above to indicate when personal information might be disclosed may not be limited to those examples (or examples of a similar kind).

Personal information will only be disclosed to third parties other than those listed above if you have consented; if you would

reasonably expect disclosure of information of that kind to those third parties; if authorised or required to do so by law; or it is necessary to assist with law enforcement.

You also agree that the *Manager*, the *Lender*, any lenders mortgage insurers, any mortgage broker, mortgage originator, mortgage manager, and any other person or company who at any time provides or has any interest in the credit can, subject to that party's obligations under the Privacy Act, do any of the following at any time:

- (a) Commercial credit information: Collect any commercial credit information from a business that provides commercial credit worthiness information and use that information to assess an application for consumer credit or commercial credit.
  - (b) Consumer credit information: Collect consumer credit information from credit reporting bodies and use that information to assess an application for commercial credit or consumer credit.
  - (c) Collection of overdue payments: Collect and use a credit report about you provided by a credit reporting body to collect overdue payments.
  - (d) Provide information to mortgage insurer: Disclose information to a mortgage insurer to assess the risk of providing mortgage insurance or to assess the risk of default.
5. Exchange of information between credit providers
- (e) Collect, use or disclose to another credit provider (including without limitation any other credit provider who has lent money on the same security) any information or opinion about credit worthiness, credit standing, credit history or credit capacity.
  - (f) Exchange of information with originators: Seek from and use or give, personal information and details of your account to any mortgage broker, mortgage originator, or mortgage manager.
  - (g) Exchange of information with advisers: Seek from and use or give to any originator, financial consultant, accountant, lawyer, or other adviser acting in connection with any financing provided or proposed to be provided to you any personal information, consumer or commercial credit information.
  - (h) Provide information to credit reporting body: Give to a credit reporting body personal or commercial credit related information about you. The information may include identity particulars; the fact that credit has been applied for, the amount and type of credit and the applicable terms and conditions; repayment history information; the fact that the *Manager* is a current credit provider to you; payments which become overdue more than 60 days, and for which action has been commenced; advice that payments are no longer overdue; in specified circumstances that in the opinion of the *Manager* you have committed a serious credit infringement; and the credit provided to you by the *Manager* has been paid or otherwise discharged and the date on which this occurs.
  - (i) Provide information for securitisation: Disclose any report or personal information about you to another person in connection with funding financial accommodation by means of an arrangement involving securitisation, or any other proposed transfer of or proposed dealing with your *loan*.
  - (j) Provide information to Guarantors: Provide information to any person who proposes to guarantee or has guaranteed repayment of any credit provided to you.
  - (k) Provide information in relation to disputes and enquiries: Disclose consumer credit information, commercial credit information, and personal information to any industry body, tribunal, or court or otherwise in connection with any complaint regarding the approval or management of your loan - for example if a complaint is lodged about any mortgage broker or lender who dealt with your loan.
  - (l) Disclose personal information: Disclose personal information about you as required by law, or to organisations involved in providing credit to you, or any associate, or contractor of the *Manager* or *Lender*, (including, for example, stationery printing houses, mail houses, lawyers, accountants), or people considering acquiring or taking an interest in our business, or our assets.

The *Lender's* website includes information about credit reporting, including the credit reporting bodies to which the *Lender* is likely to disclose your credit information.

### 1.24.3 Where to find further information

The *Manager's* and the *Lender's* Privacy Policy ([ing.com.au](http://ing.com.au)) contains information about how you:

- (a) can access your personal information that they hold and seek the correction of that information; and
- (b) may complain about a breach of the Australian Privacy Principles, Part IIIA of the Privacy Act, or the Credit Reporting Privacy Code, and how they will deal with such a complaint.

If you would like further information regarding privacy you can review the *Manager's* and the *Lender's* Privacy Policy online at their respective websites or request a copy by either calling or writing to them.

## Part J - Interactive services

### J.1 Application of Part J

- (a) Part J only applies if we make the *interactive services* available to you.
- (b) In Part J, a reference to "we/us/our" includes the *Lender* as provider of the *interactive services*, and the *Manager*.
- (c) We operate the *interactive services*. If you have a concern or query regarding the *interactive services* you should contact the *Manager* using the telephone number provided to you in connection with the *interactive services*. In providing the *interactive services*, the requirements of the *ePayments Code* will not apply to a business account.

### J.2 Access to your account

- (a) We may, in our absolute discretion, offer you access to the *interactive services*. If we decide certain *accounts* will not be given access using the *interactive services* we are not obliged to grant access for those *accounts*.
- (b) You can use the *interactive services* to access each of the *accounts* for which we grant access. We may in our absolute discretion subsequently give you access to other *accounts* using the *interactive services*.

### J.3 How to access the interactive services

- (a) To access the *interactive services* you need:
- (i) a *client number*; and
  - (ii) an *access code*.
- (b) We will provide you with your *client number* in the *settlement letter*. To establish your *access code* you must contact us following the instructions we give you in the *settlement letter*. We will provide you with a temporary *access code*, which you must use to access the *interactive services* for the first time, and which you will be required to change at the beginning of that first session. Once you have changed your *access code* you will be able to use the *interactive services*.
- (c) Before you use the *access code* or *client number* for the first time, we will provide to you information on:
- (i) any charges for the issue or use of the *access method*, separate from activity or other charges applying to the *account* generally;
  - (ii) the nature of any restrictions imposed by us on the use of the *access method* (including any daily transaction limit or other periodic transaction limits that apply to the *access method*, the *account* or electronic equipment) and an indication that merchants or other institutions may impose additional restrictions;
  - (iii) a description of the types of transactions that may be made, and the *accounts* that may be accessed with the *access method*;
  - (iv) a description of any credit facility that you may access through electronic equipment using the *access method*;
  - (v) our procedure for reporting lost, stolen or unauthorised use or the breach of security of the *access method*; and
  - (vi) the way you can make complaints and query statements.

### J.4 Use of interactive services

- (a) By using any of the *interactive services*, you automatically agree that we are entitled to give access to your *accounts* to any person supplying the *client number* and *access code* and process transactions conducted on the *account* by that person. We are not required to verify or authenticate your identity or their identity before giving access to the *account* or processing a transaction on the *account*.
- (b) If you allow a third party to use the *interactive services* to operate your *account*, you will be liable for any use of the *interactive services* by that person including transactions on the *account* (even if that transaction is not authorised by you) and any failure by that person to observe these *Terms and Conditions*. You will be responsible for all transactions by that person as though you made them yourself.
- (c) You agree to indemnify us against all losses, liabilities and damages incurred by us as a result of us acting in accordance with the instruction of a third party you allow to use the *interactive services*.
- (d) We are not required to verify or authenticate the identity of a third party user or to ascertain whether they are authorised by you to conduct transactions on your *account*.
- (e) If one of you (if there is more than one of you) instructs us to block access to the *accounts* through the *interactive services*, we are authorised by all of you to act on those instructions.

### J.5 Your instructions to us

- (a) When you use the *interactive services*, your instructions will be carried out if:
- (i) they are permitted by these *Terms and Conditions*; and
  - (ii) they comply with the directions we give you on how to use the *interactive services* and/or how to perform particular transactions using the *interactive services*. These directions can be given by us orally or in writing for *Telephone Banking* or in writing for *Internet Banking*.
- (b) You authorise us to act on your instructions. If it is not possible to carry out the instructions, the transaction will not be processed.
- (c) We can defer processing a transaction or seek further information from you or authorised third parties before carrying out an instruction. When you or anyone authorised by you gives us instructions using the *interactive services*, those instructions cannot be stopped. You are responsible for ensuring that the instructions you or anyone you authorise gives us are correct.

### J.6 Transaction reference numbers

When you perform a transaction through the *interactive services*, we will provide you with an electronic receipt (in the case of *Internet Banking* or receipt information by voice communication (in the case of *Telephone Banking*)).

### J.7 Availability of interactive services and accuracy of information

- (a) We will try to ensure that the *interactive services* are available to you as follows:
- (i) for *Telephone Banking*, 24 hours a day, seven days a week (except customer service assistance for *Telephone Banking* which is only available during normal business hours (Sydney time)); and
  - (ii) for *Internet Banking*, 24 hours a day, seven days a week.
- (b) Subject to any warranties implied by law that cannot be excluded, we are not responsible for:
- (i) errors, inaccuracies, omissions, interruptions, viruses/defects;
  - (ii) delays resulting from failure of the communications network or ancillary equipment outside our control which supports the *interactive services*; or
  - (iii) failure of the *interactive services* to perform a function in whole or in part where your instructions to complete a transaction have not been accepted by our system or our equipment.
- (c) If an error, inaccuracy or omission occurs and you advise us in writing, we will endeavour to correct such error, inaccuracy or omission within 3 *business days* of notification. If we cannot correct the error, inaccuracy or omission within this period, we will contact you to tell you when we expect corrective action will be completed.

- (d) Subject to any warranties implied by law that cannot be excluded, we are not liable for any loss or damage (including without limitation losses or damages for loss of profits, business interruption, negligence or wilful conduct, loss of information, indirect, special, punitive or consequential losses or damages) arising out of:
  - (i) the inability to use the *interactive services* where you were aware, or should have been aware, that the *interactive services* or any system or equipment necessary to operate the *interactive services* were unavailable for use;
  - (ii) reliance on information obtained through use of the *interactive services*; or
  - (iii) any errors, inaccuracies, omissions, interruptions or viruses/defects which arise from the use of the *interactive services* where you were aware, or should have been aware, that the *interactive services* or any system or equipment necessary to operate the *interactive services* was malfunctioning, other than the refund of any charges or fees imposed on you as a result of the system being unavailable or malfunctioning.
- (e) Our services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:
  - (i) to cancel your *contract* with us; and
  - (ii) a refund of any fees (as applicable) as a result of such cancellation.
- (f) You are also entitled to be compensated for any other reasonably foreseeable loss or damage.
- (g) If the failure does not amount to a major failure, you are entitled to:
  - (i) the resupply of the information or services to you (including the correction of any errors in your *account*) in a reasonable time; or
  - (ii) the payment of the cost of having the information or services resupplied to you; andif this is not done, you may cancel your *contract* with us and obtain a refund of any fees (as applicable) as a result of such cancellation.
- (h) Also, we may temporarily withdraw or deny access to the *interactive services* without prior notice to you for repairs, maintenance or reasons of security.
- (i) Your access to the *interactive services* will be automatically denied after 3 unsuccessful attempts to enter your *client number* and *access code*. If this happens, you must contact the *Manager* to obtain access to the *interactive services*.

### J.8 Information on your account

- (a) Information provided as to the state of your *account* will reflect the position at that time.
- (b) However, if you give us instructions to transfer money from your *account*, the transfer will take place:
  - (i) if the instructions are given before 7pm Sydney time on a *business day*, on the next *business day*; or
  - (ii) if the instructions are given after 7pm Sydney time on a *business day*, then 2 *business days* after you give us the instructions. If we are instructed to do so, we credit amounts to your *account*, as soon as practicable after we receive them.

### J.9 Changing your access code

You can change your *access code* at any time subject to correctly quoting the current *access code*. If you change your *access code* for one *interactive service*, it will automatically change your *access code* for all other *interactive services*.

### J.10 Fees and charges

- (a) Normal fees and charges apply to the *accounts* which you access through the *interactive services*. The fees and charges stated in the *loan offer* apply to the use of the *interactive services*.
- (b) In addition, you must pay us any new fees and charges we impose in connection with the use of the *interactive services*. If we introduce new fees and charges or increase your existing fees and charges for the *interactive services*, we will give you at least 30 days' notice in writing or by advertising the change in the national or local media.
- (c) You authorise us to debit these fees and charges to any *account* you have with us.

### J.11 Additional conditions for accessing the website

- (a) When you use the website, we grant you a limited licence to display on your computer, print, download and use the underlying HTML, text, hyperlinks, information, content and transaction facilities made available on the website for your personal use and records only.
- (b) You are not authorised or permitted to modify, alter, transfer, interfere with the working, reverse engineer, remove, create, distribute, paste onto, link to or from another website any part of the website.
- (c) Copyright in the website is owned by us and all rights are reserved. Except as provided in the limited licence and any use permitted by the Copyright Act 1968 (Cth), no part of the material may be reproduced or provided to the public, in any form or by any means, without our written permission.
- (d) The trade mark and device of the *Manager* are trademarks owned by the *Manager*. Except as provided in the limited licence, no permission is given for the reproduction or publication of any trade marks on the website by any person.
- (e) For the purpose of any email communications which are sent to us via the website, an email communication is not taken to be received by us until the email message enters our electronic mail box and is able to be opened in readable form by us.

### J.12 Changes to the services and information provided

We can modify, upgrade and vary the type, nature and format of information, transactions or other services offered to you when using the *interactive services* at any time without notice.

### J.13 Termination of use

You can end the use of the *interactive services* at any time by telling the *Manager* in writing. We can end your use of the *interactive services* at any time by telling you in writing if:

- (a) we suspect fraudulent use of the *interactive services*;
- (b) it is, in our view, necessary for compliance with anti-money laundering obligations; or
- (c) you fail to comply with the terms of this Part J in a material way that impacts our legitimate business interests.

### J.14 Recorded transactions

We can, at our discretion, record transactions made via *Telephone Banking* and make electronic copies of or monitor any transaction conducted via *Internet Banking* for the purpose of accuracy and security. If we monitor transactions for security reasons we will inform you of that before the commencement of the transaction or each session of transactions.

## Part K - Visa Credit Cards

### K.1 Application of Part K

- (a) Part K only applies if we have given you a *Visa Credit Card*. In Part K, a reference to "we/us/our" includes the *Lender* and Visa International Service Association as provider of the *Visa Credit Card* and the *Manager*.
- (b) As the *Lender* and Visa operate the *Visa Credit Card* system for the *Manager*, the *Manager* accepts no liability whatsoever in relation to the *Visa Credit Card*. In providing the *Visa Credit Card*, the *ePayments Code* will not apply to a business account.

### K.2 Your Visa Credit Card

- (a) If there is more than one of you, you may ask us to provide a *Visa Credit Card* to each of you. We will not issue more than three *Visa Credit Cards* for your nil interest Visa account. *Visa Credit Cards* are available to the borrowers stated in the *loan offer* only.
- (b) You accept and agree to be bound by these *Visa Credit Card Terms and Conditions* in this Part K when you sign your *contract*.
- (c) If you have requested a *Visa Credit Card* we will send your *Visa Credit Card* to you by post as soon as practicable after settlement of your *loan*. You must sign and activate your *Visa Credit Card* as soon as you receive it. We will tell you how your *Visa Credit Card* can be activated. Your *Visa Credit Card* remains our property.
- (d) We will forward to you a *PIN* which may be used with your *Visa Credit Card*. Each card has its own *PIN*. How your *PIN* is to be used is set out in the table below.

### K.3 How you may use your Visa Credit Card

How you can use your Visa Credit Card	Line of credit account	Nil interest Visa account
At a merchant who displays the Visa symbol – to purchase goods or services	(Various – see below)	Either: <ul style="list-style-type: none"><li>▪ use the credit button on the card machine and enter a <i>PIN</i> or sign; or</li><li>▪ if the card machine displays the contactless symbol, use Visa payWave (without a <i>PIN</i> or signature) for purchases within Australia under AU\$100 (other limits may apply outside of Australia).</li></ul>
Via EFTPOS – to purchase goods or services	Use the cheque button on the card machine and enter <i>PIN</i> .	Use the savings button on the card machine and enter <i>PIN</i> .
Via EFTPOS – to obtain cash	Use the cheque button on the card machine and enter <i>PIN</i> .	Use the savings button on the card machine and enter <i>PIN</i> .
At an ATM – to obtain cash	Use the cheque button and enter <i>PIN</i> .	Use the savings or the credit button and enter <i>PIN</i> .
Over the counter at any financial institution displaying the Visa logo - to get cash		Without the <i>PIN</i> and with photo identification. Sign for the transaction.

The table above sets out the different ways in which you may use your *Visa Credit Card*. Further details of each of these methods are set out below.

### K.4 To purchase goods from a merchant

- (a) You may use your *Visa Credit Card* to obtain goods and services from any merchant who displays the "Visa" or "EFTPOS" symbol. Displaying the "Visa" or "EFTPOS" symbol is not a promise by the merchant that all of the goods and services available from the merchant may be purchased with your *Visa Credit Card*. We are not responsible if the merchant refuses to accept or honour your *Visa Credit Card*.
- (b) You may also purchase goods or services using your *Visa Credit Card* from a merchant by internet, mail order or telephone if the merchant accepts this form of payment
- (c) The price the merchant charges for goods or services purchased with your *Visa Credit Card* may be different from the price the merchant charges for the same goods or services purchased with cash.



- (d) We do not accept any responsibility for the goods or services purchased with your *Visa Credit Card*; unless we are required to do so by law. In some circumstances we may have the right to recover a disputed payment on your behalf under the rules of the Visa Card Scheme. See the "Visa Disputes" section below for details.
- (e) You may use your *Visa Credit Card* to purchase goods and services, using either your *line of credit* account or your nil interest visa account (whichever you select in accordance with the table above) up to the *line of credit* or nil interest Visa account limit (as applicable), except that a limit of less than AU\$100 applies to each Visa payWave transaction (and other limits may apply outside of Australia). Also, individual merchants may apply their own minimum and maximum value of goods or services you may purchase in any one transaction.
- (f) You may use your *Visa Credit Card* to obtain cash from either your *line of credit* account or your nil interest Visa account (whichever you select in accordance with the table above) up to the *line of credit* limit or the nil interest visa available funds limit (as applicable). You may not obtain cash in an amount that exceeds your daily transaction limit. The minimum or maximum amount of cash you can obtain in any one transaction or series of transactions will depend on the financial institution or merchant. You may be required to produce additional identification. Note that you cannot use Visa payWave to withdraw cash.

## K.5 To obtain cash

- (a) You may use your *Visa Credit Card* to obtain cash in the following ways:
  - (i) at a branch counter of any financial institution which displays the "Visa" symbol (for the nil interest Visa account only);
  - (ii) through most EFTPOS outlets (please see the table above); or
  - (iii) from any ATM which displays the "Visa" symbol or the Cashcard logo as shown on your *Visa Credit Card* (please see table at clause K.3).
- (b) We do not make any promise that an individual ATM will have money available or that an EFTPOS outlet will accept your *Visa Credit Card*. If an ATM does not return your *Visa Credit Card*, you should contact the *Manager*. Do not contact the financial institution which owns the ATM.
- (c) When using your *Visa Credit Card* at an ATM, the ATM operator may charge ATM operator fees. To see whether any fees apply, read the ATM fee disclosure statement that appears on the ATM when making your transaction. Before you complete your transaction you'll be asked whether the ATM operator can debit the fee from the account you're making a withdrawal from.
- (d) We will rebate the ATM operator fee when you withdraw \$200 or more in a single transaction or request a balance enquiry from any ATM in Australia. ATM fee rebates do not include withdrawals less than \$200, currency exchange fees, any fees when using an ATM overseas or fees imposed by merchants for EFTPOS transactions.
- (e) We rebate eligible ATM operator fees based on the information we receive from Visa and ATM operators. If we don't rebate a fee you believe is eligible, simply call us. We may modify, introduce a cap, or discontinue ATM fee rebates at any time. If we do, we will give you 30 days advance written notice.

## K.6 Withdrawal limits

- (a) The maximum you can withdraw per day using your *Visa Credit Card* is \$1,000, including cash withdrawals.
- (b) The minimum or maximum amount of cash you can withdraw in a transaction will depend on the financial institution or merchant. You may be required to produce additional identification.

## K.7 Using Visa payWave

- (a) If your *Visa Credit Card* has the Visa payWave symbol on the front of the card, it can be used to authorise purchases at merchants displaying the contactless symbol, simply by waving the card at the merchant's point of sale reader.
- (b) Before authorising transactions using Visa payWave, you must check that the transaction amount on the merchant's reader or cash register is correct.
- (c) There is no need for a Visa payWave transaction in Australia to be authorised by a PIN or signature, provided that the amount of the transaction is less than AU\$100 (other limits may apply outside of Australia).
- (d) Note that you cannot use Visa payWave to withdraw cash.

## K.8 Your account

- (a) We will debit the amount of any purchase made or cash obtained using your *Visa Credit Card* to either your nil interest Visa account or your *line of credit* account depending on how you use your *Visa Credit Card*. Please see the table above for details.
- (b) The *Visa Credit Card* only entitles you to access either your nil interest Visa account or your *line of credit* account. You may not link your *Visa Credit Card* to any other account.
- (c) Subject to any restrictions set out in these *Terms and Conditions* you may borrow any amount up to your available funds limit. We calculate your available funds limit on each day in accordance with the terms above.
- (d) In accordance with the terms above, we calculate a separate available funds limit for:
  - (i) your *line of credit* account; and
  - (ii) your nil interest Visa account (this is your nil interest Visa available funds limit).
- (e) We calculate your *line of credit* available funds limit each day in accordance with Part C. We calculate your nil interest Visa available funds limit each day by taking your nil interest Visa account limit and deducting from your nil interest Visa account limit:
  - (i) the *amount you owe us* in relation to your nil interest Visa account as of that day;
  - (ii) any amounts we have received instructions to withdraw from your nil interest Visa account which have not yet been processed but not including future periodical payments; and
  - (iii) the amount of any other proposed payments on your *Visa Credit Card* which we have been told about, but which have not yet been debited to your nil interest visa account, e.g. certain types of deposits for goods or services.

- (f) We may reduce your *line of credit* account limit or your nil interest Visa account limit at any time, even if you are not in default, in accordance with these *Terms and Conditions*. If we do so we will tell you in writing as soon as possible. The term "credit limit" is deemed to mean your *line of credit* account limit or your nil interest Visa account limit for the purposes of this Part K.
- (g) Any change to your *line of credit* account limit or your nil interest Visa account limit will affect your available funds limit but your obligation to repay credit already provided under your *credit contract* is not affected.

### **K.9 Visa Credit Cards for individual and small business customers**

If you are an individual or *small business customer*:

- (a) we will apply payments to amounts that have the highest interest rate as at the last statement date. However if you ask us to, we may agree to apply a repayment against a specific debt owed;
- (b) you can ask us to reduce the limit of your credit card at any time; and
- (c) if you have an interest free period on your credit card balance, we will not retrospectively charge interest for that period before you didn't pay off that balance, or part of that balance, by the due date.

### **K.10 Transactions outside Australia**

- (a) When your *Visa Credit Card* is used overseas, foreign currency amounts will be converted into Australian dollars as at the date they are processed by Visa International. The conversion rate is determined by Visa International.
- (b) You may not be able to use your *Visa Credit Card* at some *ATMs* overseas. A fee may be charged at the time you use your *Visa Credit Card* at an *ATM* overseas. The amount of any fee is an unascertainable transaction.

### **K.11 No deposits at an ATM**

You may not make a deposit into your *account* at an *ATM*.

### **K.12 Expiry date**

Your *Visa Credit Card* is only valid during the period stated on the card. You must not attempt to use your *Visa Credit Card* after this date. We may automatically issue a new *Visa Credit Card* to you before the expiry date. We do not have to tell you first.

### **K.13 Replacement cards**

- (a) We may issue a replacement *Visa Credit Card* to you at any time (e.g. if your *Visa Credit Card* is lost or stolen). You may order a replacement card by calling the *Manager*.
- (b) We may charge you a fee for the replacement of your *Visa Credit Card*, no matter why the card needs to be replaced. The amount of this fee is set out in your *loan offer* and will be charged to your nil interest Visa account after you ask us to issue the replacement *Visa Credit Card*. This is not the same as the fee that Visa International may charge you if your *Visa Credit Card* is replaced overseas.
- (c) In addition, we may charge you the fee we must pay Visa International for the emergency replacement of a *Visa Credit Card* if your *Visa Credit Card* needs to be replaced overseas. This amount is currently US\$175 and is charged to your nil interest Visa account after your *Visa Credit Card* is replaced.

### **K.14 When we may refuse to authorise a transaction using your Visa Credit Card**

We may refuse to authorise a proposed transaction using your *Visa Credit Card* if:

- (a) the amount of the transaction exceeds your available funds limit; or
- (b) you attempt to authorise a transaction using Visa payWave and the amount of the transaction is AU\$100 or more (or is more than an applicable limit outside of Australia) or
- (c) your *Visa Credit Card* has been reported lost or stolen; or
- (d) your *Visa Credit Card* has been cancelled; or
- (e) we have de-activated your *Visa Credit Card*; or
- (f) your *line of credit* account is cancelled; or
- (g) we reasonably consider it necessary to protect our legitimate business interests.

### **K.15 Recurring payments**

You may give a merchant a recurring payment authority authorising that merchant to make one or more transactions on your nil interest Visa account. We must process any request by the merchant to debit your nil interest Visa account which is in accordance with a recurring payment authority that you have given. To cancel a recurring payment authority, you must either contact us or the merchant that you gave it to. In some circumstances your *Visa Credit Card* number may change (e.g. if a replacement card is issued after you report your *Visa Credit Card* lost or stolen) and you will need to provide these new details to the merchant or we may stop processing these transactions, in which case the merchant may stop providing you with the relevant goods or services.

### **K.16 Cancelling your Visa Credit Card**

- (a) We may cancel your *Visa Credit Card* at any time, in circumstances where:
- (b) we suspect fraudulent use of your *Visa Credit Card*;
- (c) cancellation is, in our view, reasonably necessary for compliance with anti-money laundering obligations; or
- (d) you fail to comply with this Part K in a material way that impacts our legitimate business interests; or
- (e) you have paid the balance of the *line of credit* applying to the *Visa Credit Card*, plus any amounts still owing but not yet debited to that *line of credit*;

even if:

- (i) you are not in default; or
  - (ii) we have not cancelled your *line of credit* account.
- (f) If we cancel a *Visa Credit Card* which is in credit, we will give you reasonable notice of the closure, pay you the amount of the credit balance and charge you a reasonable estimate of the costs of closing your account.
- (g) You may contact us to request that we cancel your *Visa Credit Card*. We will tell you in writing if we do this. You may do this by writing to the *Manager*.
- (h) Your nil interest Visa account limit is not affected if we cancel all or any of the *Visa Credit Cards*.
- (i) We may reissue you with a *Visa Credit Card* that has been cancelled, if you ask us to. We do not have to do this, however. If you or we cancel your *Visa Credit Card(s)*:
- (i) you must immediately return your *Visa Credit Cards* to us (cut in half);
  - (ii) we may refuse to honour any authorised transactions using the cancelled *Visa Credit Cards* which take place after cancellation, however, we do not have to do this; and
  - (iii) this will not affect any transaction using any other *Visa Credit Card(s)* which has not been cancelled, in relation to the nil interest Visa account or *line of credit* account.
- (j) You will be liable for authorised transactions on your *Visa Credit Card* before and after that *Visa Credit Card* has been cancelled, including transactions in accordance with any standing authority that has not been cancelled, and any use of your *Visa Credit Card* before it has been returned to us, cut in half. Your obligation to repay any outstanding balance of the nil interest Visa account in accordance with this agreement will continue even if your *Visa Credit Card* has been cancelled.
- (k) You must make alternative arrangements for any standing authority you have given in relation to your cancelled *Visa Credit Card*.
- (l) In accordance with these *Terms and Conditions*, you cannot use your *Visa Credit Card(s)* after your *line of credit* account is cancelled. You must also return your *Visa Credit Card(s)* to us if we ask you to.

### **K.17 De-activating your Visa Credit Card**

If you an event of default occurs and we have exercise our rights on the *event of default*, we may de-activate your *Visa Credit Card*. Once your *Visa Credit Card* is de-activated you may not make purchases or obtain cash using your *Visa Credit Card* (although you will remain liable for all transactions on your *Visa Credit Card* and any outstanding balance of the nil interest Visa account). If we ask, you must immediately return your *Visa Credit Card(s)* to us cut in half. You authorise us to suspend or cancel any standing authority that you have given in relation to a *Visa Credit Card* that is de-activated (although we do not have to do this). If you remedy the *event of default* under your *loan* we may re-activate your *Visa Credit Card* if you ask us to, although we do not have to.

### **K.18 Visa Disputes**

- (a) If you believe that an error has occurred in relation to your nil interest Visa account you should tell us as soon as possible in accordance with clause I.18. We may dispute the transaction on your behalf, meaning we will:
- (i) claim the relevant amount back if we find that it was incorrectly charged and you have not contributed to the loss; or
  - (ii) if the merchant refuses to make that chargeback in a way allowed under the Visa Scheme rules, we may accept the merchant's refusal.
- (b) We will follow the procedures and observe the time frames described in that clause. When you notify us if any concerns you may have with your *Visa Credit Card*, you should also provide us with your *Visa Credit Card* number.
- (c) If we decide to resolve a complaint by exercising our rights under the rules of the Visa Card Scheme, then:
- (i) the time limits under the rules of the Visa Card Scheme apply instead of the time limits in clause I.18;
  - (ii) if we cannot immediately solve the problem, we will give you details, in writing, of our procedures for investigating and resolving problems;
  - (iii) we will try to complete our investigations and tell you the result in writing within the time limits specified in the rules of the Visa Card Scheme unless there are exceptional circumstances;
  - (iv) if we are unable to resolve your complaint within 21 days, we will tell you that we need more time to complete our investigation or we're awaiting further information from you, however, if we resolve your complaint within 5 *business days* we won't provide you with this information unless you ask us to do so;
  - (v) if there are exceptional circumstances where we can't complete the investigation within 45 days, we'll inform you of the reasons for the delay, give you monthly updates and let you know when a decision can reasonably be expected and tell you that you can contact our external dispute resolution provider - the Australian Financial Complaints Authority, unless we're waiting on a response from you, which we have told you we require;
  - (vi) we will suspend your obligation to pay any amount the subject of the complaint and any credit and other charges related to that amount until the complaint is resolved, and inform you of that suspension; and
  - (vii) once we've completed our investigation we'll confirm the outcome and the reasons for that outcome.
- (d) In some circumstances there may be a right to reverse a disputed transaction with a merchant (known as a chargeback) under the Visa Card Scheme rules (for example where you did not receive the goods or services you paid for). You should report a disputed transaction to us immediately. The Visa Card Scheme rules impose strict time limits (generally 90 days) after which we will not be able to reverse a transaction. These time limits may not apply in some cases governed by the *ePayments Code*. If you do not report the dispute in time, we cannot investigate in order to reverse the disputed transaction and you will be liable for the transaction.

Part L will apply to you if you ask us to make a payment on your behalf through the BPAY Scheme ("BPAY payment"). This Part will apply even if the *contract* does not specify it is relevant to your *loan*.

In Part L, a reference to "we/us/our" includes the *Lender* as provider of the BPAY Scheme, and the *Manager*.

The *Lender* is a member of the BPAY Scheme, an electronic payments scheme through which you may instruct us to make payments on your behalf to a biller who issues a bill to you which you can pay using the BPAY Scheme ("biller"). You will be notified if the *Lender* is no longer a member of the BPAY Scheme.

As the *Lender* is a member of the BPAY Scheme, the *Manager* accepts no liability whatsoever in relation to the BPAY Scheme.

### L.1 How to use the BPAY Scheme

- (a) You can make a BPAY payment by accessing *Telephone Banking* or *Internet Banking*. The payment can be made from any *account* that has the redraw facility available or is a *line of credit* account. We will treat an instruction to make a BPAY payment as authorised by you if, when you give us the instruction, you also give us your *access code*.
- (b) When you ask us to make a BPAY payment you must give us the number of your *account* from which you want us to deduct the BPAY payment, the amount of the BPAY payment, the biller code and customer reference number. We will debit your *account* with the amount of the BPAY payment. However, we may not make the BPAY payment if you do not give us the information or any of it is not correct or if there is insufficient available in the *account* that you want us to deduct the BPAY payment from. We are not acting as your agent or the agent of the biller when we make a BPAY payment on your behalf.
- (c) If you use a credit card to pay a bill through the BPAY Scheme we will treat that payment as a credit card purchase transaction.

### L.2 Payments

- (a) We may impose limits on the amount of BPAY payments. If we do, we will notify you either by advertisement or in writing no later than the day the change takes effect. We can also decide the order in which payments will be processed.
- (b) Once you have instructed us to make a BPAY payment, we cannot stop that payment except for future dated payments which can be cancelled before the payment due date. You can cancel that future dated BPAY payment by notifying the *Manager* in writing or by visiting our website.
- (c) Billers who participate in the BPAY Scheme have agreed that a BPAY payment you make will be treated as received by the biller to whom it is directed:
  - (i) on the day that you make the BPAY payment, if you tell us to make that payment before 4.00pm NSW time on a *business day*; or
  - (ii) on the next *business day*, if you tell us to make that payment either after 4.00pm on a *business day* or on a day that is not a *business day*.
- (d) A delay may occur in the processing of a BPAY payment when there is a public or bank holiday on the day after you tell us to make a BPAY payment or if you tell us to make a BPAY payment either on a day which is not a *business day* or after 4.00pm New South Wales time on a *business day* or if another financial institution participating in the BPAY Scheme does not comply with its obligations under the BPAY Scheme or a biller fails to comply with its obligations under the BPAY Scheme or does not process the payment as soon as it receives the details.
- (e) You must be careful to ensure that you tell us the correct amount you wish to pay. If you instruct us to make a payment to a biller and you discover that:
  - (i) the amount you told us to pay is greater than the amount you needed to pay, contact the biller for a refund; or
  - (ii) the amount is less than the amount you needed to pay, you should make a further payment (using the BPAY Scheme or another method) for the difference.
- (f) You must check your *account* records carefully. You must tell the *Manager* immediately if:
  - (i) you become aware that you may have made any mistake when instructing us to make a BPAY payment or of any delays or mistakes in processing your BPAY payment; or
  - (ii) you did not authorise or may not have authorised a BPAY payment that has been made from your *account*; or
  - (iii) you think you have been fraudulently induced to make a BPAY payment.
- (g) You acknowledge that the receipt by a biller of a mistaken or incorrect payment does not constitute under any circumstances part or whole satisfaction of any underlying debt owed between you and that biller.
- (h) If we are notified that your BPAY payment cannot be processed by a biller, we will tell you, credit your *account* with the amount of the BPAY payment and, if you ask us to, take all reasonable steps to assist you in making a BPAY payment to that biller as soon as possible.
- (i) Except for *line of credit* accounts, a payment by the BPAY Scheme is a redraw. No fees or charges will apply to a redraw by the BPAY Scheme.

### L.3 Liability for unauthorised transactions and fraud and Loss and Damage

- (a) Except as set out in this section, we will not be liable for any loss or damage you suffer as a result of using the BPAY Scheme. Liability for losses arising from unauthorised or fraudulent BPAY payments is governed by Part M. If you are liable for a transaction or loss of funds by virtue of those liability provisions in respect of a BPAY payment, you must pay us the amount if we do not recover it after 20 *business days* of us attempting to do so from the person who received it.
- (b) We are not liable for any consequential loss or damage you suffer as a result of using the BPAY Scheme, other than due to any loss or damage you suffer due to our negligence or in relation to any breach of a condition or warranty implied by law in *contracts* for the supply of goods and services and which may not be excluded, restricted or modified at all or only to a limited extent.
- (c) If a BPAY payment is induced by the fraud of a person involved in the BPAY Scheme, that person should refund you the amount of the payment. If that person does not do so, you must bear the loss unless someone involved in the BPAY Scheme knew of the fraud or would have detected it with reasonable diligence, in which case that person must refund to you the amount of the payment.

- (d) If you tell us that a BPAY payment made from your *account* is unauthorised, we may only investigate that if you first give us your written consent addressed to the biller who received that BPAY payment, consenting to us obtaining from the biller information that we reasonably require to investigate the BPAY payment.

#### L.4 General

- (a) We may suspend your right to participate in the BPAY Scheme at any time if you are suspected of acting in a fraudulent manner, if you fail to comply with your obligations under this Part L in a material way or if we consider it reasonably necessary for security purposes.
- (b) If there is an inconsistency between the other *Terms and Conditions* applying to your *account* and the *Terms and Conditions* in this Part L, the *Terms and Conditions* in this Part L will apply to the extent of that inconsistency as it relates to the BPAY Scheme.

### Part M - Your security and liability

#### M.1 Security of access codes and client numbers

- (a) It's important to take all reasonable precautions to ensure your *codes* and *client number* are not misused, and remain secure and confidential. The precautions we require you to take (code security requirements) are set out below. This means that:
- (i) You must not tell anyone your *codes*, including any member of your family or your personal representative (including lawyers), or any other person unless we ask you to provide your *code* in the following specific circumstances:
    - (A) When you call one of our Customer Care Specialists to perform a transaction, we may ask you to tell us the one-time passcode that we provide by SMS to your registered Australian mobile number. You should provide it to us so that we can process the transaction. Note that we will never call you to perform a transaction and ask for your *codes* – if anyone does this, you should hang up and call one of our Customer Care Specialists immediately.
    - (B) When you speak with one of our Customer Care Specialists, we may need to verify your identity (including where you request to update your personal details) – to do so, we may ask you to tell us need the one-time passcode that we provide by SMS to your registered Australian mobile number and you should provide it to us so that we can verify that we are speaking with you.
  - (ii) You must not let anyone else, whether acting as your agent or not, access our *interactive service* using your *client number* and *codes*.
  - (iii) You must not select an *access code* that consists of repeated, ascending or descending numbers, or numbers that are associated with your birth date, *client number* or an alphabetic code which is a recognisable part of your name.
  - (iv) You must not give your *Visa Credit Card* to anyone else or let them use it.
  - (v) You must not keep a record of any *code* (without making a reasonable attempt to protect the security of the *code*) on your *Visa Credit Card* or in or on anything you usually carry with your *Visa Credit Card* as it could be lost or stolen at the same time as the *Visa Credit Card*.
  - (vi) You must not be careless about protecting the security of your *codes*.
  - (vii) You must not let anyone else see you entering your *PIN* or other codes at an *ATM* or *EFTPOS* terminal.
- (b) As soon as you realise or suspect anyone else knows any of your *codes* (including your *access code* or *PIN*), or your *Visa Credit Card* is lost, stolen or used without your permission or there has been an *unauthorised transaction*, contact us immediately by contacting one of our Customer Care Specialists, available 24 hours a day, 7 days a week on 133 464. We'll give you reference details to confirm you've alerted us to the situation. If you don't notify us promptly of any loss, theft or unauthorised use of your *Visa Credit Card*, you may be found to have contributed to any loss that you suffer.
- (c) If you realise or suspect anyone else knows your *access code* or *PIN*, we'll ask you to select a new *access code* or *PIN* using our interactive phone service (new *PIN*s require us to send you a new *Visa Credit Card*). If you don't select a new *access code* or *PIN* when asked, a stop will be placed on the relevant service until you do so.
- (d) If we know or suspect that anyone else knows any of your *codes*, we may place a stop on the relevant service. In that event, you can contact us for a new *access code* or *PIN* and have the stop removed.
- (e) You must:
- (i) sign your *Visa Credit Card* as soon as you receive it; and
  - (ii) regularly check to make sure you still have your *Visa Credit Card*
- (f) Your *PIN* will be automatically de-activated after three unsuccessful attempts to enter your *PIN*. If this happens, we can re-activate your *PIN* or send you a reminder of your *PIN*, as long as the *Visa Credit Card* is in your possession.

#### M.2 Liability

- (a) This part headed "Liability" does not apply to a business account. If you hold a business account, you may be liable for all transactions on your business account, whether authorised by you or not.
- (b) If things don't go according to plan it's good to be prepared for what happens next. By the time you've read this section, at least you'll know what happens if someone accesses your *account* without your knowledge or consent.
- (c) *Unauthorised transactions* are transactions that are performed without your consent and knowledge. An *unauthorised transaction* does not include:
- (i) a transaction you perform; and
  - (ii) a transaction anyone else performs with your knowledge and consent (for example, if you give another person a code that authorises a transaction).
- (d) If you think that you have been the subject of a scam then you should contact us immediately. We will help you as much as we can but it is important to remember that transactions authorised by you, or performed with your knowledge and consent, remain your liability.

**Warning: Account Aggregation Services**

Some companies provide *account* aggregation services that allow you to view *account* information from different institutions on the one webpage. To use an *account* aggregation service, you are usually required to give the *service provider* your *account* details and your *PIN*. We do not endorse, promote or authorise the use of *account* aggregation services in connection with your *account(s)*. Please remember that if you disclose your *PIN* to another person, you will be liable for any transactions on your *account(s)* made by that person using that *PIN*.

**M.3 When you're not liable**

You're not liable for losses you incur or suffer that:

- (a) relate to any of your original or reissued *codes*, identifiers or *Visa Credit Cards* that are forged, faulty, expired or cancelled;
- (b) arise from transactions made through our *interactive service* or with your *Visa Credit Card* that require your *codes*, before you've received your *codes* or *Visa Credit Card* (including a reissued *Code* or *Visa Credit Card*);
- (c) are caused by the fraudulent or negligent conduct of our employees, agents, those of companies involved in networking arrangements with us, or merchants linked to the electronic funds transfer system or their employees or agents;
- (d) result from the same transaction being incorrectly debited more than once to the same *account* by us;
- (e) result from an *unauthorised transaction* that occurs after you've notified us that the security of your *codes* has been breached or your *Visa Credit Card* has been lost, stolen or used without your permission;
- (f) result from an *unauthorised transaction* if it's clear you haven't contributed to the losses; or
- (g) result from an *unauthorised transaction* that can be made using an identifier without a *Visa Credit Card* or *code*.

**M.4 When you'll have limited liability**

If it's not clear whether you've contributed to the loss caused by an *unauthorised transaction* that required one or more *codes*, the amount of your liability will be limited to the least of:

- (a) \$150;
- (b) the actual loss at the time we're notified that the security of your *codes* was breached or your *Visa Credit Card* has been lost, stolen or used without your permission (limited by the applicable daily or period transaction limits over the relevant timeframe); and
- (c) the credit limit of the *account* from which value was transferred in the *unauthorised transaction*.

**M.5 When you'll be liable**

(a) If we can prove on the balance of probability that you contributed to the loss caused by the *unauthorised transaction*:

- (i) through your fraud;
- (ii) by failing to comply with the *code* security requirements;
- (iii) where more than one *code* is required to perform a transaction and we prove:
  - (A) that the security of a *code* for one or more *codes* has been breached, but not all of the required *codes*; and
  - (B) we can prove on the balance of probability that a breach of security of the *code/s* was more than 50% responsible for the losses when assessed together with all the contributing causes,

then you are liable for the actual losses which occur before we are notified of the loss, theft or misuse of your *code* or *Visa Credit Card* or a breach of the *code* security requirements. You are liable in full for the actual losses that occur before the loss, theft or misuse of a *Visa Credit Card* or breach of the *code* security requirements is reported to us.

- (b) However, you will not be liable for any loss on any day, or in any period, exceeding any applicable transaction limit for that day or period and you will not be liable for loss in excess of the credit limit of the *account*.
- (c) If you leave your *Visa Credit Card* in an *ATM*, you will be liable for all losses arising from *unauthorised transactions* as long as the *ATM* incorporates reasonable safety standards that lessen the risk of your *Visa Credit Card* being left in the *ATM* (e.g. *ATMs* that capture cards that aren't removed or which require a user to swipe and then remove a card before commencing the transaction).

**M.6 Liability for unreasonably delaying notification**

If we can prove on the balance of probability that you've contributed to a loss caused by an *unauthorised transaction* by unreasonably delaying notification that the security of your *codes* or *Visa Credit Card* has been compromised after you become aware of the loss, theft or breach, you will be liable to us for the actual losses incurred between:

- (a) the time you first became aware (or should reasonably have become aware) of any of these events; and
- (b) the time we are actually notified of the relevant event,

however, you will not be liable for any loss on any day, or in any period which exceeds any applicable transaction limit, for that day or period, and you will not be liable for loss in excess of the credit limit of the *account*.

**M.7 Liability caused by equipment malfunctions**

- (a) You are not liable for any loss caused by an EFT institution's equipment accepting your transaction but failing to complete the transaction in accordance with your instructions.
- (b) However, if you were aware, or should have been aware, that the EFT institution's equipment was unavailable or malfunctioning, our responsibility will be limited to:
  - (i) correcting errors in the *account*; and
  - (ii) refunding any charges or fees imposed as a result.

(c) We're not responsible for:

- (i) errors, inaccuracies, interruptions, viruses/defects due to any system or equipment failing to complete a transaction;
- (ii) delays resulting from any network, system or equipment failing to support the interactive service or Visa Credit Card; or
- (iii) any *interactive service* or *Visa Credit Card* system or equipment failing to complete your transaction instructions. If we're responsible, our liability is limited to the cost of re-supplying the service.

#### M.8 Liability when using a *Visa Credit Card* without a *PIN*

- (a) For *Visa Credit Card* transactions that don't need a *PIN*, you're not liable for any *unauthorised transactions* unless you have unreasonably delaying notifying us of the loss, theft or unauthorised use of your *Visa Credit Card*.
- (b) Otherwise, we may hold you liable for all such transactions up to the time you notify us of the loss, theft or unauthorised use of your *Visa Credit Card*.

#### M.9 Liability for *BPAY* payments

- (a) If a *BPAY* payment is unauthorised or is made from your *account* otherwise than in accordance with your instructions, we'll credit your *account* for the amount of the payment.
- (b) If a *BPAY* payment is fraudulently induced by someone involved in the *BPAY* Scheme, then that person should refund you that payment. If that person doesn't refund the payment you have to bear the loss. That is unless some other person in the *BPAY* Scheme:
  - (i) knew of the fraud; or
  - (ii) would have detected it with reasonable diligence.

In this case that person must refund you the payment.

- (c) We're not liable for any indirect loss or damage you may suffer as a result of using the *BPAY* Scheme, unless we:
  - (i) acted negligently; or
  - (ii) breached any condition or warranty in regard to the supply of goods and services, which can't be excluded or limited under law.
- (d) You indemnify us against any loss or damage we may suffer due to any action of any kind brought against us because you:
  - (i) didn't observe any of your obligations; or
  - (ii) acted negligently or fraudulently in regard to these *Terms and Conditions*.

#### M.10 Mistaken internet payments

This section does not apply to business accounts.

- (a) If someone else has done a *mistaken internet payment* that results in funds being paid into your *account*, then you acknowledge and agree that you are not entitled to those funds regardless of how long the funds have been in your *account*.
  - (i) **Reported by the other person within 10 business days of making the payment:** If you have sufficient funds in your *account*, we may, without notice, debit funds up to the total amount of the *mistaken internet payment* from your *account* and return it to the other financial institution.
  - (ii) **Reported by the other person between 10 business days and 7 months of making the payment:** If you have sufficient funds in your *account*, we may, without prior notice, place a hold on the funds in your *account* up to the total amount of the *mistaken internet payment*. Once we notify you of the *mistaken internet payment*, you will have 10 *business days* to provide evidence that you are entitled to the funds. If, at the end of 10 *business days*, we are not satisfied that you are entitled to the funds, then we will debit funds up to the total amount of the *mistaken internet payment* from your *account* and return it to the other financial institution.
  - (iii) **Reported by the other person after 7 months of making the payment:** If you have sufficient funds in your *account*, we will contact you to discuss the return of funds. If you provide consent to return the funds then we will debit the funds up to the total amount of the *mistaken internet payment* and return it to the other financial institution.
  - (iv) **Reported by the other person at any time but we aren't satisfied that a *mistaken internet payment* occurred:** If we receive a written request from another financial institution for the return of funds deposited into your *account* on the basis that the funds were deposited as a result of a *mistaken internet payment*, but based on our own investigations we are not reasonably satisfied that the funds deposited into your *account* were deposited as a result of a *mistaken internet payment*, then we may contact you to discuss the return of funds. If you provide consent to return the funds then we will debit the funds up to the total amount of the payment and return it to the other financial institution.
  - (v) **Reported by the other person at any time but the *account* does not hold sufficient funds:** To the extent that the balance of your *account* is less than the value of the funds deposited as a result of the *mistaken internet payment*, we will exercise our discretion consistently with the *ePayments Code*, in deciding whether we should:
    - (A) pursue the return of funds to the total value of the *mistaken internet payment*;
    - (B) pursue the return of funds representing only a partial amount of the total value of the *mistaken internet payment*; or
    - (C) not pursue any return of funds (whether partial or total).
- (b) If we decide to return the funds to the total value of the *mistaken internet payment*, we will use reasonable endeavours to retrieve the funds from you (which may include arranging for the repayment of the funds by instalments).

##### M.10.2 We'll tell you about the outcome of our investigations

In all instances, we'll advise you of the outcome of a reported *mistaken internet payment* in writing within 30 *business days* of the day on which the report was made.

##### M.10.3 Tell us if you're experiencing any financial difficulty

You should inform us as soon as possible if you are in financial difficulty.

#### M.10.4 When you may be liable for a mistaken internet payment

If, in our view, you're liable under the *ePayments Code* for at least part of the amount of the transaction that is subject to dispute, we'll:

- (a) make available to you copies of any documents or other evidence relevant to the result of the investigation; and
- (b) let you know in writing whether our investigations revealed any systems or equipment malfunction.

### Part N - Meaning of words

**access code** means a confidential six digit alpha code password only known to you, that you must keep secret and that you must use to access an account when using the *interactive services*.

**access method** comprises the use of your *access code* and *client number*, or any other method authorised by us as an authority for us to act on an instruction given through electronic equipment to debit or credit your *account*.

**account** means each *loan* account opened in your name to which we give you access by using the *interactive services*.

**additional payments** means payments in addition to those required under the *contract*.

**amount you owe us** means in respect of each *account* the total amount outstanding from time to time.

**ATM** means an Automatic Teller Machine belonging to a financial institution that displays the Visa logo.

**break cost fee method** means the method of calculating break costs described in Part G.5 of these *Terms and Conditions*.

**business account** means an account which is primarily used by a business and is established for business purposes.

**business day** means a day other than a Saturday or Sunday or public or bank holiday when we conduct financial transactions in Sydney, New South Wales.

**cheque facility provider** is defined in the "When the cheque facility is available to you" section above.

**chip** means the electronic microchip embedded in a Visa Credit Card used as an additional security, and information storage, device.

**client number** means the number we give you, that you must keep secret, so you can access the *interactive services*.

**codes** means your *access code* and *PIN* and any additional security code we provide you to conduct certain transactions (including a one-time password provided by SMS to your registered Australian mobile number) as a result of our enhanced security measures.

**code security requirements** means the code security requirements described under "Part M.1 - Security of *access codes* and *client numbers*".

**contract** this is the contract (as varied from time to time) you make with us when you accept our *loan offer*. It consists of the *loan offer* and these *Terms and Conditions*.

**controlling person** means, where you are a partnership, company, trust or association, any individual who controls you.

**disclosure date** is the date defined as such in the *loan offer*.

**EFT institution's equipment** means any electronic equipment, electronic system, communications system or software controlled or provided by, or on behalf of, an institution that subscribes to the *ePayments Code* to facilitate electronic funds transfers (that is, funds transfers initiated through electronic equipment in relation to which a *code*, customer identifier, card or other device or component must be used).

**Event of default** means any *monetary default* and *non-monetary default*.

**ePayments Code** means the *ePayments Code* issued by the Australian Securities and Investments Commission (as amended from time to time).

**Foreign Tax Residency Status** refers to a person's status, as a resident of a foreign country for tax purposes, in light of our obligations under:

- (a) the global standard for the collection, reporting and exchange of financial account information of foreign tax residents; and
- (b) the withholding tax and reporting regime in relation to tax residents of the United States of America, known as the Foreign Account Tax Compliance Act, imposed by the United States Hiring Incentives to Restore Employment Act 2010, which is incorporated into Australian law in Schedule 1 of the Taxation Administration Act 1953 (Cth);

**fixed interest period** means any period described as such in the *loan offer*, any other period for which your interest rate is fixed, or such other period which we may agree is a *fixed interest period*.

**fixed rate loan** means a *loan* where the interest rate is fixed for a *fixed interest period*.

**identifier** means information that you know but are not required to keep secret and which you must provide to perform a transaction (for example, an account number).

**interactive services** means *Telephone Banking* and *Internet Banking*.

**Internet Banking** means our internet *loans* transaction facility you use by accessing the website.

**line of credit** means an All in one Line of Credit, Professional All in One Line of Credit, Lo Doc 60 All in One Line of Credit, or Equity Line of Credit account, in the context of a Visa Credit card, *line of credit* means an All in one Line of Credit Professional All in One Line of Credit, or a Lo Doc 60 All in One Line of Credit.

**Lender** means the lender as disclosed in the *loan offer*.

**loan** means any credit facility provided or to be provided under your contract and, where applicable, includes any part of the credit provided under that credit facility.

**loan offer** the *loan offer* document.

**National Credit Code** means the National Credit Code contained in Schedule 1 of the National Consumer Credit Protection Act 2009 (Cth).

**Manager** has the meaning given to it under Part I.23 of these *Terms and Conditions*.



**mistaken internet payment** means a payment made by a user through a pay anyone banking facility and processed by a financial institution where funds are paid into the account of an unintended recipient because the user enters or selects a BSB, account number and/or PayID that does not belong to the named and/or intended recipient as a result of:

- (a) the user's error; or
- (b) the user being advised of the wrong BSB, account number and/or PayID.

Note: a *mistaken internet payment* may be made when a user enters the wrong account details and/or PayID, or a user is given incorrect information by the intended recipient. A *mistaken internet payment* is not a payment that is made when a user makes a payment as a result of a scam (you must not tell anyone your codes).

**monetary default** means any of the events specified in clause H.2.1.

**mortgaged property** means the property the subject of any security.

**non-monetary default** means any of the events specified in clause H.2.2 and H.2.3

**other bank account** means an account other people hold with us, or an account at another financial institution.

**PIN** means the confidential personal identification number you select when applying, or requesting a new Visa Credit Card. You use it with your Visa Credit Card when accessing your *account* electronically.

**small business customer** means:

- (a) a business to which all of the following applies, at the time of entering into this contract:
  - (i) the business had an annual turnover of less than \$10 million in the previous financial year;
  - (ii) the business has less than 100 full time (or equivalent) employees; or
  - (iii) the business has less than \$3,000,000 total debt to all credit providers, including the Principal payable under the Transaction Documents, any undrawn amounts under existing loans, any other loans being applied for and the debt of all the Borrower's related entities that are businesses; or
- (b) an individual where the *loan* is not regulated by the National Credit Code.

**related body corporate** has the meaning given by the Corporations Act 2001.

**security** means each security interest described in the *loan offer* under "Security" and any substitute or additional security interest given to the *Lender* in connection with this *contract*.

**security interest** means any mortgage, charge, lien, pledge, trust, power or other rights given or to be given as or in effect as security for the payment of money or performance of obligations. It also includes a guarantee and indemnity.

**security provider** means each person (other than yourself) who gives security over the *mortgaged property*.

**settlement date** is the date defined as such in the *loan offer*.

**settlement letter** means the letter sent by us to you following the settlement date. This letter briefly describes interactive services, advises your client number and how to contact us.

**subsidiary** has the meaning given by the Corporations Act 2001;

**Terms and Conditions** means this document.

**Telephone Banking** means our automated interactive voice response system you access using a touch tone telephone.

**unauthorised transactions** means any transaction on your *account* that's not authorised by you. It does not include any transaction that is performed by you or by anyone else with your knowledge and consent.

**Visa Credit Card** means the card you use to access your *line of credit* account or nil interest *Visa account*, which is issued by the *Lender*.

**Visa payWave** allows you to authorise purchases using a *Visa Credit Card* embedded with Visa payWave contactless technology, by waving your card at point of sale readers displaying the contactless symbol.

**we, us, our** means, except in Part K, the *Lender* and the *Manager* together and separately.

**website** means the internet website through which we provide the *Internet Banking*. Reference to a person includes a company, trust or any other kind of body.

**you** means any borrower under the *loan offer*.

## Part O - Information statement

- (a) the borrower is a company; or
- (b) this *loan* is predominantly used for business purposes or investment purposes (except for investment in residential property), this loan will not be regulated by the National Credit Code despite any statement that the National Credit Code applies to this *loan*. The information statement below only applies to you if your *loan* is regulated by the National Credit Code.

Information statement continued next page

## Things you should know about your proposed credit contract

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

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

### The contract

#### 1. How can I get details of my proposed credit contract?

Your credit provider must give you a precontractual statement containing certain information about your contract. The precontractual statement, and this document, must be given to you before -

- your contract is entered into; or
- you make an offer to enter into the contract;

whichever happens first.

#### 2. How can I get a copy of the final contract?

If the contract document is to be signed by you and returned to your credit provider, you must be given a copy to keep.

Also, the credit provider must give you a copy of the final contract within 14 days after it is made. This rule does not, however, apply if the credit provider has previously given you a copy of the contract document to keep.

If you want another copy of your contract, write to your credit provider and ask for one. Your credit provider may charge you a fee. Your credit provider has to give you a copy -

- within 14 days of your written request if the original contract came into existence 1 year or less before your request; or
- otherwise within 30 days of your written request.

#### 3. Can I terminate the contract?

Yes. You can terminate the contract by writing to the credit provider so long as -

- you have not obtained any credit under the contract; or
- a card or other means of obtaining credit given to you by your credit provider has not been used to acquire goods or services for which credit is to be provided under the contract.

However, you will still have to pay any fees or charges incurred before you terminated the contract.

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

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

#### 5. How can I find out the pay out figure?

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

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

#### 6. Will I pay less interest if I pay out my contract early?

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

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

Yes, but only if your contract says so.

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

That depends on the type of change. For example -

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

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

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

Yes. You should first talk to your credit provider. Discuss the matter and see if you can come to some arrangement.

If that is not successful, you may contact your credit provider's external dispute resolution scheme. External dispute resolution is a free service established to provide you with an independent mechanism to resolve specific complaints. Your credit provider's external dispute resolution provider is the Financial Ombudsman Service Australia and can be contacted by –

- (a) calling 1800 367 287;
- (b) going to fos.org.au;
- (c) faxing 03 9613 6399; or
- (d) in writing to Financial Ombudsman Service Australia, GPO Box 3, Melbourne VIC 3001

Alternatively, you can go to court. You may wish to get legal advice, for example from your community legal centre or Legal Aid. You can also contact ASIC, the regulator, for information on 1300 300 630 or through ASIC's website at <http://www.asic.gov.au>.

## Insurance

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

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

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

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

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

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

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

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

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

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

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

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

## Mortgages

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

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

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

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

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

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

The law says you can not assign or dispose of the property unless you have your credit provider's, or the court's, permission.

You must also look after the property. Read the mortgage document as well. It will usually have other terms and conditions about what you can or can not do with the property.

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

See the answers to questions 22 and 23. Otherwise you may-

- if the mortgaged property is goods - give the property back to your credit provider, together with a letter saying you want the credit provider to sell the property for you;
- sell the property, but only if your credit provider gives permission first;

OR

- give the property to someone who may then take over the repayments, but only if your credit provider gives permission first.

If your credit provider won't give permission, you can contact their external dispute resolution scheme for help.

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

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

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

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

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

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

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

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

**General**

**22. What do I do if I can not make a repayment?**

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

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

**23. What if my credit provider and I can not agree on a suitable arrangement?**

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

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

**24. Can my credit provider take action against me?**

Yes, if you are in default under your contract. But the law says that you can not be unduly harassed or threatened for repayments. If you think you are being unduly harassed or threatened, contact the credit provider's external dispute resolution scheme or ASIC, or get legal advice.

**25. Do I have any other rights and obligations?**

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

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

**EXTERNAL DISPUTE RESOLUTION IS A FREE SERVICE ESTABLISHED TO PROVIDE YOU WITH AN INDEPENDENT MECHANISM TO RESOLVE SPECIFIC COMPLAINTS. YOUR CREDIT PROVIDER'S EXTERNAL DISPUTE RESOLUTION PROVIDER IS THE FINANCIAL OMBUDSMAN SERVICE AUSTRALIA AND CAN BE CONTACTED BY:**

- (a) calling 1800 367 287;
- (b) going to [fos.org.au](http://fos.org.au);
- (c) faxing 03 9613 6399; or
- (d) in writing to Financial Ombudsman Service Australia, GPO Box 3, Melbourne VIC 3001

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