



Commonwealth Bank  
of Australia

# Current Terms and Conditions for Business Finance

Issued 5 December 2024

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## Please read

It is important that *you* take the time to read and understand the *Contract*, including these *Terms and Conditions*.

## We're here to help

If *you're* not completely sure *you* understand all the terms and conditions in this document, we recommend *you* get legal or financial advice. *You* can also talk to *your* relationship manager, business banker or broker, or call *us* on 13 1998.

If *you* are experiencing financial difficulty making payments under a loan, then *you*, or *your* representative, should contact *us* as soon as possible. We can then discuss *your* situation and the options available to help *you*. The sooner *you* contact *us*, the sooner we can try to help.

## Banking code of practice

The Code of Banking Practice or, from 1 July 2019, the Banking Code of Practice, applies where relevant to *your Facility* if *you* are a small business as defined in the Code of Banking Practice or the Banking Code of Practice (as the case may be) or an individual.

*You* can obtain a copy of the Code by contacting *us* or visiting <https://www.commbank.com.au/about-us/opportunity-initiatives/policies-and-practices/banking-code-of-practice.html>

## Complaints

If *you* have a complaint about *our* services, products, facilities or any other aspect of Commonwealth Bank, we'd like to hear from *you*.

To make a complaint, please contact *us* on 1800 805 605. *You* can also make a complaint in the following ways:

- verbally or in writing directly to *your* relationship manager or at any one of *our* Commonwealth Bank branches;
- by visiting [www.commbank.com.au/contact-us/compliments-complaints](http://www.commbank.com.au/contact-us/compliments-complaints) and completing the online complaint form; or
- by writing to *us*, care of:  
CBA Group Customer Relations  
Reply Paid 41  
Sydney, NSW 2001

We strive, wherever possible, to resolve *your* complaint within 5 working days.

*You* will be advised of the details (including the timeframes) of *our* internal dispute process, and an officer with the appropriate authority to resolve the dispute will investigate *your* complaint thoroughly. We will do *our* best to resolve *your* complaint promptly.

If *you're* not satisfied with *our* handling of *your* matter, *you* can refer *your* complaint to external dispute resolution. The Australian Financial Complaints Authority (AFCA) scheme is a free service established to provide *you* with an independent mechanism to resolve specific complaints.

The contact details for AFCA are:

Website: [www.afca.org.au](http://www.afca.org.au)  
Email: [info@afca.org.au](mailto:info@afca.org.au)  
Phone: 1800 931 678 (free call)  
Postal address: GPO Box 3,  
Melbourne, VIC, 3001

To find out more information about *our* Complaints process visit: [www.commbank.com.au/contact-us/compliments-complaints](http://www.commbank.com.au/contact-us/compliments-complaints)

## Privacy Collection Notice

- Neither this notice ("**Privacy Collection Notice**") nor *our* Group Privacy Statement (referenced in section 4 of this Privacy Collection Notice) form part of any contract *you* have with *us*.
- By obtaining a *Facility* to which this document applies, *you* acknowledge that *you* have read this Privacy Collection Notice.

### 1. What information *we* collect

- The information *we* may collect about *you* includes:
  - information about *your* identity, such as *your* name and contact details;
  - financial information *you* give *us*;
  - information about *your* interactions with *us*, such as *your* transactions, payments and use of *our* websites; and
  - information from public registers or third parties, such as service providers.

### 2. Why *we* collect *your* information and what *we* use it for

We collect your information and use it to:

- Confirm *your* identity and manage *our* relationship with *you*;
- minimise risks;
- facilitate payment receipts and instructions;
- design, price, provide, manage and improve *our* products and services;
- let *you* know about products or services *you* may be interested in;
- comply with relevant laws, for example, the Anti-Money Laundering and Counter-Terrorism Financing Act 2006, the Autonomous Sanctions Act 2011, Taxation Administration Act 1953 and Income Tax Assessment Act 1936.

### 3. Who *we* may exchange *your* information with.

*You* acknowledge *we* may share *your* information with other members of the Commonwealth Bank Group, who may use it for any of the purposes *we* can. *We* may also share *your* information with others, such as:

- brokers, advisers and people who act on *your* behalf;
- service providers, such as product distributors;
- payment service operators, the PayID service and PayID participants;
- businesses who do some of *our* work for *us*;
- other financial institutions (such as banks), auditors, insurers and re-insurers;
- government and law enforcement agencies or regulators and relevant public registers; and

Property Exchange Australia Limited (PEXA), if *you* have applied to transact through the PEXA System on *your* eligible Statutory Trust Account or other eligible trust account. Sometimes *we* might need to send *your* information overseas, for example:

- where *we* outsource particular functions;
- to overseas businesses in *our* Group;
- if *we* need to complete a transaction for *you*; and
- to comply with laws and assist government and law enforcement agencies or regulators.
- See our Privacy Statement for information about which countries information may be sent to.

#### 4. Our Group Privacy Statement

Our Group Privacy Statement is available on *our* website at [commbank.com.au/privacy](https://commbank.com.au/privacy) or on request from any CommBank branch and should be read in conjunction with this document. It contains further details about *our* information collection and handling practices including information about:

- other ways *we* may collect, use or exchange *your* information;
- how *you* may access and seek correction of the information;
- how *we* process any personal data *you* provide *us* that is covered by the General Data Protection Regulation (“GDPR”) and *your* rights under the GDPR; and
- how to make a complaint about a breach of *your* privacy rights, and *our* complaint handling procedures.
- *We* encourage *you* to check *our* website regularly for any updates to the Group Privacy Statement.

#### Privacy consent – Marketing

If *you* give *us your* contact details, *you* consent to *us* using these details to communicate with *you*, including providing updates, reminders and marketing information. If *you* do not want to receive marketing information or want to change *your* contact preferences, call *us* on 13 2221.

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## A. Conditions for all Facilities

### A.1 YOUR CONTRACT WITH US

#### A1.1 The Contract

A1.1.1 When we offer to provide you with one or more *Facilities*, the contract between you and us is made up of:

- (a) this document;
- (b) the *Offer Document*; and
- (c) any other documents specified in the *Offer Document*.

A1.1.2 Except to the extent stated in these documents, other services we provide, such as payment or other transaction accounts or services, or access to your *Facility* using one of our electronic banking platforms, are governed by separate terms, not this *Contract*.

#### A1.2 Using this document

A1.2.1 This document is in two parts, which you should read together:

- (a) **Part A** covers the terms and conditions that, unless otherwise stated, apply to all *Facilities*. You should read all of **Part A**.
- (b) **Part B** has more details about different types of *Facilities*, including yours. You only need to read the sections of **Part B** which are relevant to your *Facilities*.

A1.2.2 If there are inconsistencies:

- (a) **Part B** prevails over **Part A**, and
- (b) the *Offer Document* (including any contractual documents referred to within it) prevails over both **Part A** and **Part B** of this document.

### A1.3 Which sections of Part B do you need to read?

#### For the terms relating to:

#### Read this section:

Agribusiness Line of Credit\* **B.3**

Bank Guarantee **B.5**

BetterBusiness Loan **B.1**

Business Credit Card\* **B.7**

Business Line of Credit\* **B.3**

Contingent Liability Facility **B.5**

Corporate Charge Card **B.7**

Corporate Credit Card **B.7**

Foreign Bills Negotiated Facility **B.5**

Export Documentary Collection **B.5**

Export Documentary Credit **B.5**

Import Documentary Credit **B.5**

Import Documentary Collection **B.5**

Insured Export Finance Facility **B.5**

Market Rate Loan **B.4**

Multi-Option Facility\* **B.6\*\***

Overdraft **B.3**

Procurement Management Account Facility **B.8**

Trade Advance Facility **B.5**

Trade Finance Facility **B.6\*\***

\*No longer available for sale.

\*\*You should also read the sections covering your Sub Facilities.

**A1.4 Deleted****A1.5 Declarations you make**

Each time *you* sign an *Offer Document* or use a *Facility*, *you* declare that:

**A1.5.1 (General declarations):**

- (a) the name of each individual given to *us* is correct;
- (b) a *Security Provider* who gives *us Security* is the sole owner of the *Security Property*, or *you* have told *us* of any joint owners;
- (c) each *Security Provider* has advice from the Commonwealth Government allowing them to take an interest in the *Security Property* if required by foreign investment laws;
- (d) the *Security Property* is not, and will not become, subject to any kind of competing *Security Interest* or obligation without *our* prior written consent;
- (e) *you* are not in material default on any other credit agreement and nothing has happened which may put *you* in material default;
- (f) *you're* not breaching any laws or obligations to anyone else by signing this *Contract*;
- (g) none of the information *you* have given *us* is incorrect, incomplete or misleading in any material respect; and

**A1.5.2 (for each Borrower that is a company):**

- (a) the company is financially sound and not under threat of liquidation;
- (b) there are no current, pending or threatened proceedings against the company that could have a *Material Adverse Effect*, including legal actions, arbitration or administration proceedings;

(c) the *Contract* and each transaction contemplated under it either:

- (i) benefits the company, does not create any conflict of interest and, where a *Related Party* of a public company is involved, does not breach Chapter 2E of the *Corporations Act*; or
- (ii) has been approved by a resolution, duly passed by the shareholders of the company; and

(d) where a transaction contemplated under the *Contract* involves giving financial assistance to buy shares in the company, that assistance is permitted under section 260A(1) of the *Corporations Act*; and

**A1.5.3 (for each Borrower that is a trustee),** the additional declarations in **A8.1** are true.

**A1.6 Laws that apply to this Contract**

The *Contract* is governed by the laws in the State or Territory of *your* Australian address in the *Offer Document* or, if none, the Australian state or territory from which we issued the *Offer Letter*.

**A1.7 Counterparts**

An *Offer Document* and any other documents specified in an *Offer Document* may be executed in any number of counterparts, all of which are taken together to constitute one and the same instrument.

**A1.8 Our power of attorney**

**A1.8.1** *You* irrevocably appoint each of *our* employees separately as *your* attorney to:

- (a) change an incomplete or inaccurate *Offer Document*, as long as the change is consistent



with the information or instructions *you* have provided;

- (b) do anything else of a minor nature reasonably required, for example, completing blanks or dating documents, to make the *Contract* complete and enforceable.

## A.2 SETTING UP AND USING YOUR FACILITY

### A2.1 Purpose

*You* can only use *your Facility* for the purposes set out in *your Offer Document*.

### A2.2 Cancelling your Facility before it is funded

*We* can withdraw *our* offer or cancel a *Facility* at any time before *you* use it if:

- (a) *you* don't use it within 30 days of signing the *Offer Document*;
- (b) *your* financial circumstances change and *we* reasonably believe *you* will not be able to meet *your* obligations under the *Contract*; or
- (c) the terms of a *Fixed Rate Period* have been agreed but the *Facility* is not fully funded on the expected funding date.

### A2.3 Conditions you must meet before funding

Each of the following conditions must be met before *we* will allow any *Drawing* (and *we* may refuse to allow a later *Drawing* if any of the conditions is no longer met):

## Conditions

Identity check	<ul style="list-style-type: none"> <li><i>We</i> have completed all <i>Know Your Customer Checks</i> relating to <i>you</i>, <i>your</i> beneficial owners, each <i>Guarantor</i> and any <i>Authorised Representative</i>.</li> </ul>
Information we require	<ul style="list-style-type: none"> <li><i>You've</i> given <i>us</i> all the information <i>we've</i> asked for about the <i>Facility</i> and its use.</li> </ul>
Default	<ul style="list-style-type: none"> <li><i>You're</i> not in <i>Default</i> and would not be in <i>Default</i> as a result of the <i>Drawing</i>.</li> </ul>
Security	<ul style="list-style-type: none"> <li><i>We're</i> satisfied with the valuation and title to the <i>Security Property</i>.</li> <li><i>You've</i> done everything <i>we</i> have required to give <i>us</i> any <i>Security</i>.</li> <li>The <i>Guarantor</i> (if <i>we've</i> asked for a guarantee) has not withdrawn or given notice to limit their guarantee or become an undischarged bankrupt.</li> </ul>
Documentation and instructions	<ul style="list-style-type: none"> <li><i>We've</i> received all relevant documents and instructions from <i>you</i>, in a form acceptable to <i>us</i> properly executed, including any <i>Security</i> documents, and any authority documents required to process payments to or from <i>your</i> accounts.</li> </ul>



## Conditions

Insurance	<ul style="list-style-type: none"> <li>You've given us evidence you have insurance which meets our requirements if we request it.</li> <li>We've obtained any lender's mortgage insurance we require.</li> </ul>
Sanctioned Jurisdiction	<ul style="list-style-type: none"> <li>(applicable to Facilities obtained or varied by agreement from 13 July 2021 and any Facility where you are a Large Business Customer) We are reasonably satisfied that you are not, and will not soon be, a resident of, or visitor to, a Sanctioned Jurisdiction.</li> </ul>
Additional conditions	<ul style="list-style-type: none"> <li>You've met any additional conditions set out in the Offer Document, including Conditions Before Funding, conditions prior to variation, or (in relation to a Drawing after the initial Drawing) Conditions After Funding (such as evidence of the value of building work completed).</li> </ul>
Nominated Account	<ul style="list-style-type: none"> <li>You've met the requirements in <b>A3.3.2</b> and <b>Part B</b> regarding any Nominated Account.</li> </ul>

## A.3 COSTS AND PAYMENTS

### A3.1 What you must pay

#### A3.1.1 Principal

- (a) Your principal is the total amount we have advanced to you under your Facility, including (for Facilities under section **B.5**) under a Payment Instrument.
- (b) You must repay the principal advanced under your Facility:
  - (i) as set out in **Part B** and your Offer Document, and
  - (ii) in full by the final repayment date of the Facility, together with any other amounts still owing.
- (c) We will not require you to repay the Residual Balance until the end of the Term unless you are in Default. We are under no obligation to refinance your Residual Balance.

#### A3.1.2 Interest

- (a) You must pay interest on the principal and any other outstanding amounts as set out in **Part B** and your Offer Document and Account Confirmation Document.
- (b) The Interest Rates that apply to a Facility are described in **Part B** and the Offer Document and Account Confirmation Document.
- (c) Unless otherwise specified:
  - (i) We start calculating interest daily from the day we lend you money. We calculate the daily rate by dividing the Interest Rate by 365 (even in a leap year).
  - (ii) We calculate your interest payments on the last calendar day of your agreed charging period (for example, each month) after

processing all transactions on the *Loan Account*. Unless we have agreed to interest in advance payments, we charge interest and fees the next day.

- (iii) If we agree to allow you to pay interest in advance, we charge interest for the whole *Interest in Advance Period* on the first day of that period. If you later pre-pay the *Facility* during that period, we will apply an *Interest in Advance Rebate*.

#### A3.1.3 Default Interest

- (a) This clause does not apply to *Card Facilities*.
- (b) You must pay us *Default Interest* on any amount, including interest, which you fail to pay on the due date.
- (c) This does not affect your obligation to make all payments on time.
- (d) We charge *Default Interest*:
- (i) at our default interest rate: see [commbank.com.au/business/rates-fees.html](http://commbank.com.au/business/rates-fees.html); and
- (ii) daily on the overdue amount, including interest from the due date until the overdue amount is paid.
- (e) You must pay any outstanding *Default Interest* on the day you pay out the *Facility*.

#### A3.1.3A Excess Drawing Interest

- (a) This clause does not apply to *Card Facilities*.
- (b) You must pay us *Excess Drawing Interest* on any amount which exceeds your *Limit*.
- (c) This does not affect your obligation to make all payments on time.

- (d) We charge *Excess Drawing Interest*:

- at our monthly excess drawing interest rate: see [commbank.com.au/business/rates-fees.html](http://commbank.com.au/business/rates-fees.html)
- daily on the overdrawn amount from the date it became overdrawn until the overdrawn amount is paid.

- (e) You must pay any outstanding *Excess Drawing Interest* on the day you pay out the *Facility*.

#### A3.1.4 Fees

- (a) You must pay fees as set out in **Part B** and your Offer Document as changed from time to time under **clause A.4**.
- (b) For a fee expressed as a per annum percentage, we calculate the daily rate by dividing the percentage by 365 (even in a leap year), unless otherwise specified.
- (c) We will provide you with a statement of the current standard fees, charges and interest rates applicable to your *Facility*, if you ask us.

#### A3.1.5 Establishment and management costs

- (a) You must reimburse us for costs we reasonably incur establishing or managing your *Facility* as disclosed in the *Offer Document* whether or not the *Facility* proceeds, including government duties, fees, taxes and legal costs.
- (b) If we can apply for a refund or credit for costs paid by you, we'll apply for it and pay you whatever part of it is owed to you.
- (c) We will provide you with a statement of the current standard fees, charges and interest rates applicable to your *Facility*, if you ask us.

## A3.2 When you must pay

- (a) *Your Offer Document or Account Confirmation Document* sets out *your* repayment details, including the times *you* must make repayments.
- (b) *Your* scheduled repayments will include a portion of *your* principal, unless *your Facility* has an interest-only period.
- (c) If any day that a payment is required to be made is not a business day that payment must be made on the first *Business Day* after that day.
- (d) If a repayment is due on the 29th, 30th or 31st day of the month, but a month does not have that date, it will be due on the last day of that month.

## A3.3 How you pay

### A3.3.1 Authorisation

*You* authorise *us* to debit *your Loan Account* or *your Nominated Account* for any fees, interest, repayments, establishment and management costs, or other amounts owing under this Contract.

### A3.3.2 Direct Debit – *Nominated Account*

- (a) This **clause A3.3.2** applies if *we* require *you* to pay, or *you* request *us* to pay, by direct debit.
- (b) At all times *you* must maintain an approved *Nominated Account* with sufficient funds and an up-to-date direct debit authority for each *Facility*.
- (c) Usually, the *Nominated Account* must be a transactional account with *us* that is in *your* name.
- (d) At *our* discretion, *we* may allow *you* to choose a *Nominated Account* in the name of a third party or with another financial institution.
- (e) *You* must make sure that any *Nominated Account* has enough

money to meet *your* payment obligations from time to time.

- (f) *We* can help *you* by taking a request to cancel the *Direct Debit Request* and forwarding it to the *Direct Debit User* on *your* behalf. *We* can also stop payments to the *Direct Debit User*, which will prevent all debits for that *Direct Debit User* from being paid from *your* account.

### A3.3.3 What happens if a payment is dishonoured

- (a) If a payment is dishonoured, it will be treated as if it has not been made. This may mean *you* default on *your* obligations, *your Nominated Account* may become overdrawn and *you* may incur associated fees.
- (b) *We* may try to collect the payment again on a later date by the same method.

### A3.3.4 *We* can open a payment account If a payment is not made on time under the *Contract*, *you* authorise *us* to:

- (a) debit the credit balance of any other account *you* have with *us* to wholly or partly repay the outstanding amount; or
- (b) open a payment account in *your* name against which *we* may debit any outstanding amount *you* owe *us* under the *Facility*, including *Default Interest* on the outstanding amount.

*We* will promptly inform *you* if *we* have done either of the above.

## A3.4 How we apply your payments

If *you* have more than one *Facility* and pay more or less than the required amounts on any of them, *we* can decide how to apply any payment *you* make to *your Facilities*, unless *you* advise *us* how *you* want it applied.

### **A3.5 If you cancel the Facility before funding**

If you end the *Contract* before we provide the *Facility*, we can ask you to pay the accrued fees and charges under the *Contract* and keep fees and charges you have already paid for services provided.

### **A3.6 Amounts in foreign currencies**

- (a) We provide *Facilities* in Australian dollars and foreign currencies approved by us (these can change based on their availability).
- (b) When you make a foreign currency payment, we'll calculate the Australian dollar equivalent at our same day value selling rate, at 11:00 am on the day we make the calculation.

## **A.4 CHANGES TO YOUR FACILITY**

### **A4.1 Changes you and we agree**

- (a) Your *Contract* can only be changed in writing signed by you and us, except as set out in these *Terms and Conditions*.
- (b) If you ask for a change to the *Facility* and we agree, we'll send you a new *Offer Document*, an *Account Confirmation Document* or both. We may ask you to sign the documents to confirm the changes.

### **A4.2 Changes we can make without your agreement**

- (a) The types of changes we can make to the *Contract* without your agreement are listed in the table below with the minimum notice period and the way we'll let you know of the changes. We'll act reasonably in exercising these rights and only to the extent reasonably necessary to protect our legitimate business interests.

- (b) Each of the type of changes below is a separate right and this **clause A4.2** is to be read as if each change was a separately expressed right.
- (c) If you don't like any of the changes, you can cancel the *Contract* by repaying the *Facility*. At that time, you may have to pay fees and charges, such as an *Early Repayment Adjustment* and an *Administration Fee*.
- (d) No notice of change is required if a particular change has already been agreed in the *Contract* (for example, the expiry of special pricing on a certain date).
- (e) We can't change a *Fixed Rate* during the *Fixed Rate Period*. However, unless otherwise agreed, *Fixed Rates* described in an *Offer Document* are indicative only until the *Fixed Rate Period* and we do not have to notify you of the final *Fixed Rate* before the *Fixed Rate Period* begins.

## Changes table

What we can change	How we can change it	Minimum notice period	How we will notify you about the change
<p>(i) <i>Variable Interest Rates or Bill Rates</i> which are not <i>Market-Linked Rates</i>.</p> <p>Includes reference rates, margins and premiums.</p> <p>Note: CBA reference rates are also published on <a href="http://commbank.com.au">commbank.com.au</a>.</p>	Increase them. <sup>1</sup>	<p>If we haven't made the same change to other customers' <i>Interest Rates</i>, 30 days.</p> <p>Otherwise, no later than the day on which the variation takes effect.</p>	As set out in <a href="#">clause A9.2</a> .
<p>(ii) <i>Variable Interest Rates</i> which are <i>Market-Linked Rates</i>.</p> <p>Includes reference rates, margins and premiums.</p>	Increase them. <sup>1</sup>	As soon as reasonably practicable (we are not able to notify <i>you</i> of these in advance).	As set out in <a href="#">clause A9.2</a> .
<p>(iii) <i>Variable Interest Rates</i></p>	<ul style="list-style-type: none"> <li>Change the basis on which interest is calculated.</li> <li>Change the frequency with which interest is debited or credited.</li> </ul>	30 days.	As set out in <a href="#">clause A9.2</a> .

What we can change	How we can change it	Minimum notice period	How we will notify you about the change
(iv) <i>Fees (including any fee expressed as a percentage of your Outstanding Balance or Limit or other amount)</i>	• Introduce a new bank fee. <sup>1</sup>	30 days.	As set out in <u>clause A9.2.</u>
	• Increase an existing bank fee. <sup>1</sup>	30 days.	As set out in <u>clause A9.2.</u>
	• Introduce a new or change an existing government fee which you pay under the <i>Contract</i> .	We won't notify you about the change if the change is publicised by the government.  Otherwise, we will notify you no later than the day on which the variation takes effect.	As set out in <u>clause A9.2.</u>
(v) <i>Repayments</i>	• Increase the amount or frequency of scheduled repayments.	30 days.	As set out in <u>clause A9.2.</u>
(vi) <i>Facility Limit</i>	Reduce or cancel the <i>Limit</i> .		As set out in <u>Part B</u> for the particular <i>Facility</i> .

What we can change	How we can change it	Minimum notice period	How we will notify you about the change
(vii) <i>Any other term in the Contract</i>	Make any change which reduces <i>your</i> obligations or extends time for payment, including reducing interest rates, fees, or scheduled repayments.	No later than when we give <i>you</i> the next statement of account.	As set out in <u>clause A9.2</u> .
	<p>Make any <i>Regulatory change</i>, or make any change to:</p> <ul style="list-style-type: none"> <li>• Correct errors, inconsistencies or ambiguities.</li> <li>• Reflect changes in technology or <i>our</i> processes, including computer systems.</li> <li>• Include new product features or services, or changes to better meet customer needs.</li> <li>• Add, change or remove any concessions or benefits.</li> <li>• Bring <i>us</i> into line with <i>our</i> competitors, industry or market practice or best practice in Australia or overseas.</li> <li>• (<i>Card Facilities</i> only), manage risks including credit risk, fraud, operational or regulatory risk as we consider necessary.</li> </ul> <p>Make any other change which we reasonably consider is not adverse to <i>you</i> (except if <i>you</i> are a <i>Large Business Customer</i>, in which case, we can make a change whether adverse or not).</p>	<p>90 days if we reasonably consider the change will be adverse to <i>you</i>, except where urgent action is reasonably necessary to protect <i>our</i> legitimate interests or manage <i>our</i> risk.</p> <p>Otherwise no later than the day the change takes effect.</p>	As set out in <u>clause A9.2</u> .

1. For example, *Facility* pricing (e.g. margins, fees and rates) may be increased for the following reasons:

- Deterioration in credit worthiness;
- Increases in *our* costs;
- *Regulatory Change*; or
- Changes in market conditions.



## A.5 MANAGING YOUR ACCOUNT

### A5.1 Appointing Authorised Representatives

- (a) *You can appoint one or more Authorised Representatives by signing our usual authority and providing evidence we request to complete Know Your Customer Checks. Different authorities may be required for different instruction methods.*
- (b) *Your Authorised Representatives can agree terms for any Facility. For example, an Authorised Representative may:*
  - (i) *authorise or cancel any transaction;*
  - (ii) *agree to interest rates or repayment terms;*
  - (iii) *request rollovers;*
  - (iv) *agree on arrangements for ending this Contract or any related document or agreement; and*
  - (v) *obtain any information about the Facility.*
- (c) *Where there are multiple Borrowers, each Authorised Representative is authorised to act for all the Borrowers.*
- (d) *When you appoint an Authorised Representative:*
  - (i) *you authorise us to rely on all instructions from anyone we reasonably believe to be an Authorised Representative (whether orally in person or by phone, in writing, email or via one of our electronic banking platforms), without the need to make further enquiries; and*
  - (ii) *you release us from any liabilities and indemnify us for any losses resulting*

from their appointment, except those caused by *our* negligence, wilful misconduct or fraud.

The authority under this **clause A5.1** is in addition to any existing authority for *your Facility* and will not be revoked by any other authority unless *we* agree in writing.

### A5.2 Cancelling or changing Authorised Representatives

*You may cancel or change your Authorised Representatives by notifying us in writing. We may notify you we will no longer accept instructions from any Authorised Representative.*

### A5.3 Providing information about others

- A5.3.1 *You may give us information about others (such as a joint applicant or, if you are an organisation, its officers or owners). If you do, you must have their authority and direct them to read the Privacy Collection Notice at the start of this document.*

## A.6 YOUR ONGOING OBLIGATIONS

### A6.1 Financial information

- A6.1.1 Keeping *us* informed
  - (a) *You must tell us if:*
    - (i) *you change your address or contact details (including email address);*
    - (ii) *anyone is appointed to investigate your affairs or those of a Guarantor which may have a Material Adverse Effect;*
    - (iii) *any Security Property is materially contaminated or is the subject of an environmental clean-up notice which may have a Material Adverse Effect; and*

- (iv) there is any material litigation, dispute or claim made against *you* or *your* business which may have a *Material Adverse Effect*.
- (b) *You* must give *us* any relevant information or documents that might affect any *Security Property* or *Security* if *we* reasonably request them.

#### A6.1.2 Keeping records and providing financial information

- (a) *You* must keep proper accounts and records, according to current laws and generally accepted practices, to give a true and fair view of *your* financial position.
- (b) At any time, on reasonable notice (usually at least 30 days), *we* can ask for an audit of *your Management Accounts* or any information *we* reasonably require about *you*, *your* business or related matters, including transactions conducted using a *Facility*. This includes information to comply with, or manage *our* risk in relation to, any laws (for example, anti-money-laundering laws).
- (c) *You* must give *us* copies of:
  - (i) *your Management Accounts* and those of all *Related Parties* whenever *we* reasonably require them;
  - (ii) a certified copy of *your* constitution if *we* ask for it; and
  - (iii) un-audited *Management Accounts* within 35 days of the end of each month if *we* ask for them.
- (d) *You* must also give *us* this company information within 30 days if *we* ask (but *you* don't have to give *us* the information until 120 days after the end of the relevant financial year):

- (i) copies of *your* annual *Management Accounts*;
- (ii) balance sheets and income statements for *your* directors, shareholders, proprietors and *Security Providers*;
- (iii) monthly cash flow projections for the following financial year;
- (iv) a list of all outstanding accounts payable and receivable, noting how long they have been outstanding; and
- (v) a list of stock *you* hold.

#### A6.2 Tax reporting information

- (a) As part of Australia's international obligations to combat tax evasion, *we* may ask *you* to provide additional information about *yourself*, a trust settlor or beneficiaries. Until *you* provide this information, *we* may be obliged to stop *you* withdrawing any credit funds.
- (b) *You* must notify *us* promptly if the information *you* provide is out of date, by calling:
  - (i) From Australia: 1300 077 141 (9am – 5pm in *your* state, Monday – Friday),
  - (ii) From overseas: +61 2 9283 6096 (9am – 8pm, Sydney time, Monday – Friday). Call charges may apply.

#### A6.3 Financial covenants

- (a) *You* must comply with any *Financial Covenants* set out in *your Offer Document*.
- (b) *Usually*, *your Offer Document* will not contain a *Financial Covenant* unless *you* are a *Large Business Customer* or *your Facility* involves specialised lending, such as margin lending, foreign currency

lending, receivables financing or lending for property development.

## A6.4 Other obligations

### A6.4.1 Helping *us*

- (a) *You* agree to provide *us* with the assistance *we* reasonably require to:
- (i) ensure *your Contract* and any *Guarantees* are effective and binding;
  - (ii) ensure any *Security* is enforceable, perfected and effective, with the priority *we* require;
  - (iii) exercise rights over the *Security* or the *Security Property*;
  - (iv) show *you* have complied with *your* obligations under the *Contract* or any *Security*;
  - (v) help *us* get:
    - (A) possession or control of, all negotiable instruments, marketable securities and similar instruments that are part of the *Security Property*, and
    - (B) all documents of title or certificates (for example, share certificates) for the *Security Property*.
- (b) *You* also agree to help ensure *Security Providers* do anything *we* reasonably require for these purposes.

### A6.4.2 Valuation

*We* may, not more than once every 2 years, request that the *Security Property* be revalued at *your* cost. If *we* do an inspection or valuation of the *Security Property* and *we* require *you* to pay for the inspection

or valuation of a commercial or agricultural real property, a copy of the associated report will be provided to *you* (except if enforcement proceedings have commenced).

### A6.4.3 Maintaining insurance

If *we've* told *you* *we* require any insurance, *you* must maintain it with a reputable insurer to the level and against the risk *we* reasonably require, and give *us* evidence that *you* have it.

### A6.4.4 Getting *our* consent for changes to a company

- (a) If *you're* a company, *you* must ask for *our* consent before:
- (i) changing *your* form, nature, beneficial ownership, management or *Control*;
  - (ii) entering, revoking, cancelling, waiving or changing a *Cross Guarantee*; or
  - (iii) borrowing more than \$100,000 if it could have a *Material Adverse Effect*.
- (b) *You* must notify *us* in writing within 10 days of becoming aware that:
- (i) any of these things has happened, or
  - (ii) there is a proposal for any of them to happen.
- (c) *We* won't unreasonably withhold *our* consent.

### A6.4.5 Complying with *our* consents

*You* must comply with all the conditions in any consent *we* give under this *Contract*. *We'll* only refuse *our* consent or impose conditions if it's reasonable to do so.

### A6.4.6 No assignment

*You* may not assign *your* rights under this *Contract* without *our* prior written consent.

## A.7 DEFAULTING ON YOUR CONTRACT

### A7.1 General obligations

- (a) *You* must make sure *you* are not in *Default*.
- (b) Each of the following situations listed in this **clause A.7** is a separate event and this clause is to be read as if such situation was a separately expressed event constituting a *Default* under the *Contract*.

### A7.2 Default – All Borrowers

Subject to clause A7.4.4, *you* will be in *Default* if:

- (a) *you* miss a scheduled repayment or don't pay *us* an amount by the due date;
- (b) *you* exceed *your Limit* (whether due to *Drawings*, currency fluctuations, interest or other charges being debited to the *Loan Account*, or otherwise) and *you* fail to repay such amount as is necessary to reduce the *Outstanding Balance* to an amount not exceeding the *Limit*:
  - (i) by the time required by these *Terms and Conditions*; or
  - (ii) if otherwise agreed with *you* in writing, by the agreed time; or
  - (iii) if neither (i) or (ii) apply, before the expiry of 90 days (whichever of (i), (ii) or (iii) above applies, the relevant time or date is the "due date" for the purposes of **clause A3.1.3** and the definition of *Default Interest*).
- (c) *you* or a *Guarantor* is *Insolvent*, goes into bankruptcy, voluntary administration, restructuring (under Part 5.3B of the Corporations Act), other insolvency process or

arrangement, or no longer has legal capacity;

- (d) material creditor enforcement action is taken against *you* or a *Guarantor* or their assets;
- (e) we believe on reasonable grounds that:
  - (i) it becomes unlawful for *you* or *us* to continue with the loan; or
  - (ii) *you* or a *Guarantor* has not complied with a material law or any material requirement of a statutory authority; or
  - (iii) *you* or anyone else associated with the *Facility* is a *Proscribed Person*;
- (f) *you* or a *Guarantor* (or someone acting on *your* behalf or on behalf of a *Guarantor*, for example *your* or a *Guarantor's* accountant) gives *us* information or makes a representation or warranty to *us* which is materially incorrect or misleading (including by omission) and which materially increases *our* risk in relation to a *Facility*;
- (g) *you* use the *Facility* for a non-approved purpose which materially increases *our* risk in relation to a *Facility*;
- (h) a *Security Provider's* assets are dealt with, or attempted to be dealt with in breach of the loan, or any *Security* or other agreement with *us* without *our* consent and such dealing materially increases *our* risk in relation to a *Facility*;
- (i) *you* or a *Guarantor* do not provide *us* financial information as required;
- (j) *you* or a *Guarantor* do not maintain a material licence or permit required to conduct business;

- (k) *you* or a *Guarantor* do not maintain required insurance for the *Security*;
- (l) *we* decide there has been an unacceptable material change in the legal or beneficial ownership, or management or *Control* of *you* or a *Guarantor* or *your* or their business changes without *our* consent (for example, a material change of *Control* will occur where a person, or 2 or more persons acting in concert, have acquired a 50% or more interest in *you*); or
- (m) in relation to a *Facility* which is a property development loan, receivables financing, foreign currency loan, margin loan or other specialised lending, *you* breach a *Financial Covenant*.
- \$100,000 *we* owe *you* or a *Guarantor* which is not set aside;
- (f) *you* breach a *Financial Covenant*;
- (g) *you* are a company and any action is taken to start the winding up or deregistration of the company;
- (h) part or all of the *Security Property* is lost, stolen, seized, damaged beyond repair or subject to a court order which could have a *Material Adverse Effect*;
- (i) *you* don't keep to the other terms or conditions of *your Contract*;
- (j) *you* or a *Guarantor* don't keep to the terms or conditions of any *Security*; or
- (k) anything happens that in *our* reasonable opinion could have a *Material Adverse Effect*.

### A7.3 Large Business Customers

If *you* are a *Large Business Customer*, *you* will also be in *Default* if:

- (a) early repayment is required under a separate financing arrangement *you* or a *Guarantor* has with *us*, due to an event of default (however described) arising from failure to meet a payment obligation;
- (b) *you* have to repay debts of more than \$100,000 to a third party earlier than expected because of default, or *you* don't pay debts of more than \$100,000 to a third party when they are due;
- (c) *you* or a *Guarantor* stop paying creditors, admit that *you* or they can't pay bills, or stop carrying on business (or threaten to);
- (d) *you* or a *Guarantor* propose, or enter into, any arrangement with *your* creditors because of liquidity problems;
- (e) a court or any other authority issues an order or attachment notice over money of more than

### A7.4 What happens when you are in Default

- A7.4.1 (a) If *you're* in *Default*, and it can be fixed, *we'll* give *you* notice of the *Default* and 30 days to fix it before exercising *our* rights under the *Contract* (unless a shorter notice period, or no notice period is reasonable to manage a material and immediate risk relating to the nature of the relevant *Default*, *your* particular circumstances, or the value of the *Security Property*).
- (b) Despite paragraph (a), *we* may charge *Default Interest* under **clause A3.1.3** immediately.
- (c) If *you're* in *Default*, and it can't be fixed, *we'll* give *you* notice of the *Default* if *we* exercise *our* rights under the *Contract* (this may occur after *we* have exercised *our* rights).
- A7.4.2 *We* may exercise *our* rights under the *Contract* if *you* are in *Default* and:



- (a) it can't be fixed;
- (b) it can be fixed and *you* haven't fixed it by the time *we* have asked;
- (c) *we* have made reasonable attempts to contact *you* without success; or
- (d) it can be fixed but *we* have not given *you* time to fix it and it is reasonable for *us* to do so to manage a material and immediate risk relating to the nature of the relevant *Default*, *your* particular circumstances, or the value of the Security Property.

A7.4.3 Subject to the above, actions *we* may take if *you* are in *Default* include:

- (a) cancelling or suspending access to a *Facility* or *Limit*;
- (b) stopping payments under a *Facility*;
- (c) terminating the *Contract*;
- (d) requiring immediate payment within 7 days of the *Outstanding Balance* and any other amounts payable by *you* under the *Contract*;
- (e) seizing and selling any *Security Property* or appointing a receiver in relation to any *Security Property*;
- (f) suing *you*; and
- (g) if clause **A.7.2(e)(ii)** applies:
  - refusing to process any of *your* transactions;
  - stopping providing a product or service to *you*; or
  - refusing to use, deal with or facilitate any assets of *yours* held by *us* (such as refusing to accept or credit a payment to a *Facility*), and *we're* under no liability to *you* if *we* do any, or all, of these things in good faith.

A7.4.4 Unless *you* are a *Large Business Customer*, *we* will only act on a

specific event of non-monetary default, if the event by its nature is material, or *we* reasonably consider the event has had, or is likely to have, a material impact on:

- (a) *You* and *your* Guarantor's ability to meet *your* or their financial obligations to *us*;
- (b) *Our* credit or security risk (or *our* ability to assess these);
- (c) *Our* legal or reputation risk where:
  - (i) *we* believe on reasonable grounds that *you*, *your* agent or a Guarantor has not complied with a material law or any material requirement of a statutory authority, or it becomes unlawful for *you* or *us* to continue with the loan;
  - (ii) *you* or anyone else associated with the *Facility* is a *Proscribed Person*,
  - (iii) *you* or a Guarantor gives *us* information or makes a representation or warranty to *us* which is materially incorrect or misleading (including by omission);
  - (iv) *you* use the *Facility* for a non-approved purpose.

A7.4.5 If *we* get a court order for *you* to pay *us* an amount, *we* will charge interest on that amount using the highest of these rates:

- (a) the rate in the court order;
- (b) the applicable statutory interest rate; or
- (c) the rate in the *Contract*.

A7.4.6 *You* must pay *us* any reasonable expenses *we* incur in enforcing the *Contract*, including any *Break Cost*. *We* can set off any amount *we* owe *you* now or in the future against any amount *you* owe *us*.

**A7.5 Evidence of your current balance**

A written statement signed by one of *our Authorised Officers* can be used as evidence of the current balance of *your Facility*, unless *you* provide evidence to the contrary.

**A.8 TRUSTEES****A8.1 Declarations**

If *you* are a trustee of a trust, *you* confirm:

- (a) any other trustees of the trust are *Borrowers* under this *Contract*;
- (b) *you're* also entering the *Contract* in *your* personal capacity;
- (c) *you* have the power under the trust deed and all the necessary authorisations to enter into the *Contract* and observe *your* obligations under it;
- (d) *you* have a right to be fully indemnified for all *your* obligations under the *Contract* out of the property *you* hold on trust;
- (e) the trust is validly constituted and has not been terminated;
- (f) either:
  - (i) there is no conflict of interest affecting *you* as trustee, *your Related Parties* or directors preventing *you* entering into or performing *your* obligations under the *Contract*; or
  - (ii) the trust deed permits *you* to enter into and perform *your* obligations under the *Contract* despite any conflict of interest that may affect *you*, *your Related Parties* or directors;
- (g) the trust fund is sufficient to satisfy *your* right of indemnity;
- (h) *you* are not in material default under the trust deed and

no action has been taken or proposed to terminate the trust;

- (i) *you* have complied with *your* trustee obligations, and *your* directors and officers have complied with their obligations, if the trustee is a company;
- (j) *you* have taken every necessary action to be authorised to execute the *Facility* and perform *your* obligations under the *Contract*;
- (k) executing the *Contract* is not a breach of trust on *your* part; and
- (l) *our* rights under the *Contract* have priority over the interest of the beneficiaries of the trust.

**A8.2 What you agree to do**

*You* agree to:

- (a) give *us* a copy of the trust deed and any other documents setting out the terms of the trust when we ask or when they change;
- (b) exercise or hold for *us* *your* right of indemnity from the trust fund and the beneficiaries when we ask *you* to do so, so *you* can pay *us* any money owed under the *Contract*;
- (c) observe and perform *your* obligations as trustee of the trust; and
- (d) ensure any successor trustee complies with these *Terms and Conditions*.

**A8.3 What you agree not to do**

Without *our* consent, *you* will not do anything to:

- (a) retire or be removed as trustee;
- (b) allow additional trustees to be appointed;
- (c) terminate the trust or vary the trust deed in a way that affects *your* ability to fulfil *your* obligations under the *Contract*;
- (d) re-settle the trust fund or determine a vesting date; or



- (e) limit *your* right of indemnity from the trust fund for actions *you* take to fulfil *your* obligations under the *Contract*.

- (iv) by advertising in the national or local media if this is permitted under **clause A4.2**; or

## A.9 NOTICES

### A9.1 How to send us notices

All notices *you* send *us* must be in writing. *You* can send *us* notices by:

- (a) delivering them to the branch; or  
(b) post or email,

using the contact details in *your Contract*.

### A9.2 How we will contact you

#### A9.2.1 Notice methods

*We* can give *you* a notice:

- (a) in person at a branch;  
(b) by delivering or posting it to *your* last known address; or  
(c) by faxing it to *your* last known fax number; or  
(d) if *we* are permitted by law and the Code of Banking Practice or the Banking Code of Practice (as the case may be):
- (i) by emailing it directly *your* last known address;  
(ii) in a digital message given in an online banking platform of ours (for example CommBiz or NetBank) or given in or through our app; or  
(iii) by notifying you (for example via a digital message given in an online banking platform of ours (for example CommBiz or NetBank) or in or through our app) that you can view it on our website or an online banking platform; or

- (e) in any other way permitted by law; or  
(f) in any other way agreed with you.

#### A9.2.2 When a notice takes effect

Unless a later date is set out in the notice, *our* notices to *you* take effect as follows:

Notices sent by	Take effect
Post	On the day they would normally be received.
Fax	At the time shown on a transmission report showing the fax was sent in full.
Email	On the day the email is received by <i>your</i> email host or internet service provider.
Digital message (in an online banking platform for example NetBank or CommBiz or in or through our app)	On the day that the digital message appears on the online banking platform or appears on or through our app.
Making it available online	On the day the notice advising <i>you</i> it is online takes effect.
Advertising in media	On the day the advertisement appears in the media.

## A.10 OUR RIGHTS, REVERSED PAYMENTS AND REFUSAL OF SERVICE

### A10.1 Exercising our rights

- A10.1.1 *We* can enforce this *Contract* before or after *we* enforce *our* rights under any *Security*. If *we* don't exercise a right fully or at a given time, *we* can

still exercise it later, unless we have expressly agreed not to or it would be unconscionable.

A10.1.2 *Our rights and obligations under this Contract:*

- (a) can be exercised by any of *our Authorised Officers, lawyers or agents;*
- (b) are in addition to other rights provided by law independently of the *Contract*; and
- (c) can be assigned or otherwise dealt with at any time and in any way we consider appropriate (for example, as part of a sale of business or a business restructure; for the purposes of a securitization, the issue of covered bonds or similar funding arrangement; or if we sell *your* debt to another party such as a debt collector).

A10.1.3 If we notify *you* that we have assigned *our* rights under this *Contract* to an assignee, *you* can exercise the same rights against the assignee.

## A10.2 Severance

If any provision of these terms and conditions is found to be illegal, void or unenforceable for unfairness or any other reason (for example, if a court or other tribunal or authority declares it so) the remaining provisions of these terms and conditions will continue to apply to the extent possible as if the void or unenforceable part had never existed.

## A10.3 Exclusions

- (a) Unless the law doesn't allow it, any law that limits *our* rights under this *Contract* is excluded.
- (b) The rights we have under this *Contract* are independent of the rights we have under any *Security*, or *our* rights under the law. We can exercise them even if we get an order or judgment against *you*.

## A10.4 Returns and mistaken payments

We may be obliged or may reasonably agree to refund a payment if ordered by a court or if a trustee in bankruptcy, a liquidator or someone else asks *us* to do so (for example, as a result of a mistaken payment). If that happens, we may return the funds to the relevant party without giving *you* prior notice and treat the original payment as not having been paid to *us*.

## A10.5 When we can refuse to serve you

A10.5.1 We may:

- (a) refuse to process any of *your* transactions;
- (b) stop providing a product or service to *you*; or
- (c) refuse to use, deal with or facilitate any assets of *yours* held by *us*, when
- (d) we are permitted to under clause A7 (*Default*), or,
- (e) subject to *our* obligations under the Banking Code of Practice, immediately and without giving *you* a reason, if:
  - we reasonably consider necessary to comply with *our* financial crimes policies or any laws (e.g. Sanctions) in Australia or overseas, including if we believe on reasonable grounds that *you* or *your Authorised Representative, or another person involved in a Facility transaction is a Proscribed Person, or*
  - (applicable to Facilities obtained or varied by agreement from 13 July 2021 and any *Facility* where *you* are a *Large Business Customer*) we believe on reasonable grounds that *you* are or will soon be a resident or visitor of a *Sanctioned Jurisdiction*.

A10.5.2 *We're under no liability to you if we do any, or all, of these things in good faith.*

A10.5.3 Nothing in these *Terms and Conditions* restricts rights we may have under other terms or conditions to refuse service.

## A.11 MEANING OF WORDS

### A11.1 Interpretation

- (a) A reference in this document to:
- (i) the singular – includes the plural and vice versa;
  - (ii) a document – includes any variation or replacement of it;
  - (iii) law – means common law, principles of equity, and laws made by parliament (including regulations and other instruments under laws made by parliament and consolidations, amendments, re-enactments or replacements of any of them);
  - (iv) a thing – includes the whole and each part of it; and
  - (v) 'includes', 'including' or an 'example' is without limitation.
- (b) If a *Contract* references a defined term which is not listed in these *Terms and Conditions*, its meaning is as it was defined in the last version of the *Terms and Conditions* which included that definition.

### A11.2 Understanding Financial Covenants

Following is an explanation of some terms used in common *Financial Covenants*.

#### Aggregate Facility Limit or AFL

- (a) *Your Offer Document* may set out an *Aggregate Facility Limit*, which is the maximum amount we are willing to lend you across all of *your Facilities*.

- (b) Over time, *your Aggregate Facility Limit* decreases by the amount of the loan principal you have paid off. If the total amount owing under *your Facilities* exceeds *your Aggregate Facility Limit* at any time, you must immediately repay the amount over that limit.

#### Business Asset Ratio

The ratio of:

- (a) the sum of each *Group Member's Qualifying Current Assets*, cash and short-term deposits and investments, to
- (b) the sum of each *Group Member's Creditors*.

#### Credit Exposure Limit or CE

- (a) The *Offer Document* may include a *Credit Exposure Limit*, which is the maximum amount we are willing to lend you across all of *your Facilities*, depending on the *Value of Qualifying Current Assets*.
- (b) It is calculated as a percentage of the *Value of Qualifying Current Assets* set out in *your Offer Document*.
- (c) If the value of *your* qualifying *Current Assets* falls below the VQCA at any time, *your Credit Exposure Limit* will also fall. If this happens, you must immediately repay any amount over the *Credit Exposure Limit*.

#### Creditors

The total value of money owed by you to others, including trade creditors and *Sundry Creditors/ Accruals*.

#### Current Assets

The sum of each *Group Member's* total current assets, less the amount of any loans receivable within 12 months from beneficiaries, shareholders, directors or *Related Parties*.

**Current Liabilities**

The sum of each *Group Member's* total current liabilities, less the total amount of any loans payable within 12 months to any beneficiaries, shareholders, directors or *Related Parties*.

**Current Ratio**

The ratio of:

- (a) *Current Assets*, to
- (b) *Current Liabilities*.

**Debt Service Coverage Ratio**

The ratio of:

- (a) *Earning Before Interest, Tax, Depreciation and Amortisation (EBITDA)* PLUS non-recurring expenses MINUS non-recurring income, to
- (b) principal and *Interest Expense*.

**Earnings Before Interest**

The sum of each *Group Member's Net Profit* plus *Interest Expenses*, for the *Reporting Period*.

**Earnings Before Interest and Tax**

The sum of each *Group Member's Net Profit Before Tax* plus *Interest Expenses*, for the *Reporting Period*.

**Earnings Before Interest, Tax, Depreciation And Amortisation (EBITDA)**

For the *Reporting Period*, the sum of each *Group Member's*:

- (a) *Net Profit Before Tax* from their business operations, plus
- (b) *Interest Expenses*, Depreciation Expense and Amortisation.

**Environmental Law**

A law regulating or otherwise relating to the environment, including but not limited to:

- (a) any law relating to land use or planning, pollution of air or water, soil or ground water

contamination, chemicals, waste, use of dangerous goods, or to any other aspect of protection of the environment or persons or properties; and

- (b) any statute now or in the future in force relating to heritage places, clearing land within the boundaries of catchment areas and water reserves and the protection and management of natural vegetation.

**Interest Coverage Ratio**

The ratio for the *Reporting Period* of:

- (a) Earnings Before Income Tax, Depreciation & Amortisation (EBITDA), to
- (b) *Interest Expense*.

**Interest Expense**

The total interest paid or accrued for any finance or other financial accommodation granted to any *Group Member*.

This includes any:

- (a) fees and charges (including commitment, utilisation and non-utilisation fees of a regular and recurring nature calculated as a percentage fee of the limit or balance) for any finance or other financial accommodation including any guarantee, indemnity or *Letter of Credit* under any bill of exchange, promissory note or discounting arrangement, and
- (b) finance charges under any hire purchase or lease agreements for which a *Group Member* is actually or contingently liable.

**Liquidity Ratio**

The ratio of:

- (a) the sum of *Current Assets* and the amount of the financial accommodation we've made available to you, less the

actual or contingent amount outstanding, to

(b) *Current Liabilities*.

### **Net Profit Before Tax**

Each *Group Member's* gross sales/ revenue from normal operating activities, less any allowable discounts and total expenditure (brought to account on an accrual basis).

### **Net Worth**

The sum of each *Group Member's Total Tangible Assets* less their *Total External Liabilities*.

### **Non-Tangible Assets**

Intangible assets including, but not limited to, goodwill, copyright, patents and licences.

### **Property Development Budget**

A document that details the total development costs, sales income and the cash flow timing of the development costs and sales income to determine the feasibility of and funding requirement for the project.

Total development costs are on a GST-exclusive basis and include acquisition costs, design/ council costs, building/ construction costs, holding costs, fixed selling costs, interest capitalisation and construction/project contingency. Sales income includes the gross realisations of the project less allowance for GST and sales commission.

### **Qualifying Current Assets**

The total of:

- (a) accounts receivable of less than 91 days standing
- (b) finished goods, work in progress and raw materials, excluding goods:
- (c) declared in writing by *us*, or by the *Group Member* who owns the goods, to be obsolete, and
- (d) which are subject to any claim by a *Group Member's* supplier.

### **Quick Asset Ratio**

The ratio of:

- (a) *Current Assets* less *Total Inventory*, to
- (b) *Current Liabilities*.

### **Reporting Period**

- (a) Any period we define as the reporting period, which we notify you of in writing.

### **Sundry Creditors/Accruals**

- (a) Amounts due and payable within the next 12 months by a *Group Member* to any third party. This does not include trade creditors or loans to two or more shareholders, directors or related parties.

### **Total Inventory**

The sum of each *Group Member's* finished goods, work in progress, and raw materials.

### **Total Assets**

A *Group Member's* total *Current Assets* and non-*Current Assets*.

### **Total External Liabilities**

- (a) *Total Liabilities (Current and non-Current Liabilities)*, less any loans to a *Group Member* from beneficiaries or from its shareholders, directors or *Related Parties*.
- (b) This doesn't include loans to a *Group Member* from beneficiaries or its shareholders, directors or *Related Parties* who are subordinated under a deed of subordination in favour of *us*, in respect of the *Facility*.

### **Total Interest Bearing Debt**

- (a) The aggregate amount of money borrowed or raised by each of the *Group Members* or financial accommodation made available to any *Group Member* which incurs *Interest Expense*.



- (b) This excludes any loans to a *Group Member* from beneficiaries or from shareholders, directors or *Related Parties*.

### **Total Liabilities**

The sum of each *Group Member's* total current and *non-Current Liabilities*.

### **Total Revenue**

- (a) The total of Gaming Machine Commissions or gaming machine net takings, plus all other revenue.
- (b) This includes bar takings and catering, commissions, interest and rent received and sundry income, but excludes abnormal and extraordinary items.

### **Total Tangible Assets**

*Total Assets* less:

- (a) the sum of each *Group Member's Non-Tangible Assets*, and
- (b) any loans by a *Group Member* to beneficiaries or to its shareholders, directors or *Related Parties*.

### **Total Wages to Total Revenue**

Total wages as a percentage of *Total Revenue*.

### **Value of Qualifying Current Assets (VQCA)**

The sum of each *Group Member's Qualifying Current Assets* at a point in time.

## **A11.3 Definitions**

In this *Contract*, the following words have the meanings given below:

### **Account Confirmation Document**

A document we prepare to supplement an *Offer Document* which is issued after the *Facility* is funded, or after a change to *your*

*Facility* which sets out applicable details of the *Facility* or *Loan Account*, including of the:

- (a) date of the first and subsequent *Drawdown* or funding;
- (b) *Interest Rate*;
- (c) repayment details;
- (d) interest charging frequency; and
- (e) *Fixed Rate Period*,

which are not known at the time we issue the *Offer Document*.

Later *Account Confirmation Documents* prevail over earlier *Account Confirmation Documents* and the *Offer Document* to the extent of any inconsistency.

### **Administration Fee**

The fee *you* pay *us* to cover *our* administrative costs relating to the *Pre-payment* of a fixed rate BetterBusiness Loan.

The fee amount is set out in the *Offer Document*.

### **Authorised Officer**

*Our* officers who meet the definition of 'officer' in the *Corporations Act*.

For example, those with 'manager' or 'executive' in their position title.

### **Authorised Representatives**

Any of *your* representatives or any *Person* other than *you* who have been identified in an authority to *us* including any *Person* referred to as an:

- (a) 'Authorised Signatory' on one of *our* standard forms of authority for business accounts; or
- (b) 'Authoriser' in one of *our* standard forms of authority for operation on Facilities using CommBiz.

### **Available Redraw Balance**

*Available Redraw Balance* means the difference between the balance

owing on the *Facility* and the estimated contracted balance at that point in time as calculated by *us*. This amount may be less than the total of any *Special Repayments* you have made.

### **BBSY**

See Bank Bill Swap Bid Rate (BBSY).

**Bank Bill Swap Bid Rate (BBSY)** means:

- (a) the 'Screen Rate'; or, if such rate is not available for any reason,
- (b) the arithmetic mean, (rounded upwards, if necessary, to four decimal places) of the rates quoted to *us* by the 'Reference Banks' at or about 10.30 a.m. (Sydney time) on the first day of the 'Relevant Period' (disregarding the highest and lowest rates quoted) for the purchase of a bill accepted by *us* or 'Reference Banks' having a face amount equal to the amount of the advance and a period equal or approximately equal to the 'Relevant Period' (or, if the 'Relevant Period' is subject to adjustment, for a term equal or approximately equal to the duration of the 'Relevant Period' prior to such adjustment); or, if the 'Screen Rate' is not available and fewer than two 'Reference Banks' are willing to provide quotes,
- (c) the rate reasonably determined by *us* to be *our* cost of funds having regard to prevailing market conditions.

If that rate is less than zero, the BBSY shall be deemed to be zero.

In this definition:

'Reference Banks' means National Australia Bank Limited, Westpac Banking Corporation and Australia and New Zealand Banking Group Limited or such other banks or

financial institutions as *you* and *we* may agree.

'Relevant Period' means the period to which BBSY or the BBSY-derived rate will apply under *your Contract* with *us*, which may mean, for example, the *Reset Period* for a Market Rate Loan.

'Screen Rate' means the Australian Bank Bill Swap Reference Rate (Bid) administered by ASX Benchmarks Pty Limited (ACN 616 075 417) (or any other person which takes over the administration of that rate) for the *Relevant Period* and displayed (before any correction, recalculation or republication by the administrator) on page BBSY of the Thomson Reuters Screen (or any replacement Thomson Reuters page which displays that rate). If such page or service ceases to be available, *we* may, acting reasonably, specify another substantially equivalent page or service.

### **Bill**

A bill of exchange (other than a cheque) for the purposes set out in the *Bills of Exchange Act 1909*.

For **Part B.5**, this includes a draft or a foreign *Bill*.

### **Borrower**

Each *Person* named as the 'Borrower' in the *Offer Document*.

If there is more than one borrower, the singular term is still used but refers to any combination of one or more borrowers.

### **Business Group**

The following entities are considered part of your Business Group for the purpose of the Large Business



Customer definition:

- (a) you;
- (b) each entity you control;
- (c) each entity which controls you; and
- (d) each other entity which is controlled by an entity referred to in (c).

An entity includes a natural person, corporation, trust, partnership and joint venture.

For the purposes of this definition of Business Group only, an entity controls another entity if it:

- (a) is a director or trustee of the entity;
- (b) is a partner or joint venturer in the entity, and there are no more than 4 partners or joint venturers in that entity; or
- (c) has a shareholding, voting interest, unit holding, partnership, joint venture, or other interest in the entity of 25% or greater.

Control includes direct control, and indirect control through other controlled entities.

### **IRRM Break Cost**

For a *Contract*, this is any costs or losses calculated in accordance with any requirements in **Part B** associated with:

- (a) liquidating or redeploying deposits or other amounts from third parties that were arranged or acquired for funding the *Contract*;
- (b) pre-paying or ending any *Facilities* that were entered into to fund the *Contract*. This may include the difference between:
  - (i) the return we would have received under the *Contract* if it hadn't ended early; and

- (ii) the return we receive by re-investing the principal we recover on early termination.

### **Business Day**

Any day which is not a Saturday, Sunday, or public holiday, special holiday or bank holiday in the relevant location.

For the payment or purchase of a currency other than AUD, the location is the principal financial centre of the country of that currency. Otherwise, the location is Australia.

### **Card Facility**

A *Facility* to which **section B.7** applies.

### **Conditions After Funding**

Any conditions, covenants or undertakings that *you* must observe after the *Facility* is funded. These are set out in the 'Conditions After Funding' section of the current and any previous *Offer Document*.

### **Conditions Before Funding**

Any conditions that *you* must observe before the *Facility* is funded. These are set out in the 'Conditions Before Funding' section or 'Conditions Prior to Funding' of any *Offer Document*.

### **Contingent Liability Instrument**

- bank guarantee;
- *Shipping Guarantee and/or Missing Bill of Lading*;
- *Standby Letters of Credit*;
- *Documentary Credit*; or

any other *Contingent Liability Instrument* to which **clause B.5.2** applies.

### **Contract**

The contract between *you* and *us*. It consists of:

- (a) these *Terms and Conditions*;
- (b) the *Offer Document* you sign; and
- (c) any other documents referred to in an *Offer Document* as comprising part of the *Contract* for a *Facility*.

If your *Facility* was entered into before 30 April 2018, it includes any documents that formed part of your *Contract* before that date.

### **Control**

The power to directly or indirectly govern an *Entity's* financial and operating policies in order to obtain benefits from its activities, as defined in *Accounting Standard AASB 1024: Consolidated Accounts* (or, if applicable, *Australian Accounting Standard AAS 24: Consolidated Financial Reports*).

### **Corporations Act**

*Corporations Act 2001* (Cth).

### **Cross Guarantee**

A guarantee or other instrument in connection with the granting by ASIC of an order under the *Corporations Act* giving relief to a corporation's directors from the law's requirements as to accounts and reports.

### **Default**

Circumstance of default as described in the *Contract*.

### **Default Interest**

The interest you pay us on any amount, including interest, which you fail to pay on the due date.

### **Drawdown or Drawing**

The action taken when you use money under, access credit under, draw a *Bill* under, or we issue a *Contingent Liability Instrument* under, a *Facility*.

### **Early Repayment Adjustment**

The adjustment we may make when:

- (a) in relation to a *Loan* with a *Fixed Rate*:
  - (i) you make a full or partial *Pre-payment*;
  - (ii) we require you to make a partial or full repayment due to a reduction or cancellation of the *Limit*;
  - (iii) you fail to draw a *Loan* with a fixed *Interest Rate*; or
  - (iv) you change the *Fixed Rate Period*, repayment amounts, repayment frequency, interest rate or repayment type.
- (b) in relation to a Market Rate *Loan Account*, you make a payment or we require you to make a payment other than on a *Reset Date*.

This is our reasonable estimate of our loss as set out in the relevant section of **Part B** for your *Facility*.

### **Entity**

Any legal, administrative or fiduciary arrangement, organisational structure or other party (including a *Person*).

### **Excess Drawing Interest**

The interest you pay us on any amount which exceeds your *Limit*.

### **Facility**

The finance and other forms of financial accommodation we make available to you under the *Contract*, as set out in the *Offer Document* and (if applicable) an *Account Confirmation Document*. Includes any *Master Facility* and any *Sub Facility* referred to in **Section B6**.

**Financial Covenant**

Any condition set out in an *Offer Document* that:

- (a) is identified as a *Financial Covenant*; or
- (b) is a *Facility* that requires compliance with a financial indicator or financial benchmark, such as any described in **A6.3**.

**Fixed Rate Facility**

A *Facility* conducted at a *Fixed Interest Rate*.

**Fixed Rate Period**

The period for which an *Interest Rate* is fixed, described in the *Offer Document* or *Account Confirmation Document*.

**Group Member**

In relation to *you* means *you* and each other entity for which *we* administer a customer service relationship as a group as determined by *us* and includes co-account holders, related entities, associates, guarantors and *Security Providers*.

**GST**

Any Goods and Services Tax (or similar tax). It includes any related additional tax, interest, penalty, fine or other charge.

**Guarantee**

A guarantee provided in relation to obligations under the *Contract*.

**Guarantor**

Each *Person* other than any *Borrower* nominated to grant a *Security*, or who is nominated to provide a guarantee or named as 'Guarantor' in an *Offer Document*. This includes the *Guarantor's* executors, administrators and assigns.

**Insolvent**

In respect of a *Person*, means the happening of any of these events:

- (a) the *Person* is, or makes a statement which leads *us* to reasonably conclude they are, insolvent under administration or insolvent (each as defined in the *Corporations Act*);
- (b) the *Person* has had a controller appointed over any of its property, is in any form of liquidation, is under administration, restructuring (under Part 5.3B of the *Corporations Act*) or is wound up;
- (c) the *Person* is subject to any arrangement, assignment, moratorium or composition, is protected from creditors under any statute, or is dissolved, (other than to carry out a reconstruction on terms approved by *us*);
- (d) an application or order has been made (and, in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in connection with the person, which is preparatory to or could result in any of the things referred to above;
- (e) the *Person* is taken under the *Corporations Act* to have failed to comply with a statutory demand;
- (f) a court would presume the person to be insolvent or unable to pay the person's debts or the *Person* is otherwise unable to pay the person's debts when they fall due; or
- (g) something having a substantially similar effect to any of the things referred to above happens to the *Person*.

### Interest in Advance Period

The period when interest is payable in advance.

### Interest in Advance Rebate

If you pre-pay or terminate a *Facility* early during an *Interest in Advance Period*, we may give you a rebate on any interest you paid in advance. We calculate this by:

- (a) taking the amount of interest you paid for the whole *Interest in Advance Period*;
- (b) dividing the result by the number of days in the whole *Interest in Advance Period*; and
- (c) multiplying it by the number of days left in the *Interest in Advance Period*.

### Interest Rate

An annual rate of interest, including any margin or premium, charged under the *Contract*.

### Know Your Customer Checks

The customer identification procedures and customer due diligence we are obliged to undertake under the law in relation to customers and account signatories and mortgagors.

### Large Business Customer

On or after 9 November 2023:

- (a) For the purposes of clauses A4.2, A7.3 (excluding A7.3(f)), A7.4.4, B1.3.1, B4.3.2, B5.2.5(a)(iii), B5.6.3(a)(ii), B5.7.1(d)(iii) and B5.8, you are a *Large Business Customer* in relation to a *Contract* obtained on or after 9 November 2023 if the total Limits of all your *Facilities* under that *Contract* are more than \$5 million (including the *Facility* applied for).
- (b) For the purposes of clauses A2.3, A6.3, A7.3(f), and

A10.5.1(e), you are a *Large Business Customer* in relation to a *Facility* obtained:

- (i) on or after 9 November 2023 but before 5 December 2024 if the total Limits of all your *Facilities* (under the *Contract* or any other *Contract*) and the business debts owed to us by Related Entities are \$3 million or more (including the *Facility* applied for); and
- (ii) on or after 5 December 2024 if the total Limits of all your *Facilities* (under the *Contract* or any other *Contract*) and the business debts owed to us by your Business Group are \$5 million or more (including the *Facility* applied for).

In these cases, when you obtain that *Facility* you will also become a *Large Business Customer* for the purposes of all *Facilities* that you hold (including any *Facility* previously obtained when you were not a *Large Business Customer*), and you will be told this in your *Offer Document*.

Before 9 November 2023:

- (c) for a *Facility* obtained before 1 July 2019, you are a *Large Business Customer* if the total Limits of your *Facilities* and those of Group Members have ever been \$3 million or more or your *Offer Document* says you are; and
- (d) for a *Facility* obtained on or after 1 July 2019 but before 9 November 2023, at the time that you obtain the *Facility*, you are a *Large Business Customer* if the total Limits of all your *Facilities* and the business debts owed to us by Related

Entities was \$3 million or more (including the *Facility* applied for). In that case, when you obtain that *Facility* you will also become a *Large Business Customer* for the purposes of all *Facilities* that you hold (including any *Facility* previously obtained when you were not a *Large Business Customer*), and you will be told this in your *Offer Document*.

### **Letter of Confirmation**

An *Account Confirmation Document* so entitled.

### **Letter of Credit**

A letter issued from one bank to another that guarantees payments to a particular Person under specified conditions.

### **Letter of Offer**

An *Offer Document*.

### **Letter of Variation**

An *Offer Document* so entitled which varies the *Contract*.

### **Limit**

The largest amount made available through the *Facility*, as set out in the *Offer Document*.

### **Loan**

A *Facility* under which we lend you money.

### **Loan Account**

An account we set up in your name to record transactions for your *Facility*.

### **Management Accounts**

The profit and loss accounts and balance sheets on an individual and consolidated basis, for you and your *Related Parties*, for a specific period.

This also includes:

- (a) any statements, reports and notes that are attached to, or intended to be read with, the profit and loss accounts or the balance sheets or both;
- (b) any directors' statements and reports and auditor's reports, without limitation; and
- (c) any other associated records we reasonably require

### **Market-Linked Rate**

An *Interest Rate* which is linked to money market rates or external reference rates, such as:

- (a) *BBSY*; and
- (b) *Variable Market Rate* (referred to in [section B.4](#) Market Rate Loans) *CBA Market Rate* (referred to in [section B.4](#) Market Rate Loans).

### **Material Adverse Effect**

Something that, in our reasonable opinion, adversely changes:

- (a) your ability to perform your obligations under the *Contract* or a *Security*;
- (b) the value of, or the amount that may be recovered on the sale of, a *Security Property*; or
- (c) our rights and remedies in relation to any *Security*.

### **Nominated Account**

A transaction bank account that we approve under [clause A3.3.2](#) and from which we are authorised to draw your repayments or other amounts payable by you under the *Contract*.

### **Offer Document**

The document we prepare that sets out the details of a *Facility* which:

- (a) references these *Terms and Conditions*, or a variation of



them, and

- (b) records the details of the *Contract* or variation.

*Offer Documents* are to be read cumulatively, with later *Offer Documents* having precedence over earlier *Offer Documents* to the extent of any inconsistency.

### **Outstanding Balance**

The balance of all unpaid amounts which have been charged to the *Facility*, including principal, accrued interest and accrued fees.

**Payment Instrument** has the meaning given to it in clause **B5.10**.

### **Person**

Includes:

- (a) an individual;
- (b) an individual acting on behalf of a firm;
- (c) a body corporate;
- (d) an unincorporated association; and
- (e) an authority.

### **Pre-payment**

A payment that *you* make before it is due.

### **Proscribed Person**

A *Person* who appears to us:

- (a) to be; or
- (b) to be acting on behalf of, or for the benefit of, or illegally conducting business with, a *Person* who is or appears to be one of the following:
- (c) a proscribed person or Entity under the Charter of the United Nations Act 1945 (Cth) or the Autonomous Sanctions Act 2011 (Cth) and associated regulations;
- (d) in breach of the laws of any jurisdiction relating to

money-laundering or counter-terrorism; or

- (e) with whom dealings are proscribed by the government or a regulatory authority of any jurisdiction.

### **Regulatory Change**

A change required by law, or the Banking Code of Practice or to implement or adopt a decision, recommendation, regulatory guidance of any court, tribunal, Australian Financial Complaints Authority service or an industry regulator.

### **Related Entity**

'Related Entity' as defined in section 9 of the Corporations Act 2001 (Cth).

### **Related Party**

Any *Entity* that:

- (a) has *Control* or significant influence over *you*;
- (b) is subject to *Control* or significant influence by *you*; or
- (c) is subject to the *Control* of any *Entity* which has *Control* over *you*.

In this definition:

- (a) a trust may be a *Related Party*, and
- (b) 'significant influence' means the capacity of an *Entity* to substantially affect the financial and/or operating policies of another *Entity*.

### **Repayment Schedule**

For a *Loan Account* or a *Facility*, the schedule *we* issue that sets out *your* scheduled repayments.

### **Residual Balance**

The principal amount specified as the *Residual Balance* in the *Offer Document* for a *Facility*.

## Sanctioned Jurisdiction

Certain jurisdictions, which are the subject of Australian or international sanctions, and which may be found at [commbank.com.au/sanctionedcountries](http://commbank.com.au/sanctionedcountries) (this list may change from time to time without notice to you).

## Sanctions

Any sanctions, trade embargoes or similar measures imposed from time to time by Australia, the United States of America, the European Union, the United Kingdom and any other applicable jurisdiction, and their respective governmental and official institutions including the United Nations Security Council.

## Security

Any *Security Interest* for your obligations, or those of a *Guarantor*, under a *Contract* or associated guarantee. This includes any proposed *Security* to which we have agreed. In an *Offer Document*, 'Security' also includes *Guarantee*.

## Security Interest

A mortgage, charge or other encumbrance in relation to real property or an interest in relation to goods or other personal property, a charge, consignment, pledge, transfer of title or assignment that in substance secures payment or performance of an obligation under a contract or a guarantee.

## Security Property

Property provided as collateral under a *Security*.

## Security Provider

A *Person* who provides:

- (a) a *Guarantee* for the *Contract*, or
- (b) *Security* for the *Contract* or *Guarantee*. This includes any

proposed *Security Provider* to which we have agreed.

## Special Repayments

Has the meaning given in [B1.1.2\(a\)](#).

## Term

The duration over which *Facility* or *Loan* repayments are to be made, as described in the *Offer Document* and the *Account Confirmation Document*.

For a fixed term *Facility*, it starts on the date the *Loan* is funded. For a revolving *Facility* with an indefinite term, it starts on the date the *Limit* is implemented.

## Terms and Conditions

The terms and conditions set out in this document (the 'Current Terms and Conditions for Business Finance').

## Trade Advance

An advance which provides short-term finance for domestic and overseas import and export transactions. It's an advance of money for a fixed term at a fixed *Interest Rate* set at start of the *Loan*.

## Transaction Tenor

The period of time before a payment obligation falls due or otherwise matures.

## we or us and our

Commonwealth Bank of Australia (ABN 48 123 123 124 Australian Credit Licence 234945) and its respective successors and assigns.

## you and your

Any *Person* who agrees to be bound by the *Contract*. If there are more than one of you, 'you' means each of you separately and every two or more of you jointly. 'you' also includes your executors, administrators and assigns.



## B. Conditions for Specific Facilities

### B.1 BETTERBUSINESS LOANS

#### B1.1 Setting up and using your loan

##### B1.1.1 Drawing down on *your* Loan

- (a) *You* can borrow up to the *Facility Limit*.
- (b) Unless *we* agree otherwise, *you* must draw down the entire *Loan* amount in a single lump sum within three months of the date of the *Offer Document*. After that, *your Limit* is reduced to the current *Loan* amount.
- (c) If *we* agree that *you* can progressively draw down more than one amount and two years have passed since the offer, *we* may reduce *your Limit* to the current *Loan* amount.
- (d) If *you* don't draw funds within agreed timeframes, or *you* don't comply with conditions for extending *your* time to draw the *Loan*, *we* may cancel the undrawn *Facility*.
- (e) If *we* reasonably consider *your* financial circumstances have changed and *you* will not be able to meet *your* obligations under the Contract; *we* may suspend or cancel the undrawn *Facility*.

##### B1.1.2 Redrawing Special Repayments

- (a) *Special Repayments* are repayments *you* make on a *Variable Rate Loan* in addition to *your* scheduled repayments.
- (b) *We* may:
  - (i) allow *you* to redraw Special Repayments up to the *Available Redraw Balance*;
  - (ii) require *you* to make a repayment redraw request in a particular way; and

(iii) set minimum redraw amounts.

- (c) *Your* full *Available Redraw Balance* is available at *our* discretion.
- (d) *We* may cancel *your Available Redraw Balance* at any time and notify *you* after the event.
- (e) Redraw is not available on *Fixed Rate Loans*.
- (f) Without limiting *our* discretion under **clauses B1.1.2(c) and (d)**, *we* may refuse to allow *you* to redraw special repayments at any time if:
  - (i) the *Facility* has not yet been fully advanced;
  - (ii) the *Facility* has been fully repaid;
  - (iii) the requested redraw is lower than a minimum redraw threshold *we* may set from time to time; or
  - (iv) any of the conditions set out in **clause A2.3** is not met in relation to the redraw as if it were a *Drawing*.
- (g) If *we* allow *you* to redraw Special Repayments and *you* proceed to do so, the Outstanding balance and schedule repayments may increase.

### B1.2 Costs and payments

#### B1.2.1 Interest

- (a) Interest
  - (i) For each day there is an *Outstanding Balance*, *you're* liable for interest on it. The day's interest rate will be the *Interest Rate* divided by 365 (even in a leap year),

and it will be applied to the *Outstanding Balance* at the end of the day.

- (ii) After we have processed transactions to the *Loan Account*, we will calculate interest on the last calendar day of each month (or on any other agreed interest charging cycle). We will then charge interest the next day by debiting it against your *Loan Account* (as part of the *Outstanding Balance*).

(b) *Your Interest Rate*

- (i) *Your Interest Rates* are set out in your Offer Document or Account Confirmation Document.
- (ii) If your interest charging cycle is not monthly, your *Interest Rate* may also include a premium, set out in your Offer Document or Account Confirmation Document.
- (iii) If we determine your *Interest Rate* by starting with a base rate (the reference rate) and adding or subtracting any premium or discount (the margin), and the result is less than zero, then your *Interest Rate* will be deemed to be zero.

B1.2.2 Fixed rate loans

Your Offer Document may set out an indicative fixed *Interest Rate*. The actual fixed *Interest Rate* will be set on the day your loan is funded and set out in an Account Confirmation Document, together with the first repayment due date, repayment frequency and the *Fixed Rate Period*.

- (a) When a *Fixed Rate Period* ends
  - When a *Fixed Rate Period* ends, the *Interest Rate* will revert to the relevant variable CBA reference rate applicable to the BetterBusiness Loan at the time, unless you and we have agreed the terms of a new *Fixed Rate Period* or variable rate in a new Offer Document.
- (b) Interest in Advance
  - (i) If you have a fixed rate loan, we may agree to let you pay interest in advance for a maximum of 12 months at a time.
  - (ii) If your Offer Document shows interest is payable in advance, we will debit interest for the whole advance period on the first day of that period.
  - (iii) You must still pay other interest or *Default Interest* accrued during the *Interest in Advance Period*.
- (c) Pre-paying or changing fixed rate Loans
  - (i) If you have a fixed rate Loan, we may allow you to:
    - (A) repay all or part of the Loan during the *Fixed Rate Period*;
    - (B) change the *Fixed Rate Period*, repayment amounts, repayment frequency, *interest rate* or repayment type; or
    - (C) switch to a variable *Interest Rate*.
  - (ii) We treat each such change as a *Pre-payment* in respect of the *Outstanding Balance* which is the subject of the change.

- (iii) Usually, we do not allow any *Pre-payment* less than \$25,000.
- (d) *Early Repayment Adjustment*
- (i) You must pay an *Early Repayment Adjustment* and the *Administration Fee* on the *Pre-payment Date*.
- (ii) This is because fixed interest rate loans are provided on the understanding that only the scheduled repayments will be made over the *Fixed Rate Period*. While we may let you make a *Pre-payment* for all or part of the *Outstanding Balance*, you will be liable to pay the *Early Repayment Adjustment*.
- Warning:** If the wholesale market swap rate falls, the *Early Repayment Adjustment* can be high. You can ask us for an estimate of an *Early Repayment Adjustment* at any time.
- (iii) The *Early Repayment Adjustment* is our estimate of our loss based on the difference between our wholesale market swap rate on:
- (A) the date the *Interest Rate* was fixed for the *Fixed Rate Period*; and
- (B) the date of the *Pre-payment* for the balance of the *Fixed Rate Period*.
- (iv) We also take into account any scheduled repayments of principal and the current value of the *Early Repayment Adjustment* in the calculation.
- (v) Our estimate may not reflect the actual transactions we entered into when you fixed the *Interest Rate*, or as a result of a *Pre-payment*. That's because we estimate our loss from a *Pre-payment* on a portfolio basis – in the same way we manage our interest rates and *Facility* funding.
- (vi) If you ask us, we'll give you a statement setting out how we estimated the *Early Repayment Adjustment* as a result of the *Pre-payment*, including the formula.
- (vii) We may also charge you an *Early Repayment Adjustment* and *Administration Fee* if a fixed rate *Loan* becomes repayable early because of your *Default*.
- (e) Pre-paying your *Loan* during an *Interest in Advance Period*
- (i) You can pre-pay all or part of your *Loan* during an *Interest in Advance Period*. If you do, we'll pay you an *Interest in Advance Rebate*.
- (ii) You authorise us to apply the *Interest in Advance Rebate* to satisfy any obligation you have to pay any amount you owe under the *Contract*.

### B1.2.3 Variable rate Loans

You can fully or partially repay a variable rate *Loan* at any time by giving us two days' notice.

**B1.2.4** When you must pay the *Outstanding Balance*

- (a) You must pay the *Outstanding Balance* and any other amounts payable by you under this Contract by the end of the *Term*, unless we have given you written notice stating otherwise.
- (b) Until the *Outstanding Balance* is paid, interest will continue to accrue on it (although the rate may change in accordance with these *Terms and Conditions*), and you must continue to make interest and fees payments at the same frequency.
- (c) We may, but are not required to, change scheduled repayments in line with interest rate changes. If we don't change the scheduled repayments, this may result in a larger than expected *Outstanding Balance* which has to be repaid when the *Facility* ends.

**B1.2.5** Nominated Account

You must make payments under a BetterBusiness Loan *Facility* by direct debit against a *Nominated Account* unless otherwise agreed.

**B1.3** Changes to your Facility

**B1.3.1** Limit subject to annual review (*Large Business Customers* only)

If you are a *Large Business Customer*:

- (a) We may review your *Limit* each year. We may cancel or reduce it by giving you 90 days' written notice if we reasonably consider that you won't be able to meet your obligations under the *Contract* because of a change in your financial circumstances.
- (b) If we reduce or cancel your *Limit*, you must repay such amount as is necessary to reduce the *Outstanding Balance* to an amount not exceeding the *Limit* by the end of the notice period and the *Early Repayment Adjustment* (calculated as if you had prepaid the *Loan* on the date it was cancelled if applicable).

**B1.4** Managing your account

**B1.4.1** Statements

We will send you a statement of your account every three months.

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blank intentionally

## **B.3 LINES OF CREDIT AND OVERDRAFT FACILITIES**

### **B3.1 Setting up and using your Facility**

#### *Your Facility Limit*

- (a) *You can borrow up to the Facility Limit set out in your Offer Document. Your Limit may be a temporary limit, or include a temporary limit that will automatically expire or be reduced on a set date.*
- (b) *If we provide credit over your Limit, we can still refuse future drawings that would put (or keep) your balance over your Limit.*

### **B3.2 Costs and payments**

#### **B3.2.1 Interest**

- (a) *For each day there is an Outstanding Balance, you're liable for interest on it. The day's interest rate will be the Interest Rate divided by 365 (even in a leap year), and it will be applied to the Outstanding Balance at the end of the day.*
- (b) *After we have processed transactions to the Loan Account, we will calculate interest on the second-last calendar day of each month (or on any other agreed interest charging cycle). We will then charge interest the next day by debiting it against:
 
  - (i) *your Loan Account (in which case it will become part of the Outstanding Balance);*  
or
  - (ii) *if you have chosen to pay by direct debit, your Nominated Account.**

#### **B3.2.2 Your Interest Rate**

- (a) *Your Interest Rates are set out in your Offer Document or Account Confirmation Document.*
- (b) *If you choose an interest-charging cycle other than monthly, your Interest Rate may also include a premium, set out in your Offer Document or Account Confirmation Document.*
- (c) *If we determine your Interest Rate by starting with a base rate (the reference rate) and adding or subtracting any premium or discount (the margin), and the result is less than zero, then your Interest Rate will be deemed to be zero.*

### **B3.3 Changes to your Facility**

#### **B3.3.1 Reducing or cancelling your Limit**

- (a) *You can reduce or cancel your Limit at any time. We can reduce or cancel your Limit by giving you no less than 90 days' written notice (but where the Outstanding Balance is less than \$100 and you have not used the Facility for six months, we may give you no less than 30 days' notice).*
- (b) *If we reduce or cancel your Limit, you must repay such amount as is necessary to reduce the Outstanding Balance to an amount not exceeding the Limit by the end of the notice period.*
- (c) *We can require you to repay the Outstanding Balance at any time provided we give you 90 days' written notice.*

### **B3.4 Managing your account**

#### **B3.4.1 Statements**

*We will send you a statement every three months.*



### B3.5 How to use your cheque account (if applicable)

#### B3.5.1 Clearance Time

- (a) Cheques usually takes three business days issued in Australia, although it may take longer to clear individual cheques or cheques sent from other countries. It is no longer possible to clear a cheque faster by requesting special clearance as special answers requests have been removed from service.

#### B3.5.2 Unpaid Cheques

- (a) A cheque can be dishonoured by a bank because of an irregularity or because there is not enough money in the drawer's account to cover it including the cheque is post dated or stale.
- (b) The drawer of a cheque may ask their bank to stop payment on it. The bank is required to act on these instructions provided the cheque has not already been paid.
- (c) If *you* wish to stop a payment on a cheque *you* should contact *us* on 13 1998 24 hours, 7 days a week and provide the cheque number. A stop payment fee may apply.

#### B3.5.3 Cross Cheques

- (a) A crossing is two parallel lines drawn vertically on a cheque. The crossing acts as an instruction to the bank to accept the cheque only into a bank account and not to cash it.
- (b) The inclusion of the words 'not negotiable' in the crossing helps protect the true owner of the cheque if it is lost or stolen.

- (c) The words 'account payee only' in the crossing serve as a warning to the bank not to accept deposit of the cheque except to the account of the named payee.
- (d) The deletion of the words 'or bearer' from a cheque; the drawer is directing the bank to pay the amount of the cheque only to the payee or in accordance with the written endorsement of the payee.

#### B3.5.4 Writing Cheques

- (a) To reduce the risk of a cheque being changed in an unauthorised way ensure *you*;
- (i) sufficient cleared funds in *your* cheque account to cover the amount of the cheque *you* are writing
- (ii) write only on the forms provided by the bank in pen
- (iii) never sign blank cheques and date each cheque *you* have signed
- (iv) cross *your* cheques with two parallel lines, unless *you* want cash
- (v) write legibly and ensure the amounts in words and figures agree
- (vi) keep *your* cheques in a safe place at all times. If *your* cheques are stolen or lost, contact *us* immediately on 13 1998.

## B.4 MARKET RATE LOANS

### B4.1 Setting up and using your Facility

#### B4.1.1 Your Facility Limit

- (a) You can borrow up to the *Facility Limit* set out in your *Offer Document*.
- (b) If your *Offer Document* or *Facility* confirmation letter states your *Facility* is in reduction, your *Facility Limit* will be reduced by the total of any principal repayments set out in *Repayment Schedules* for your *Loan Accounts*. For example, if you have two *Loan Accounts* (A and B), and your *Repayment Schedules* require you to make principal repayments of \$100 for *Loan Account A* and \$50 for *Loan Account B* on the same day, then your *Facility Limit* will be reduced by \$150 on that day. If the *Loan Accounts A* and *B* have different *Reset Dates*, the *Facility Limit* will reduce by \$50 on one day and by another \$100 on another.

#### B4.1.2 Conditions you must meet before funding

- (a) You can access funds from your *Facility* by withdrawing them from a *Loan Account*, after your *Facility* has been funded. Before we fund a *Loan Account*, you must:
  - (i) meet the conditions set out in **clause A2.3**, and
  - (ii) agree to all the terms for the *Loan Account*, including the amount you will drawdown, any principal repayment arrangements and the next *Loan Account Reset Date*.

#### B4.1.3 Drawing funds from a *Loan Account*

- (a) You can *Drawdown* under a *Loan Account*:

- (i) when your *Loan* is first funded, and
  - (ii) on the *Loan Account Reset Date*, if we receive your drawdown instructions to increase the balance drawn under the *Loan Account* at least one day before the *Reset Date*.
- (b) Drawdown under a new *Loan Account* can be set up on any *Business Day* whether or not it is an existing *Reset Date*.
  - (c) We will send you an *Account Confirmation Document* setting out each drawdown of a *Loan Account* made under the *Facility*.

### B4.2 Costs and payments

#### B4.2.1 Interest

- (a) For each day there is an *Outstanding Balance*, you're liable for interest on it. The day's interest rate will be the *Interest Rate* divided by 365 (even in a leap year), and it will be applied to the *Outstanding Balance* at the end of the day. After we have processed transactions to the *Loan Account*, we will calculate and charge interest to your *Nominated Account* on each *Reset Date* or each month, as agreed with you.
- (b) Each *Reset Period* lasts for three months, beginning on the date your loan is funded, unless we agree otherwise. If we agree to a period other than three months, we will charge you a *Reset Fee*, as set out in your *Offer Document* and *Account Confirmation Document*.

#### B4.2.2 Your Interest Rate

- (a) Variable Market Rate
  - (i) Your *Interest Rate* is the *Variable Market Rate* plus or minus a margin as set out in your *Offer Document*.

- (ii) We set the *Interest Rate* based on the *Variable Market Rate* on the day the *Loan Account* is funded and on each *Reset Date*, subject to any *IRRM Agreement* with you. We will confirm the interest rate in your account statement and in CommBiz or NetBank, if your *Loan Account* is linked to them.

- (b) What happens when an *IRRM Fixed Term* ends

If the 'Fixed Term' set out in an *IRRM Agreement* ends before your *Facility* expires, then the *Variable Market Rate* will apply from its *Scheduled Maturity Date*, unless you enter into a new *IRRM Agreement*.

#### B4.2.3 Pre-paying Market Rate Loans

- (a) If you pre-pay your *Loan* and we make a loss due to your *Pre-payment*, we will charge you an *Early Repayment Adjustment*. We calculate the *Early Repayment Adjustment* as our reasonable estimate of the difference between:
  - (i) the amount we could earn if we re-lent the *Pre-payment* at the applicable *Variable Market Rate* from the *Pre-payment* date to the *Reset Date*, and
  - (ii) the amount we would have earned if the *Pre-payment* had not been made until the *Reset Date*.
- (b) If you pre-pay a *Loan Account* with an *IRRM Agreement*, you may also have to pay any *IRRM Break Cost* and a *Termination Fee*, as set out in the *IRRM Agreement*.
- (c) This **clause B4.2.3** also applies if we require you to make an early payment (for example, on Default).

#### B4.2.4 Ending an *IRRM Agreement* before the Scheduled Maturity Date

- (a) If you end an *IRRM Agreement* before its *Scheduled Maturity Date*, we shall calculate the *IRRM Break Cost* as set out below.
- (b) We shall notify you as soon as practicable after calculating the *IRRM Break Cost* and you may request reasonable details about the calculation of such *IRRM Break Cost*.

#### B4.2.5 How we calculate our *IRRM Break Cost*

- (a) We calculate our *IRRM Break Cost*:
  - (i) by calculating the mark-to-market value of the *IRRM Agreement* as of the *Termination Date*, determined as the amount of our losses or costs that would be incurred or our gains in replacing the economic equivalent of the material terms of the *IRRM Agreement*;
  - (ii) using commercially reasonable procedures and prevailing market rates or quotes chosen by us acting reasonably and in good faith in order to produce a commercially reasonable result; and
  - (iii) taking into account any unpaid amounts (including unpaid premium amounts if any) and, where it is commercially reasonable to do so, any reasonable loss, cost or expense such as hedging, funding and liquidity costs that may be incurred in connection with terminating such *IRRM Agreement*.

- (b) The calculation set out in (a) above may result in a net position that is negative or positive and therefore a payment to be made to *you* or a payment payable by *us* (such amount being the *IRRM Break Cost*). Payments should be made as soon as reasonably practicable, but no later than *3 Business Days* after we give *you* notice in B4.2.4. We may agree with that any amount payable by *you* shall be debited from *your Nominated Account* or any other account *you* hold with *us*.
- B4.2.6 After an *IRRM Agreement* is ended
- (a) If *you* end an *IRRM Agreement* without re-paying the *Loan Account*, the *Loan Account* will continue on the same terms as would have applied without the *IRRM Agreement*.
- (b) If *you* end the *IRRM Agreement* on a *Reset Date*, the interest rate from that date will be the day's applicable *Variable Market Rate*. Otherwise, the interest rate from the *Termination Date* will be the interest rate that would have applied on the previous *Reset Date* if the *IRRM Agreement* had not been in place.
- B4.2.7 When *you* must pay the *Outstanding Balance*
- (a) *You* must pay the *Outstanding Balance* and any other amounts payable by *you* under this Contract by the end of the *Term*, unless we have given *you* written notice stating otherwise.
- (b) Until the *Outstanding Balance* is paid, interest will continue to accrue on it (although the rate may change in accordance with these *Terms and Conditions*), and *you* must continue to make interest and fees payments at the same frequency.
- B4.2.8 Nominated Account
- You* must make payments under a Market Rate Loan *Facility* by direct debit against a *Nominated Account* unless otherwise agreed.
- B4.3 Changes to your Facility**
- B4.3.1 Changing *your* Loan Accounts
- If *you* are not in *Default*, *you* can ask *us* at any time to:
- (a) add or close *Loan Accounts*, and
- (b) transfer funds between *Loan Accounts*, as long as:
- (i) the total debit balances don't exceed *your Facility Limit*;
- (ii) the transfer is on a *Reset Date*; and
- (iii) any *IRRM Agreement* relating to the *Loan Account* permits it.
- B4.3.2 Limit subject to annual review (*Large Business Customers* only)
- If *you* are a *Large Business Customer*
- (a) We may review *your Limit* each year. We can reduce or cancel *your Limit* by giving *you* 90 days' written notice if we reasonably consider that *you* won't be able to meet *your* obligations under the *Contract* because of a material adverse change in *your* financial circumstances.
- (b) If we reduce *your Limit*:
- (i) *you* must repay any amount required to ensure the *Outstanding Balance* does not exceed the *Limit* at the end of the notice period; and

- (ii) we may terminate any *IRRM Agreement* before its *Scheduled Maturity Date*.
- (c) If we cancel your *Limit*:
  - (i) you must repay the *Outstanding Balance* and any other amount owing to us at the end of the notice period; and
  - (ii) we may terminate any *IRRM Agreement* before its *Scheduled Maturity Date*.

## **B4.4 Managing your Account**

### **B4.4.1 Statements**

We will send you a statement of account for each *Loan Account* every three months.

## **B4.5 Meanings of words**

In this section B.4, the following words have the meanings given below:

### **CBA Market Rate**

The interest rate reasonably determined by us, based on the *Bank Bill Swap (BBSY)* rate and prevailing market conditions.

It is applied to all similar *Facilities* with similar amounts and terms on the *Reset Date*.

### **Interest Rate Risk Management (IRRM)**

A risk management arrangement you may use to help limit your exposure to a change in liability due to movements in interest rates, including:

- (a) a hedge product such as interest rate swap;
- (b) an interest rate option which includes cap, floor and collar transactions; and
- (c) any other similar products.

### **IRRM Break Cost**

The amount calculated in accordance with clause B4.2.5.

### **Reset Confirmation Letter**

Our letter confirming the next *Reset Date* or other variation to *Facility* under *Loan Account* within a *Market Rate Loan Facility*.

### **Reset Date**

The date specified as such in an *Account Confirmation Document* or *Reset Confirmation Letter*, unless otherwise specified in an *IRRM Agreement*.

If it falls on a weekend or public holiday, the *Reset Date* will usually be the next *Business Day* after the stated date. However, if that day falls in the next calendar month, the *Reset Date* will be the preceding *Business Day*.

### **Reset Period**

The period between consecutive *Reset Dates*.

### **Scheduled Maturity Date**

The date so identified in the relevant *IRRM Agreement*.

### **Termination Date**

Has the meaning given in the relevant *IRRM Agreement*.

### **Termination Fee**

Has the meaning given in the relevant *IRRM Agreement*.

### **Variable Market Rate**

*Bank Bill Swap Bid Rate (BBSY)* or *CBA Market Rate*, as applicable.



## B.5 CONTINGENT LIABILITY FACILITY AND TRADE FINANCE FACILITIES

### B5.1 About this section

This section sets out terms and conditions for the following types of *Facilities* and *Trade Products* and *Services*.

- (a) Contingent Liability Facility ([section B5.2](#) (Contingent Liability Facility)) (under which *you* can request *us* to issue any of the below):
  - (i) Bank Guarantee;
  - (ii) Shipping Guarantee;
  - (iii) Missing Bill of Lading Guarantee;
  - (iv) Standby Letters of Credit;
  - (v) Documentary Credit; or
  - (vi) any other trade finance product or service which we have agreed to issue as a Contingent Liability Instrument under a Contingent Liability Facility as set out in *your Offer Document*.
- (b) *Trade Advance Facility* and *Insured Export Finance Facility* ([section B5.3 Trade Advance Facilities](#)) for domestic purchases, import purchases, domestic sales and export sales.
- (c) Imports
  - (i) Import Documentary Credits ([section B5.4 \(Import Documentary Credits\)](#)).
- (d) Exports
  - (i) Export Documentary Credits ([section B5.5 \(Export Documentary Credits\)](#)),

- (ii) Foreign Bills Negotiated Facility ([section B5.6 \(Foreign Bills Negotiated Facilities\)](#)).

- (e) Collections

- (i) Import Documentary Collections ([section B5.7 \(Collections\)](#)),
- (ii) Export Documentary Collections ([section B5.7 \(Collections\)](#)).

*You* should also read [section B5.9](#) ('Trade Finance Fees Table') and [section B5.10](#) ('Meaning of Words').

### B5.2 Contingent Liability Facility

#### B5.2.1 Setting up and using *your Facility*

- (a) *Your Facility Limit*

The total liability for all of *your Contingent Liability Instruments* must not exceed the *Limit* set out in *your Offer Document*.

- (b) Issuing a *Contingent Liability Instrument*

*You* can ask *us* to issue a *Contingent Liability Instrument* or accept liability under an instrument at any time. *We* will only do so if:

- (i) the aggregate of *our* contingent liability for all *Contingent Liability Instruments*, would, if we granted *your* request, not exceed the *Limit*;
- (ii) *you* sign any documents we require (such as a particular form of indemnity) in relation to *your* request;
- (iii) *you* agree to any conditions we make, including in relation to security we require from *you*; and



(iv) *you* agree to *our* additional applicable terms and conditions if *you* are asking *us* to issue an instrument or accept liability electronically.

- (c) Any *Contingent Liability Instrument* issued will be in accordance with *your* instructions but *we* determine the form.
- (d) Before *we* issue, endorse or countersign a *Contingent Liability Instrument*, if *we* ask, *you* will arrange for an issuer acceptable to *us* to deliver to *us* a backing *Bank Guarantee* in *our* favour and in terms acceptable to *us*.

#### B5.2.2 Release of Security

*We* do not have to release any *Security* after termination of the *Facility* or expiry of all *Contingent Liability Instruments* until *we* have had a reasonable opportunity to determine the validity of any claim or potential claim under the *Facility*.

#### B5.2.3 Assigning the benefit of a *Contingent Liability Instrument*

*You* acknowledge that:

- (a) the benefit of a *Contingent Liability Instrument* cannot be assigned without *our* agreement, and
- (b) provided it is permissible under *our anti-money laundering, counter-terrorism and sanctions policies*, is not contrary to any applicable law and, where *you* are a trustee of a trust, is not in breach of trust, claims by a named *Beneficiary* under a *Contingent Liability Instrument* may be paid to another *Person* at the *Beneficiary's* direction.

#### B5.2.4 Dealing with Documents

(a) *You* must:

- (i) In relation to a Shipping Guarantee and/or Missing Bill of Lading Guarantee:
- (ii) take reasonable steps to obtain the relevant original bills of lading, transport or title documents and, upon receipt, deliver them to *us* or as *we* may direct; and
- (iii) in relation to a *Bank Guarantee*, take reasonable steps to ensure *our* liability under any *Bank Guarantee* *we* issue is released and the original *Bank Guarantee* or indemnity is returned to *us* for cancellation.

(b) If *we* agree to any request *you* make to authorise the release or delivery of a shipment of *Goods* which are the subject of an *Import Documentary Credit* *we* have issued, this will be treated as if *we* have made payment and, in that event, *you*:

- (i) waive all discrepancies that may appear in the *Documents* and accept all such *Documents* presented under the relevant *Import Documentary Credit*;
- (ii) must reimburse *us* as required under clause **B5.4.1(a)** (*Import Documentary Credits*) for any payment made by *us* under the relevant *Import Documentary Credit*, irrespective of discrepancies that may appear on the *Documents*; and
- (iii) authorise *us* to honour any relevant drawings without examining the presented *Documents*.

## B5.2.5 Costs and payments

### Reimbursing us if we pay

- (a) If we are called on to pay a *Beneficiary* under a *Contingent Liability Instrument*, as a result of:
- (i) endorsing, countersigning or issuing a *Bank Guarantee*;
  - (ii) authorising the release of *Goods* covered by air waybills or customs assessment notices or consignments; or
  - (iii) delivering air waybills or customs assessment notices or control of consignments to *you*, or we elect to pay a *Beneficiary* under a *Contingent Liability Instrument* under **clause B5.2.6(b)** (Discharging a *Contingent Liability Instrument*) below *you* must immediately reimburse *us*. Without limiting any other indemnity, reimbursement and/or payment obligation, and if *you* are a Large Business Customer, *you* must also indemnify *us* on demand against all demands, claims, actions, proceedings, liabilities, payments, interest, costs, fees, charges and expenses in connection with the *Contingent Liability Instruments* issued under these *Terms and Conditions*, including legal expenses on a full indemnity basis and including taxes, except to the extent they are caused by *our* negligence, wilful misconduct or fraud.
- (b) Without limiting *our* rights upon any *Default*, *you* authorise and direct *us* to debit *your Nominated Account* or a payment account under **clause A3.3.4** (How you pay) for any amount we are called on to pay or which we decide to pay to fulfil *our* obligations under a *Contingent Liability Instrument*, and any other amounts *you* are required to reimburse to *us* under **clause B5.2.5(a)** (Costs and payments) or **clause B5.2.6(b)** (Discharging a *Contingent Liability Instrument*) and any associated *Default Interest*.
- (c) If we have exercised due care, *your* obligations will not be affected by:
- (i) any inaccuracy, insufficiency or forgery in any notice or demand made on *us* for under a *Contingent Liability Instrument*;
  - (ii) *our* failure to enquire whether any notice or demand has been transmitted or received accurately, or has been given or sent by an unauthorised *Person*; or
  - (iii) the expiry of the *Contingent Liability Instrument*, if we have been called on to make the payment before the expiry date.
- Nominated Account**
- (d) *You* must make payments in relation to a *Contingent Liability Facility* by direct debit against a *Nominated Account* unless otherwise agreed.

## Fees

- (e) See **clause B5.9** (Trade Finance Fees Table) below.

### B5.2.6 Changes to *your Facility*

- (a) Reducing or cancelling *your Limit*

You can reduce or cancel *your Limit* at any time. Unless you are in *Default* (in which case we may enforce *our* rights in accordance with the Contract), we will review *your Facility* not more often than once in any 12 month period to determine where we will vary or cancel the Limit. We may cancel or reduce *your Limit* at *our* discretion by giving you 90 days' written notice following completion of such review. If *your Facility* is an *Uncommitted Facility*, we do not have to give advance notice to you of any cancellation of *your Limit*. Reducing or cancelling *your Limit* does not change:

- (i) *our* obligations to any *Beneficiary* under any *Contingent Liability Instrument* we have already issued, or
- (ii) *your* obligations to *us* for any *Contingent Liability Instrument* we have already issued, including *your* obligations to indemnify and reimburse *us*, including where we discharge any *Contingent Liability Instrument* under **clause B5.2.6(b)** (Discharging a *Contingent Liability Instrument*) below.
- (b) Discharging a *Contingent Liability Instrument* and Terminating *your Facility*

We may discharge any *Contingent Liability Instrument* (other than a *Documentary*

*Credit*) at any time by paying the *Beneficiary* its face value, less any amounts we have previously paid, whether or not we have received a demand for payment, and if we do so, require that you immediately reimburse *us*. If you are in *Default*, we may terminate *your Facility* immediately.

### B5.2.7 International rules applicable to *Contingent Liability Instruments*

- (a) Each *Standby Letter of Credit* will be subject to the ICC International Standby Practices ('ISP') or UCP as specified in the relevant instrument in force from time to time.
- (b) Each demand guarantee, bond or payment undertaking issued by *us* in favour of an overseas party will be subject to ISP or the ICC Uniform Rules for Demand Guarantees in force from time to time, or the governing law where a governing law is specified in the relevant *Payment Instrument*.
- (c) If these *Terms and Conditions* and the terms in any ICC rules are inconsistent or conflict, these *Terms and Conditions* will prevail.

## B5.3 Trade Advance Facilities

### B5.3.1 *Your* warranties and obligations to *us*

- (a) You warrant and represent to *us* that:
- (i) You will only use the proceeds of each *Trade Advance* for the finance of import, export or trade related business approved by *us*;
- (ii) the *Documents, Goods* and transaction to be financed by a *Trade Advance*:
- have not been previously financed, and will not be financed, by any *Person* other than *us*;

- are not, and will not be, encumbered in any way to any *Person* other than *us*; and
- have come about in the ordinary course of *your* business in good faith and without fraud, illegality or any unauthorised act committed by any *Person*.

(b) You provide the warranties and representations in this **clause B5.3.1** (*Your warranties and obligations to us*) each day from the *Drawdown* date until you have repaid the *Amount Owning*.

### B5.3.2 Your obligations

- (a) Where the *Trade Advance* is an *Insured Export Finance Facility*, you must:
- ensure that the credit insurance policy is current and acceptable to *us*;
  - where we ask, assign to *us* your interest in the proceeds of the credit insurance policy; and
  - promptly notify *us* of any changes to the credit insurance policy or breaches of such policy.

### B5.3.3 Setting up and using your Facility

#### Your Facility Limit

- (a) You can borrow up to the *Facility Limit* set out in the *Offer Document*.
- (b) For a *Trade Advance Facility* which is an *Insured Export Finance Facility*, we will only provide a *Trade Advance* to finance payment of an *Eligible Invoice*.
- (c) You cannot get a *Trade Advance* after the end of the *Term*.

### Drawing down on your Facility

- (d) For each *Trade Advance*, you must give *us* a *Drawdown* notice in a form acceptable to *us*, setting out:
- the proposed *Drawdown* date, which must be a *Business Day*;
  - the *Transaction Tenor*, with a maturity date between 30 days and 185 days after the proposed *Drawdown* date;
  - the currency; and
  - the amount (which must be at least the minimum amount we specify). In the case of a *Trade Advance* under an *Insured Export Finance Facility*, the amount must not exceed the *Approved Percentage*.
- (e) You cannot cancel a *Drawdown* notice after giving it to *us*.
- (f) If we receive your *Drawdown* notice and all supporting documents we require by 11:00 am on the *Business Day* before the proposed *Drawdown* date, we will endeavour to process the *Drawdown* within the next *Business Day*.
- (g) When you submit your *Drawdown* notice, we will advise you what supporting documents are required before *Drawdown*. These requirements form part of the *Contract*.
- (h) We may request that you provide additional supporting documents in relation to a *Trade Advance* after *Drawdown*. Where requested, you must provide *us* the required additional supporting documents in form and substance satisfactory to *us* by the time specified in our request (or if none, within 5 Business Days from the date of our request).

### Collection Account for Insured Export Finance Facility

- (i) For a *Trade Advance Facility* which is an *Insured Export Finance Facility*, you authorise us to open a *Collection Account* in your name and to draw on that account to collect amounts you owe us.
- (j) You agree to maintain in the *Collection Account* sufficient funds to meet your payment obligations to us under the *Insured Export Finance Facility* at any time.

#### B5.3.4 Costs and payments

##### Repaying a Trade Advance

- (a) You must repay the *Amount Owing* for each *Trade Advance* before the *Maturity Date*, including accrued interest and fees. This *Maturity Date* may fall after the end of the Term. Where you are in *Default*, we may if permitted by and in accordance with [section A.7](#) require immediate payment of the *Amount Owing* for each *Trade Advance* which is outstanding.

##### Pre-paying a Trade Advance before the Maturity Date

- (b) You can pre-pay a *Trade Advance* or re-borrow any prepaid amount if specifically allowed in the *Offer Document*. If you pre-pay all or part of a *Trade Advance*, you may need to pay us a *Break Cost* (if any).
- (c) We calculate our *Break Cost* by calculating the difference between:
  - (i) the interest we would have received for the period between the *Pre-payment* date and the *Maturity Date*; and

- (ii) the interest we could receive over the same period from a third party (which may be a leading Australian bank or another party or market) based on the interest rate set out in the *Offer Document*.

- (d) If the calculation shows we have made a loss, you must pay us the amount of that loss as our *Break Cost*.
- (e) You do not need to pay us any *Break Cost* if you pre-pay all or part of a *Trade Advance* because we decide to reduce or cancel your *Limit*, or amend the Contract without your consent under [section A.4.2](#) (Changes we can make without your agreement) and you are not in *Default*.

##### Interest

- (f) For each *Trade Advance*, you must pay interest on the *Amount Owing* based on:
  - (i) the *Interest Rate*, margin and interest period specified in the *Offer Document* or *Drawdown* notice, or
  - (ii) if they do not specify an *Interest Rate*, our current *Australian Trade Finance Rate*, for a period determined by us in consultation with you to be equivalent to the term of the *Trade Advance*.
- (g) We calculate interest based on either a 360 or 365-day year, depending on the currency. You pay interest in arrears, from the *Drawdown* date to the day before you repay the *Amount Owing* in full.

##### Fees

- (h) See [clause B5.9](#) (Trade Finance Fees Table) below.



## Nominated Account

- (i) You must make payments in relation to a *Trade Advance* by direct debit against a *Nominated Account* unless otherwise agreed.

### B5.3.5 Changes to your Facility

- (a) You can reduce or cancel your *Limit* at any time. Unless you are in Default (in which case we may enforce our rights in accordance with the Contract), we will review your *Facility* not more often than once in any 12 month period to determine whether we will vary or cancel the *Limit*. We may cancel or reduce your *Limit* at our discretion by giving you 90 days' written notice following completion of such review.

If your *Facility* is an *Uncommitted Facility*, we do not have to give advance notice to you of any cancellation of your *Limit*.

- (b) If we reduce your *Limit*, you must repay any amount required to reduce the *Amount Owing* to the new *Limit* by the end of the notice period or by the relevant *Maturity Date*, whichever is the later.
- (c) If we cancel your *Limit*, you must repay the *Amount Owing* and any other amounts owing to us at the end of the notice period or by the relevant *Maturity Date*, whichever is the later.
- (d) If we vary your *Facility*, we will send you a new *Offer Document*, or other document which contains the varied terms.

## B5.4 Import Documentary Credits

### B5.4.1 Your Contract with us

#### Your indemnity to us

- (a) You indemnify us against any demands, claims, actions, proceedings, liabilities, payments, interest, fees, costs, charges and expenses connected with an *Import Documentary Credit* we issue at your request, including legal expenses on a full indemnity basis and including taxes. When we ask, you must pay them to us on demand. Your indemnity includes:
- (i) any claims that the *Beneficiary* makes or attempts to make;
  - (ii) any payments to our *Correspondent Bank* under a counter-indemnity;
  - (iii) any amounts we may pay or be required to pay to the *Beneficiary* when the *Import Documentary Credit* is terminated;
  - (iv) any actions we take based on representations made by you; and
  - (v) any failure, inability or refusal on our part to honour the *Import Documentary Credit* because of a court order or a similar restriction or obligation, or because we believe a transaction related to the *Import Documentary Credit* is tainted by fraud or alleged fraud.
- (b) Your liability under this clause is reduced to the extent that our negligence, wilful misconduct or fraud contributes to the amount we claim.



### Your obligations when we release Goods or Documents

- (c) *We* are not bound to release any *Documents* or authorise the release of any *Goods* to *you* unless *you* have fully met *your* obligations to *us*.
- (d) Where *you* take delivery of *Documents* or *Goods* before any *Bills* under the *Import Documentary Credit* have been negotiated or presented, or before *you* have reimbursed *us* for all payments made by *us* under the *Import Documentary Credit*:
- (i) the *Goods* will be subject to any general security interest granted by *you* in *our* favour over all of *your* present and after acquired property and *you* must hold the *Goods* for sale or other disposal approved by *us* on normal trade terms at market value;
  - (ii) the *Documents*, the *Goods* when received, and the proceeds from the sale of them will be subject to any general security interest granted by *you* in *our* favour over all of *your* present and after acquired property and *you* must hold them in safe custody for *us*;
  - (iii) *you* must promptly pay *us* all proceeds from the sale of the *Goods* without deducting any expenses, or irrevocably direct payment to *us*;
  - (iv) until sale or delivery (if applicable) of the *Goods*, *you* must:
    - (A) warehouse them in *our* name at *your* cost or if not warehoused, ensure that any person who
      - (B) immediately deliver to *us* the warrants or receipts for them;
      - (C) authorise *us*, *our* employees and agents to enter any warehouse or other premises where they may be located at any time for the purpose of viewing, inspecting, identifying or taking possession of them;
      - (D) insure them at their full insurable value against fire and any other risks *we* may reasonably require, hold the policies on *our* behalf and, in case of loss, pay the proceeds of any insurance claim to *us* in full and make good any shortfall;
      - (E) not mortgage, charge, pledge or otherwise encumber them, or allow them to be encumbered, other than in *our* favour or as agreed by *us* in writing; and
      - (F) comply with any other reasonable conditions *we* may make in *our* discretion to protect the *Goods* and *our* interests under the *Facility*.
- (e) *You* acknowledge and agree that:
- (i) the *Goods* will remain subject to any general

security interest granted by *you* in *our* favour over all of *your* present and after acquired property until sold or otherwise disposed of;

- (ii) risk in the *Goods* remains with *you* at all times; and
- (iii) any proceeds of sale or other disposal paid to *us* in accordance with this clause may be applied by *us* in reduction of *your* payment obligations under the *Import Documentary Credit*.

#### **Your obligations when there are discrepancies in Documents**

- (f) If *you* waive any discrepancy in the *Documents* or otherwise ask *us*, or *our* agents or *Correspondent Banks*, to:
  - (i) comply with payment obligations under the *Import Documentary Credit* despite the discrepancy; or
  - (ii) countersign or issue any *Bank Guarantee* covering those discrepancies,

then *you* must comply with *your* payment obligations in respect of the *Import Documentary Credit*.
- (g) If the *Import Documentary Credit* terms require specific *Documents* to be forwarded by the *Beneficiary* to *you* at or before the time the *Beneficiary* makes a claim under an *Import Documentary Credit*, all remaining *Documents* relating to the *Import Documentary Credit* must be presented to *us* for such a claim.
- (h) If *you* use the *Documents* forwarded directly to *you* to obtain possession of the *Goods*, *you* must:

- (i) accept all *Documents* presented; and
- (ii) pay or accept upon presentation and at maturity all *Bills* drawn in respect of the *Goods* despite any discrepancy or any other matter that might otherwise have affected *your* obligations under this clause.

#### **Your insurance obligations while Goods are in transit**

- (i) Where the terms of the *Import Documentary Credit* require insurance, *you* must:
  - (i) insure the *Goods* against loss or confiscation during transit in a manner satisfactory to *us* acting reasonably; and
  - (ii) provide a copy of that insurance policy and all receipts for current premiums to *us*.
- (j) If *your* insurance is not acceptable to *us*, *you* authorise *us* to arrange any additional insurance for the *Goods*, including for war risk, and *you* agree to reimburse *us* for the cost of that insurance.

#### **Our rights over the Goods if you do not fulfil your obligations**

- (k) If *you* do not fulfil *your* obligations to *us* under the *Import Documentary Credit*, *we* may, without limiting *our* other rights if *you Default*:
  - (i) cause the *Goods* or any part of them, to be landed, docked, stored, transported, insured, sold, sold without landing, or otherwise disposed of; or

- (ii) deal with the *Documents* in any way we consider appropriate.
- (l) If we do, or attempt to do, any of these things:
  - (i) we are not liable for any loss suffered by *you* as a result;
  - (ii) *you* must pay the costs and expenses we incur in taking this action;
  - (iii) *you* will remain liable for the proceeds of disposal of the *Goods* or dealing with the *Documents*, and must pay any shortfall after they have been disposed of or dealt with; and
  - (iv) *you* must take any actions and sign and deliver any documents we reasonably require to perfect any general security interest granted by *you* in *our* favour over the *Goods* or otherwise give effect to any proposed landing, docking, storage, insurance, sale or other disposal or dealing of the *Goods* or *Documents*.
- (m) If we ask, *you* must appear and defend at *your* own cost and expense any action which may be brought in connection with the *Import Documentary Credit*. *You* agree to make any claim or take any action or institute any proceedings we may consider necessary or desirable to recover any proceeds or to compromise or settle any dispute in connection with any *Documents*, *Goods*, sales proceeds or insurance proceeds relating to the *Documents* or *Goods*, on such terms as we may in *our* absolute discretion consider appropriate. If *you* do not, we may do it in *our* name or *your* name at *your* cost.

#### B5.4.2 Setting up and using *your Facility* **Your Facility Limit**

*You* can ask us to issue *Import Documentary Credits* with a total Australian dollar value up to the *Limit* set out in *your Offer Document*.

#### **Features and Issuing Import Documentary Credit**

- (a) Each *Import Documentary Credit* we agree to issue is irrevocable, with the *Transaction Tenor* and currency set out in *your Application for Irrevocable Import Documentary Credit* in accordance with the terms of *your Offer Document*.
- (b) The conditions set out in each *Application for Irrevocable Import Documentary Credit* you submit to us also forms part of *your Contract*.
- (c) We may restrict negotiations for any *Import Documentary Credit* to *our* offices or branches, or to the offices or branches of a *Correspondent Bank*. If we do, *you* authorise us to accept and pay all *Documents* drawn or purported to be drawn on those offices or branches.
- (d) If we accept *your Application for Irrevocable Import Documentary Credit* and *you* have complied with all the conditions in that Application by 11a.m. on a *Business Day*, we will endeavour to issue the *Import Documentary Credit* the next *Business Day*.

#### **Your authority for us to pay**

- (e) *You* authorise us to make payments under an *Import Documentary Credit* when we believe they have been properly demanded in accordance with its terms. The presentation of *Documents* under a

*Documentary Credit* will be deemed to comply with its terms if the *Documents* appear to be in order and, when taken as a whole, contain a description of the *Goods*.

- (f) We are not obliged to:
- (i) notify *you* before making a payment or accepting drafts, claims or drawings under any *Import Documentary Credit*; or
  - (ii) (take into consideration any notice from *you* of any claim or defence *you* may have against a *Beneficiary*).

#### B5.4.3 Costs and payments

##### **Reimbursing us when we pay**

- (a) *You* must reimburse *us* immediately for amounts *we* pay or are required to pay under an *Import Documentary Credit*. *You* must pay *us* in immediately available funds in the same currency on the day *we* make, or are required to make, the payment.
- (b) Without limiting *our* rights upon any *Default*, *you* authorise and direct *us* to debit *your Nominated Account* or a payment account under **clause A3.3.4** (How *you* pay) for any amount *we* are called on to pay or which *you* have indemnified *us* under this **clause B5.4** (Import Documentary Credits) *we* decide to pay to fulfil *our* obligations under an *Import Documentary Credit*, and any associated *Default Interest*.

##### **Fees**

- (c) See **clause B5.9** (Trade Finance Fees Table) below.

##### **Nominated Account**

- (d) *You* must make payments in relation to an *Import Documentary Credit* by direct debit against a *Nominated Account* unless otherwise agreed.

#### B5.4.4 Changes to *your Facility*

Unless *you* are in *Default* (in which case *we* may enforce *our rights* in accordance with the *Contract*), *we* will review *your Facility* not more often than once in any 12 month period to determine whether *we* will vary or cancel the *Limit*. *We* may cancel or reduce *your Limit* at *our* discretion by giving *you* 90 days' written notice following completion of such review. If *your Facility* is an *Uncommitted Facility*, *we* do not have to give advance notice to *you* of any cancellation of *your Limit*. A change to, or cancellation of, *your Limit* will not affect *your* obligations for *Import Documentary Credits* *we* have already issued.

If *we* vary *your Facility*, *we* will send *you* a new Offer Document, or terms and conditions or other document which contains the varied terms

#### B5.4.5 International Rules applicable to Documentary Credits

- (a) Each *Documentary Credit* will be subject to the *UCP* for Documentary Credits of the *ICC* and the *ICC* Uniform Rules for Bank-to-Bank Reimbursements under Documentary Credits in force from time to time.
- (b) If these *Terms and Conditions* and the terms in any *ICC* rules are inconsistent or conflict, these *Terms and Conditions* will prevail.

## B5.5 Export Documentary Credits

### B5.5.1 Setting up and using *your* Export Documentary Credit

#### What you can ask us to do

- (a) If *you* are an exporter who receives an *Export Documentary Credit*, *you* can ask us to:
- (i) discount or negotiate it and credit the proceeds to *you*:
    - (A) immediately, before payment is received from the *Issuing Bank*; or
    - (B) upon acceptance of the *Documents* by the *Issuing Bank*;
    - (C) confirm it on an open basis or on a silent basis;
    - (D) transfer or assign the proceeds;
    - (E) amend or advise it; or
  - (ii) present *Documents* to the *Issuing Bank* for payment without honour or negotiation, then credit the proceeds to accounts specified by *you* when payment is received.
- (b) When *you* make a request, *you* must give *us* any documentation we require, including all *Documents* called for under the *Export Documentary Credit* and any amendments to it, and meet such conditions as we specify.

#### Assigning your Export Documentary Credit Rights to us

- (c) If we provide any of the services set out in **clause B5.5.1(a)(i)**, *you* assign and transfer to *us* all of *your Export Documentary Credit Rights* for that *Export Documentary Credit*.

## Protecting your Export Documentary Credit Rights

- (d) *You* must not do anything which may waive or otherwise give up, vary, diminish or adversely affect *your Export Documentary Credit Rights*. *You* represent and warrant to *us* that *you* have not, and undertake to *us* that *you* will not, assign, encumber or otherwise deal with any of *your Export Documentary Credit Rights* to any *Person* other than *us*.
- (e) If we ask, *you* must take any actions and execute any documents we reasonably require:
- (i) to evidence and perfect the assignment of *your Export Documentary Credit Rights* to *us*, including endorsing drafts or other instruments and giving notices of assignment reasonably required by *us*, at *your* cost;
  - (ii) to give effect to or enforce *your Export Documentary Credit Rights* at *our* cost (with costs to be reasonable and agreed with *us*), including by:
    - (A) making a demand;
    - (B) directing any relevant *Person* to make payment to *us* under the *Export Documentary Credit*, the related *Documents*, or any contract or agreement related to the relevant *Goods*, services or insurances;
    - (C) initiating and continuing legal action in any court and jurisdiction relating to the assigned



*Export Documentary Credit Rights*, related *Documents*, or any contract or agreement related to the relevant *Goods*, services or insurances; and

- (D) conducting those legal proceedings in *your* name, or allowing *us* to use *your* name, in accordance with *our* instructions.
- (f) If any of the *Export Documentary Credit Rights* are not effectively assigned and transferred to *us*, *you* agree and declare that *you* will hold the remaining interest on trust for *our* sole benefit until it is effectively assigned and transferred to *us*.

### **Negotiating an Export Documentary Credit**

- (g) *We* will negotiate an *Export Documentary Credit* "with recourse" unless otherwise agreed (a fee may apply).
- (h) If *you* ask *us* to negotiate an *Export Documentary Credit*, and that *Export Documentary Credit* is not honoured when presented or *we* are not paid on the *Maturity Date*, then *you* must pay the *Amount Owing to us* when *we* ask, unless *we* have agreed in writing that the negotiation is on a "without recourse" basis. However even if the negotiation is on a "without recourse" basis, *You* must immediately reimburse *us* for amounts under the *Export Documentary Credit* which are not honoured or paid to *us*, where the non-payment was due to a *Recourse Event*.

- (i) *You* also authorise *us* to:
- (i) take conditional acceptances or acceptances for honour and extend the due date for payment by *you* or any other *Person*;
- (ii) accept payment from any *Person* before or after maturity in whole, or under rebate or discount;
- (iii) accept part payment before maturity and deliver a proportional part of the *Goods* to the drawee or acceptor of a *Bill*, or the consignee of the *Goods*;
- (iv) at the request of the acceptor, delay presentation of a *Bill* for payment or acceptance without affecting *your* liability to *us* for the *Bill* or under these *Terms and Conditions*;
- (v) protest the *Bill*, institute proceedings and take steps for recovery from any drawee, acceptor or endorser of the *Bill* of any amount due, even if *we* have debited *your* account for the amount of the *Bill*; and
- (vi) take any of these steps at *our* discretion and on such conditions as *we* think fit.

### **Confirming an Export Documentary Credit**

- (j) By adding a confirmation, *we* guarantee payment of an *Export Documentary Credit* to a *Beneficiary* on the due date if the *Issuing Bank* fails to pay. However notwithstanding *our* confirmation, *You* must immediately reimburse *us* for amounts which the *Issuing Bank*



does not pay where the non-payment was due to a *Recourse Event*.

- (k) An *Issuing Bank* may ask us to provide an open confirmation.
- (l) Alternatively, you can ask us to provide a silent confirmation without involving the *Issuing Bank*.
- (m) When you ask us, we can decide whether or not to provide a confirmation at our absolute discretion. We will advise you the documents we require to assess your request and any further conditions.
- (n) We will not be bound by the confirmation if the *Export Documentary Credit* is changed without our written consent.

#### **Your representations and warranties to us**

- (o) You warrant and represent to us that:
  - (i) all *Documents* delivered or to be delivered to us for an *Export Documentary Credit* relate to the sale of *Goods* or services described in those *Documents*; and
  - (ii) at the time the *Documents* are presented you will have shipped or delivered the *Goods*, or fully performed the services for the buyer.

#### **Presenting Documents**

- (p) You must present us with:
  - (i) the original *Export Documentary Credit*;
  - (ii) all amendments to it; and
  - (iii) all *Documents* it calls for or that are necessary to comply with its terms.

- (q) You must present them to us as soon as they are available, and no later than a date determined by us, so that we can process them before the expiry date.
- (r) If the *Export Documentary Credit* expires without these *Documents* being presented, our liability under the confirmation ends on the expiry date.

#### **What we will do if we add a confirmation**

- (s) If we have added our confirmation to an *Export Documentary Credit* at your request and the *Documents* fully comply with the terms of the *Export Documentary Credit*, we will send the *Documents* to the *Issuing Bank* for acceptance and payment in accordance with the terms of the *Export Documentary Credit*. We will also:
  - (i) for an open confirmation: pay you the amount of the *Export Documentary Credit* on the *Maturity Date*;
  - (ii) for silent confirmation of a term *Export Documentary Credit*: if the *Issuing Bank* fails to pay all or any part of the amount claimed within 5 *Business Days* of the *Maturity Date*, pay you the amount of the *Export Documentary Credit* that has not been paid; or
  - (iii) for a silent confirmation of a sight *Export Documentary Credit*: if the *Issuing Bank* fails to pay all or any part of the amount claimed within 12 *Business Days* of the *Maturity Date*, pay you the amount of the *Export Documentary Credit* that has not been paid.

## Transferring Export Documentary Credits

- (t) If you ask, we may, but are not obliged to, agree to transfer an *Export Documentary Credit* from you to another *Beneficiary* (the *Transferee*).
- (u) With your application to transfer an *Export Documentary Credit*, you must give us any original copies of the *Export Documentary Credit* and any *Documents* required to effect payment. If we ask, you must also deliver any *Documents* to us that must be substituted for the *Transferee's Documents* to comply with the original *Export Documentary Credit*.
- (v) Unless you instruct us otherwise, we will substitute your *Bills* and invoices for those presented by the *Transferee*. At the time of the transfer, you renounce all transferred rights and interests, in favour of the *Transferee*.
- (w) When we have received payment under the *Export Documentary Credit*, we will deliver the *Transferee's Bills* and invoices to you, together with a payment advice for the amount we received, less the amount of the *Transferee's Bills* and any expenses or charges due to us.
- (x) If you do not deliver your *Bills* and invoices to us according to the terms of the *Export Documentary Credit*:
  - (i) you authorise us to forward the *Transferee's Documents*, and
  - (ii) we will have no responsibility to pay you the difference between the *Transferee's Bills* and your *Bills*.

## Your agreement with us

- (y) If we agree to transfer an *Export Documentary Credit*, you:
  - (i) accept full responsibility for the transfer;
  - (ii) agree that neither we, nor our *Correspondent Banks* or agents, will be responsible for:
    - (A) the description, quantity, quality or value of the *Goods* shipped or the services performed under the transferred *Export Documentary Credit*; or
    - (B) the correctness, genuineness or validity of the *Documents*; and
  - (iii) hold us harmless and indemnify us against all losses, liabilities, costs and expenses arising from or in connection with the transfer, including legal expenses on a full indemnity basis and taxes, except to the extent they are caused by our negligence, wilful misconduct or fraud.

## Instructing us to pay proceeds to a third party

- (z) All instructions you give us to pay the *Export Documentary Credit* proceeds to a third party are irrevocable unless we otherwise agree.
- (aa) You authorise us to rely on the information in all payment instructions delivered to us, without making any enquiries to verify them.
- (ab) We will advise the third party of your instruction in a form and at a time we determine.

(ac) We have no obligation to pay the *Export Documentary Credit* proceeds to the third party until:

- (i) documents are presented under the *Export Documentary Credit*
- (ii) the claim is honoured by the *Issuing Bank*;
- (iii) we have received the *Export Documentary Credit* proceeds; and
- (iv) we are satisfied it is permissible under our counter-terrorism policies, is not contrary to any applicable law and, where you are a trustee of a trust, is not in breach of trust,

(ad) We are not required to fulfil any arrangements entered into between the *Transferee* and you.

#### B5.5.2 Payments and costs

##### **Interest on negotiated Export Documentary Credits**

- (a) Where we agree to negotiate an *Export Documentary Credit* and advance the credit proceeds to you before receiving payment (an *Amount Owing*):
  - (i) you must pay us interest on the *Amount Owing*, and
  - (ii) we may use the proceeds from the *Export Documentary Credit* to repay the *Amount Owing* when we receive them.
- (b) We will notify you of the *Interest Rate*, margin and interest period in writing when you ask us to negotiate the *Export Documentary Credit*.
- (c) We calculate interest based on either a 360-day or 365-day year, depending on the currency. You pay interest either:

- (i) in arrears, from the day when the amount is credited to you, up to (but excluding) the day we receive payment; or
- (ii) in advance, from the day when the amount is credited to you, up to (but excluding) the day we expect to receive payment or the actual payment date, if it is different. We deduct interest in advance from the amount we advance to you and any balance owing is payable in arrears.

##### **Fees**

- (d) See **clause B5.9** (Trade Finance Fees Table) below.

#### B5.5.3 International Rules Applicable to Documentary Credits

- (a) Each *Documentary Credit* will be subject to the *UCP* for Documentary Credits of the *ICC* and the *ICC* Uniform Rules for Bank-to-Bank Reimbursements under Documentary Credits in force from time to time.
- (b) If these Terms and Conditions and the terms in any *ICC* rules are inconsistent or conflict, these Terms and Conditions will prevail.

#### **B5.6 Foreign Bills Negotiated Facilities**

##### B5.6.1 Your Contract with us

##### **Your warranties to us**

- (a) You warrant and represent to us that:
  - (i) the *Foreign Bill* and all *Documents* delivered or to be delivered to us relate to a sale of the *Goods* or the provision of services as described in those *Documents*; and

- (ii) at the time *you* present the *Documents*, *you* will have shipped or delivered the *Goods* to, or fully performed the services for, the buyer.

#### **What you authorise us to do**

- (b) When *you* ask *us* to negotiate or issue a *Foreign Bill*, *you* authorise *us* to:
  - (i) take conditional acceptances or acceptances for honour and extend the due date for payment by *you* or any other *Person*;
  - (ii) accept payment from any *Person* before or after maturity in whole, or under rebate or discount;
  - (iii) accept part payment before maturity and deliver a proportional part of the *Goods* to the drawee or acceptor of the *Bill*;
  - (iv) at the request of the acceptor, delay presentation of the *Bill* for payment or acceptance without affecting *your* liability to *us* for the *Bill* or under these *Terms and Conditions*;
  - (v) protest or note the *Bill*, institute proceedings and take steps for recovery from any drawee, acceptor or endorser of the *Bill* of any amount due, even if *we* have debited *your* account for the amount of the *Bill*; and
  - (vi) take any of these steps at *our* discretion and on such conditions as *we* think fit.

#### **B5.6.2 Setting up and using *your Facility***

##### **Your Facility Limit**

- (a) The total value in Australian dollars of the foreign bills

negotiated under *your Facility* must not exceed the *Facility Limit* set out in *your Offer Document*.

#### **Asking us to discount or negotiate Foreign Bills**

- (b) *You* can ask *us* to discount or negotiate a *Foreign Bill* by sending *us*:
  - (i) a completed Lodgement Authority for Overseas Documentary Bill in the form *we* determine;
  - (ii) any *Documents* required for payment under the *Foreign Bill*; and
  - (iii) any other documentation required by *us*.
- (c) *We* may discount or negotiate the *Foreign Bill* on a “with recourse” or “without recourse” basis as specified in the ‘Lodgement Authority for Overseas Documentary Bill’ and agreed to by *us*.
- (d) The conditions set out in each ‘Lodgement Authority for Overseas Documentary Bill’ *you* submit to *us* also form part of *your Contract* with *us*.
- (e) Where *you* have provided *us* with all the documentation *we* require under this **clause B5.6.2** (Setting up and using *your Facility*) above by 11a.m. on a *Business Day*, *we* will endeavour to process *your* request the next *Business Day*.

#### **B5.6.3 Costs and payments**

##### **Your obligations on Foreign Bills**

- (a) Unless the discounting or negotiation of a *Foreign Bill* is on a “without recourse” basis,
  - (i) if a *Foreign Bill* is not honoured on presentation or *we* are not paid before

the *Maturity Date*, you must pay us the amount of the *Foreign Bill* or the Australian dollar equivalent, calculated using our same day value selling rate at 11:00 am on the day we make the calculation; and

- (ii) *Without limiting any other indemnity, reimbursement and/or payment obligation, and if you are a Large Business Customer, you indemnify us against all payments, costs and expenses in connection with a Foreign Bill that we discount or negotiate at your request.*

### Interest

- (b) When we agree to discount or negotiate a *Foreign Bill*, and advance the credit proceeds to you before receiving payment, you must pay us interest on that advance, based on:

- (i) the *Interest Rate*, margin and interest period for set out in your *Offer Document*; or
- (ii) if it does not specify an *Interest Rate* and period, our current Australian Trade Finance Rate or in that currency, and margin, for a period determined by us in consultation with you and notified to you.

- (c) When we receive them, we can use the proceeds of the *Foreign Bill* to repay the advance and the interest you owe to us.
- (d) We calculate interest based on either a 360-day or 365-day year, depending on the currency. You pay interest either:

- (i) in arrears, from the day when the amount is credited to you, up to but excluding the day we receive payment; or
- (ii) in advance, from the day when the amount is credited to you, up to (but excluding) the day we expect to receive payment or the actual payment date, if it is different. We deduct the estimated interest in advance from the proceeds of the *Foreign Bill* before paying them to you and any balance owing is payable in arrears.

### Fees

- (e) See **clause B5.9** (Trade Finance Fees Table) below.

### Nominated Account

- (f) You must make payments in relation to the Bills *Facility* by direct debit.

#### B5.6.4 Changes to your *Facility*

You can reduce or cancel your *Limit* at any time. Unless you are in Default (in which case we may enforce our rights in accordance with the Contract), we will review your *Facility* not more often than once in any 12 month period to determine whether we will vary or cancel the *Limit*. We may cancel or reduce your *Limit* at our discretion by giving you 90 days' written notice following completion of such review.

If your *Facility* is an *Uncommitted Facility*, we do not have to give advance notice to you of any cancellation of your *Limit*. A change to, or cancellation of, your *Limit* will not affect your obligations for *Foreign Bills* we have already discounted or negotiated.



## B5.7 Collections

### B5.7.1 Setting up and using *your* Collection

#### General

- (a) Any *Collection* we undertake will be subject to any additional written instructions or directions we send *you* with confirmation of the *Collection*.
- (b) If we agree to undertake a *Collection*, we will not process that *Collection* until *you* have provided *us* with the documents or met any requirements we impose within the timeframe we specify.
- (c) *You* authorise *us*, in our discretion, to treat any *Collection* as conditional upon *us* receiving full payment of the relevant *Bill* or delivery of the relevant Documents nominated by *us*).

#### Import Documentary Collections – Additional Terms

- (d) If we act as a collecting bank in respect of an import *Collection* and *Bills* for acceptance or payment, or *Documents* on a cash against *Documents* basis:
  - (i) we may hold the *Documents* until acceptance or reimbursement of the relevant *Bills*, or payment, by *you*;
  - (ii) *You* may appoint our *Authorised Officers* as *Your* attorney to draw, sign, accept and present *Bills* and/or letters of undertaking required in connection with an *Import Documentary Collection*, by signing such documents as we require.
  - (iii) *Without limiting any other indemnity, reimbursement and/or payment obligation,*

*and if you are a Large Business Customer, you indemnify us for any damages, losses, costs and expenses we incur in connection with our appointment except to the extent caused by our negligence, wilful default or fraud.*

#### Export Documentary Collections – Additional Terms

- (e) If *you* ask *us*, we may negotiate or discount a *Bill* or provide advances against the *Documents* to be sent on *Collection*. In the event that we agree to do this, the relevant provisions of clauses **B5.5** (Export Documentary Credits) or **B5.6** (Foreign Bills Negotiated Facility) will apply.
- (f) We are not obliged to check the *Documents* before sending them to the collecting bank. We will only pay *you* the proceeds of a *Collection* which have actually been received by *us* from the collecting bank and will not be liable if we receive late advice of payment. We are not responsible for any act, omission, delay or default on the part of any collecting/settlement bank.

### B5.7.2 Payments and costs

#### You must reimburse us

- (a) *You* must reimburse *us* on demand, for any amount due in respect of a *Collection* and *you* indemnify *us* for any damages, losses, costs and expenses we suffer or incur in connection with that *Collection*, except to the extent they are caused by *our* negligence, wilful misconduct or fraud.



**Fees**

- (b) See **clause B5.9** (Trade Finance Fees Table) below.

**B5.7.3 International rules governing Collections**

- (a) Each *Collection* (either documentary or clean) will be subject to the *ICC Uniform Rules for Collections* in force from time to time.
- (b) If these *Terms and Conditions* and the terms in any *ICC* rules are inconsistent or conflict, these *Terms and Conditions* will prevail.

**B5.8 Liability**

- (a) (This clause B5.8(a) is applicable to facilities obtained or varied by agreement from 13 July 2021 and any *Facility* where you are a *Large Business Customer*). To the extent permitted by law, we are not liable for any loss, damage, claim, cost or expense you suffer or incur in connection with any *Trade Product or Service* (including as a result of any act, omission or delay in forwarding Documents or payments or in the transmission of communications) except to the extent caused by *our* negligence or wilful misconduct.
- (b) Further nothing in the *Contract* excludes any liability we have for failure to comply with:
- (i) Section 12 ED of the Australian Securities and Investments Commission Act 2001(Cth); or
  - (ii) Section 60 or section 61 of the Australian Consumer Law in Schedule 2 of the Competition and Consumer Act 2010 (Cth), (collectively "Specified Provision") and,

subject to the Banking Code of Practice, instead *our* liability for loss because of *our* failure to comply with a Specified Provision is limited to (at *our* election) resupplying the relevant services or paying the cost of having the relevant services supplied again.

**B5.9 Trade Finance Fees Table**

The following standard fees apply in relation to *Trade Products* and/or *Services*. Additional fees may apply under *your Offer Document*.

**Trade Advances**

Drawdown	AUD50
Rollover	AUD50
repayment (Charged where the advance is repaid prior to maturity)	AUD50 plus break costs if applicable

**Import Documentary Letters of Credit**

Issuance (via manual channel)	AUD150 plus SWIFT fee
Issuance (via Bank's e-channel)	AUD75 plus SWIFT fee
Amendment (via manual channel)	AUD100 plus SWIFT fee
Amendment (via Bank's e-channel)	AUD50 plus SWIFT fee (per amendment)
Cancellation Fee (when we agree to cancel a Letter of Credit for you)	0.25% of undrawn amount Minimum AUD75

**Import Documentary Letters of Credit**

Expired Undrawn Balance Fee (where balance at expiry is equal to or greater than AUD5,000 or equivalent)	0.25% of undrawn amount Minimum AUD75
Cash Covered Issuance Structuring (Charged in addition to applicable Issuance and Document Handling Fees for cash covered <i>Import Documentary Letters of Credit</i> )	AUD250
Document Handling Fee (applicable to each drawing received)	0.375% Minimum AUD100 No Maximum
Acceptance / Deferred Payment Commission (Charged where we pay a letter of credit on a term basis rather than at sight)	1.5%p.a. Minimum AUD80
Discrepancy Fee (Deducted from proceeds remitted where charges are for the beneficiary's account, otherwise to be charged to the applicant)	USD100 or equivalent in other currency
Reimbursement (Paying Bank) Commission (Deducted from proceeds remitted where charges are for the beneficiary's account, otherwise to be charged to the applicant)	USD100 or equivalent in other currency

**Export Documentary Letters of Credit**

Advising Fee (Charged for each <i>Export Documentary Credit</i> advised to a non-Commonwealth Bank customer; refundable against presentation of shipping documents to Commonwealth Bank)	AUD90
Advising of Amendment Fee (Charged for each <i>Export Documentary Credit</i> advised to a non-Commonwealth Bank customer; refundable against presentation of shipping documents to Commonwealth Bank)	AUD50
Transfer of Export Documentary Letter of Credit	0.25% Minimum AUD2000
Transfer of Amendment	AUD100
Assignment of Proceeds	AUD100 per assignment
Document Handling Fee (applicable to each drawing received)	0.25% of drawing amount Minimum AUD80 Maximum AUD1000
Acceptance of term drafts drawn on CBA	Price on application Minimum AUD80
Confirmation (open or silent)	Price on application

### Export Documentary Letters of Credit

Negotiation under Reserve (Charged in addition to Document Handling Fee)	AUD100
Discrepancy Fee	AUD50 per set of documents
Additional Handling Fee	AUD50
SWIFT Fee	AUD15
(Deducted from proceeds remitted where charged are for the <i>Beneficiary's</i> account, otherwise chargeable to the Applicant)	

### Foreign Bills Negotiated

Document Handling Fee	0.25% of FBN amount Minimum AUD90 Maximum AUD850
Additional Handling Fee	AUD80
(Charged in addition to Document Handling Fee where amendments to the terms of the collection are advised to the presenting bank or on dishonour)	
Documents Free of Payment	AUD80
(Charged when <i>you</i> , as drawer, instruct <i>us</i> to instruct an overseas bank to release collection documents free of payment)	
Tracer/SWIFT	AUD15

### Import Documentary Collections

Document Handling Fee	0.25% of collection amount Minimum AUD90 Maximum AUD850
Accepted Bills Received for Payment	AUD80
Documents Free of Payment (Charged where an overseas bank instructs <i>us</i> to release collection documents to <i>you</i> free of payment)	AUD80
Consignment Fee	AUD100
(Endorsement of shipping documents consigned to the Bank)	
Air Waybill Release Issuance	AUD90
Dishonour Fee	AUD80
(Charged on the dishonour of payment instrument by the institution on which it is drawn)	
Re-presentation Fee	AUD80
(Charged when we need to re-present a dishonoured payment instrument)	
Additional Handling Fee	AUD80
(Charged in addition to Document Handling Fee where amendments to the terms of the collection are advised to the presenting bank or on dishonour)	

### Export Documentary Collections

Document Handling Fee	0.25% of the collection amount Minimum AUD90 Maximum AUD850 (inclusive of GST)
Documents Free of Payment	AUD80 (inclusive of GST)
Additional Handling Fee (Charged in addition to Document Handling Fee where amendments to the terms of the collection are advised to the presenting bank or on dishonour)	AUD80 (inclusive of GST)
Tracer/SWIFT	AUD15

### Out of Pocket Expenses

SWIFT (per message)	AUD15
Courier – International	At Cost Minimum AUD30
Courier – Domestic	At Cost Minimum AUD20
Express Post	At Cost Minimum AUD10

### Standby Letter of Credit/Bank/Guarantee/Bond (Inward)

Advising Fee (Charged for each instrument advised to a non-CBA customer)	AUD250
Advising Amendment Fee (Charged for each instrument advised to a non-CBA customer)	AUD100 per amendment
Claims/Demand Handling Fee (Collection Service)	AUD350
Authentication Fee (Authentication of hardcopy of SBLC/Bank Guarantee/Bond issued by another bank)	AUD250

When we provide a foreign exchange service to *you* for the conversion of one currency to another currency, we will apply the following exchange rate to the transaction (unless otherwise negotiated with *us*):

- (a) Where one of the currencies to be exchanged in *your* transaction includes Australian dollars (AUD), the exchange rate applied will be as quoted by *us* on <https://www.commbank.com.au/personal/international/foreign-exchange-rates.html> with reference to:
  - (i) 'Send International Money Transfer' if *your* transaction involves *you* selling AUD and buying a foreign currency, or
  - (ii) 'Receive International Money Transfer' if *your* transaction involves *you* buying AUD and selling a foreign currency.
- (b) Where none of the currencies in *your* transaction includes AUD, please refer to the 'Foreign Exchange Calculator' located at the above URL.

Please note that fees and charges may apply to a foreign exchange conversion. Any applicable fees and charges will be set out in the 'Standard fees and charges for international payments and travel funds' available on *our* website detailed above.

### B5.10 Meanings of words

For *Facilities* referred to in this **section B.5**:

- (a) the following words have the meanings given below, and
- (b) terms not defined in these *Terms and Conditions* have the meaning given to them in the relevant *Offer Document* or applicable rules published by the *ICC*.

#### Amount Owing

For *Export Documentary Credit* and *Trade Advances*, all amounts and liabilities, in any currency, that *you* owe or that may become due or owing by *you*, or may be accruing to or for *our* account by *you*, whether alone or with another person to *us* and includes, without limitation, advances, interest and fees.

#### Application for Irrevocable Import Documentary Credit

The form which *you* submit to *us* to ask *us* to issue an *Import Documentary Credit*.

#### Approved Percentage

The maximum percentage an *Eligible Invoice* which *we* will finance under a *Trade Advance* which is an *Insured Export Finance Facility*, as set out in the *Offer Document* and subject to:

- (a) the security provided to *us*;
- (b) any claim limits under the eligible trade credit insurance policy; and

- (c) other factors, such as the relevant countries for trade and credit risk.

#### Australian Trade Finance Rate

An *Interest Rate* reasonably determined by *us* based on prevailing market conditions.

#### Bank Guarantee

For a *Trade Product or Service* any:

- (a) guarantee, indemnity, performance bond, bid/tender bond;
- (b) advance payment guarantee or bond;
- (c) counter, financial, direct pay or commercial guarantee (whether standby or demand); or
- (d) any legally binding letter of comfort or suretyship.

#### Beneficiary

The person identified as the beneficiary of a *Contingent Liability Instrument*, a *Documentary Credit* or a *Payment Instrument*.

For an *Export Documentary Credit* or an *Import Documentary Credit*, a beneficiary under a *Documentary Credit* or a *Payment Instrument*.

#### Break Cost

means an amount calculated in accordance with **clause B5.3.3**.

#### Collection

*Our* handling of *Documents*, as instructed by *you*, to:

- (a) make payment against acceptance of *Documents*;
- (b) deliver *Documents* against receipt of payment; or
- (c) deliver *Documents* on other terms and conditions.



### Collection Account

The account we establish in *your* name which *you* authorise *us* to draw on to meet *your* payment obligations under an *Insured Export Finance Facility*.

### Correspondent Bank

Any bank (including any branch of ours) which provides banking or other services for a *Trade Product* or *Service* at *our* request.

### Documentary Credit

An undertaking to pay a beneficiary on an agreed date, provided that the beneficiary has submitted the documents specified and complied with the terms of the undertaking.

### Documents

In the context of trade finance, all documents relating to the *Goods*. This includes all drafts, bills of exchange, documentary credits, documents of title, transport documents, insurance policies, invoices, certificates, reports, receipts or warrants.

### Eligible Invoice

An invoice *you* issue for *Goods* *you* export where any of the following eligibility criteria are satisfied:

- (a) we have been provided with a copy of the invoice and evidence satisfactory to *us* that the *Goods* have been delivered and we are satisfied the relevant trade insurer regards the invoice as eligible for insurance cover for trade credit risk;
- (b) we have otherwise determined that the invoice is an *Eligible Invoice*; or
- (c) such other criteria as are described in the *Offer Document* have been satisfied.

### Export Documentary Collections

A *Collection* whereby we deliver *your* Documents to and receive immediate or deferred payment from *your* overseas buyer's bank.

### Export Documentary Credit

A *Documentary Credit* in *your* favour that was issued by either a domestic or overseas Person, which we amend, advise, negotiate, discount, confirm, assign or transfer under the *Contract* at *your* request.

### Export Documentary Credit Rights

*Your* rights, title or interest in:

- (a) an *Export Documentary Credit*;
- (b) the proceeds of an *Export Documentary Credit*;
- (c) any agreement between *you* and a third party relating to the *Goods*;
- (d) the *Goods*; and
- (e) any *related Documents*.

### Foreign Bill

The *Bill* *you* provide to *us* as one of the *Documents* relating to *your* export of *Goods*, where the importer is named on the *Bill* as the drawee.

### Foreign Bills Negotiated

A *Facility* that provides *you*, as the exporter, with post-shipment finance, by *us* providing the proceeds of an export documentary collection to *you* before the buyer's payment is received.

### Goods

In the context of trade finance, the goods, product or service (in any combination) referenced in the *Documents* and the *Trade Product* or *Services*.

### ICC

International Chamber of Commerce.

### **Import Documentary Collections**

A *Collection* whereby we accept *Documents* from and make immediate or deferred payment to *your* overseas seller's bank.

### **Import Documentary Credit**

A *Documentary Credit* in favour of a domestic or overseas *Person* that we issue for *you*, or at *your* request.

### **Insured Export Finance**

A *Facility* that provides *you* with *Trade Advances* based on Eligible Invoices where *you* have obtained credit insurance cover for any non-payment of those Eligible Invoices.

### **Issuing Bank**

In the context of trade finance — the bank which issues the relevant *Documentary Credit*.

### **Lodgement Authority for Overseas Documentary Bill**

The form which *you* submit to *us* in conjunction with requesting *us* to *discount* or *negotiate* a *Foreign Bill*.

### **Maturity Date**

- (a) For a *Trade Advance*, the maturity date we advise to *You*, and
- (b) for a *Contingent Liability Instrument* or trade instrument, such as a *Bill*, the date by which payment must be made, set out in that instrument.

### **Payment Instrument**

Any *Standby*, *Letter of Credit*, *Bank Guarantee* or counter- indemnity we issue in favour of *our Correspondent Bank* or any other party.

### **Personal Information**

Any information or an opinion about an identified individual, or an individual who is reasonably identifiable, whether the information or opinion is true or not and whether the information or opinion is recorded in a material form or not.

### **Privacy Law**

- (a) The Privacy Act 1998 (Cth);
- (b) The Australian Privacy Principles; and
- (c) Any other applicable Australian Commonwealth or State legislation or guidelines in relation to privacy.

### **Recourse Event**

- (a) Any illegality by *You* or any other party to the trade transaction;
- (b) Any alleged or actual invalidity or unenforceability of the *Documentary Credit*, *Documents*, or trade transaction;
- (c) Any injunction, court order, law or *Sanction* which restricts any payment (whether to or from *us* and not subsequently discharged).

### **Shipping Guarantee and/or Missing Bill of Lading Guarantee**

A commitment by *us* at *your* request in favour of a carrier to facilitate the release of *Goods* in the event that the *Goods* arrive at the discharge port earlier than the original bill of lading in respect of the *Goods* or where the original bill of lading in respect of the *Goods* is missing.

### **Standby Letter of Credit**

A standby *Letter of Credit*. It includes any performance, financial and direct pay standby *Letters of Credit*.

### **Trade Advance**

A loan we make under **section B5.3** of these *Terms and Conditions* and an *Offer Document*.

### **Trade Product or Service**

Any trade related product, service, loan or *Facility*, including, a product, service, loan or *Facility* as described in this **section B.5** that we provide to *you*.

### **UCP**

Uniform Customs and Practice.

### **Uncommitted Facility**

A *Facility* described as an Uncommitted *Facility* in the *Offer Document* or which *you* and we have otherwise agreed is an uncommitted *facility* in respect of which we can cancel the *Limit* without advance notice. This means that we can elect in *our* discretion at any time:

- (a) not to approve *your Drawdown* notice under the *Facility* (whereupon we will notify *you* of *our* decision not to approve the *Drawdown* notice such that no *Trade Product or Service* will be made); or
- (b) not to agree to any request by *you* to rollover or extend an existing *Facility* (whereupon we will notify *you* of *our* decision not to rollover or extend such that the existing *Facility* must be repaid on the original *Maturity Date*).

## B.6 MASTER FACILITIES

### B6.1 About Master Facilities

Under a *Master Facility*, you can have a combination of the following *Facilities* in one package with one overall Master Limit:

- (a) AgriBusiness Line of Credit Facility;
- (b) Business Line of Credit Facility;
- (c) Contingent Liability Facility;
- (d) Foreign Bills Negotiated Facility;
- (e) Import Documentary Credit;
- (f) Market Rate Loans;
- (g) Overdraft; and/or
- (h) Trade Advance Facility.

### B6.2 Setting up and using your Master Facility

B6.2.1 You can borrow up to your *Master Limit*. The total Australian dollar equivalent of all amounts outstanding on the *Facilities* included under your *Master Facility* (contingent or otherwise) must not exceed the *Master Limit*.

B6.2.2 *Sub Facility Limits* as agreed with you from time to time apply separately to each *Sub Facility* included under your *Master Facility*. These are communicated to you via the *Offer Document* or *Account Confirmation Document*.

B6.2.3 Where there is more than one *Borrower*, we may provide a *Sub Facility* to either one or a combination of those *Borrowers* under the *Master Facility*. You agree all *Borrowers* will be jointly and severally liable for any such *Sub Facility*. We may give notices and issue statements only to the subset of *Borrowers* in whose name each *Sub Facility* is provided.

## B6.3 Changes to your Facility

B6.3.1 Reducing or cancelling your *Master Limit*

- (a) Subject to any longer notice period or other restrictions provided for under any *Sub Facility* in relation to a *Sub Facility Limit*, we may cancel or reduce your *Master Limit* by giving you 90 days' written notice.
- (b) At the end of the notice period, if the total Australian dollar equivalent of all amounts outstanding (contingent or otherwise) exceeds the *Master Limit*:
  - (i) we may pay one or more *Beneficiaries* under a contingent liability, and
  - (ii) you must repay the excess.

## B6.4 Meanings of words

In this **section B.6**, the following words have the meanings given below:

### Master Facility

A Multi-Option *Facility* or Trade Finance *Facility*.

### Master Limit

The *Limit* for a *Master Facility* set out in the *Offer Document*.

### Sub Facility

A *Facility* under a *Master Facility*.

### Sub Facility Limit

The *Limit* applying to a *Sub Facility*.

## B.7 CARD PRODUCTS

### B7.1 Corporate Cards

B7.1.1 There are two types of Corporate Card:

- (a) Corporate Charge Card, for which *you* must pay the outstanding balance in full each month from a *Nominated Account*.
- (b) Corporate Credit Card, for which *you* must make at least the minimum payment each month.

### B7.2 Business Cards

Business Credit Cards are no longer available. These *Terms and Conditions* apply to Business Credit Cards already issued to existing customers.

### B7.3 Setting up and using your Facility

B7.3.1 Choosing Cardholders

#### Corporate Cards

- (a) *You* can choose anyone 18 years or older to receive a Corporate Card. There is no limit to the number of *Cardholders*.

#### Business Credit Cards

- (b) A *Cardholder* must be at least 18 years of age. *Cards* may only be issued as follows:

Type of Borrower	Who can receive a Card?	Maximum no. of Cards issued
Individual	<i>You</i> and any other individual <i>you</i> nominate in writing may receive a Card.	<i>We</i> will issue a maximum of two Cards, each with a Code.

Type of Borrower	Who can receive a Card?	Maximum no. of Cards issued
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More than one proprietor or partnership

*You* may nominate, in writing, any two individuals to receive a Card.

Where any one or more of the partners is an individual, at least one of the *Cardholders* must be a partner.

Company

*You* may nominate, in writing, any two individuals to receive a Card.

B7.3.2 Activating a Card

*Cards* come with activation instructions. A *Card* can't be used before the commencement month or before it has been activated. A *Cardholder* must sign their *Card* as soon as they receive it.

B7.3.3 Using a Card

- (a) A Card can be used for transactions with any merchant or financial institution displaying the Mastercard logo in Australia and most other countries. Some goods and services may not be available using a *Card*.
- (b) A *Card* may only be used for business purposes.
- (c) *Cards* cannot be placed into credit for a sustained period of time. *We* may return the funds to *you*.



- (d) *You can ask us to restrict the use of a Card with certain merchant categories. If a merchant is incorrectly categorised by the merchant's financial institution, these restrictions will not work and we will not be liable.*

#### B7.3.4 Using Electronic Equipment

- (a) *You authorise us to process Cardholder transactions using Electronic Equipment.*

##### **Electronic banking limits**

- (b) *An electronic banking limit may apply per Card to ATM and debit EFTPOS transactions requiring a PIN.*
- (c) *We may also set maximum or minimum limits for withdrawals using Electronic Equipment.*

##### **When we process electronic transactions**

- (d) *We may process electronic transactions on the next Business Day if they are made:*
- (i) *after 3 pm on a Business Day; or*
  - (ii) *on a weekend or public holiday.*

##### **When we may cancel use of a card in Electronic Equipment**

- (e) *If we reasonably believe a Card is being used in a way that may cause losses to you or us, we may cancel its use in Electronic Equipment without giving you advance notice.*

##### **Provisional authorisation**

- (f) *We may provisionally authorise a transaction made using Electronic Equipment — for example, when you check into a hotel. When that happens, your available credit is reduced by the provisionally authorised amount for up to 31 Business Days (but usually less).*

##### **Our right not to authorise transactions**

- (g) *We reserve the right not to authorise a transaction, even when you have available funds. We'll act fairly and reasonably towards you when exercising this right. This might happen, where we reasonably believe that a block on a transaction is necessary to protect our legitimate interests, for instance, if we suspect a fraudulent transaction or have problems with our computer systems*

##### **Disputes with a merchant**

- (h) *Cardholders are responsible for the accuracy of transaction amounts entered in Electronic Equipment.*
- (i) *A Cardholder must deal directly with the merchant if they have complaints about goods or services, or if they dispute the amount charged.*
- (j) *As a member of the Mastercard scheme, we may be able to request a refund ('chargeback') of a purchase transaction in certain situations, for example if the goods were not delivered.*
- (k) *To take advantage of this chargeback process, contact us within 30 days of the date your statement is issued. Otherwise, we may not be able to claim a chargeback for you.*

#### B7.3.5 Limits

- (a) *You may borrow up to the Facility Limit in your Offer Document.*
- (b) *Corporate Cards also have a separate Card Limit for each Card Account, agreed between you and us. Note that the Card Limits may add up to more than the Facility Limit. This means*

that not all *Cardholders* will be able to draw up to their full *Card Limit* at the same time.

- (c) *You* must ensure that none of *your Facility* or *Card Limits* are exceeded. *We* can require *you* to pay *us* any excess amount immediately.

#### Asking for a cash advance

- (d) A *Cardholder* can ask for a *Cash Advance* of AUD\$20 or more (or the foreign currency equivalent, if overseas).

## B7.4 Costs and payments

### B7.4.1 Foreign currency transactions

- (a) Purchases and *Cash Advances* in foreign currencies are converted to Australian dollars by Mastercard, which determines the exchange rates and conversion process.
- (b) In some cases, overseas merchants or ATM operators may allow a *Cardholder* to transact in Australian dollars, in which case they set the exchange rate.
- (c) *We* charge *you* an international transaction fee when *you* complete:
- (i) a transaction in a foreign currency
  - (ii) a purchase or *Cash Advance* in Australian dollars while overseas; or
  - (iii) a purchase or *Cash Advance* in Australia (for example online) where the merchant, financial institution or entity processing the transaction is located overseas.

### B7.4.2 Making payments

#### Corporate Credit Cards and Business Credit Cards

What you need to pay

*Each Consolidated Account* statement sets out:

- a closing balance, which shows how much *you owe us*;
- the minimum payment *you* need to make; and
- the date the minimum payment is due.

*You* must make at least the minimum payment by the due date.

The due date is 25 days after the statement date (or, if that day is not a *Business Day*, the next *Business Day*).

*You* can pay more than the minimum at any time.

*You* must also pay the outstanding balance of the *Consolidated Account* on cancellation of the *Facility*.

How we calculate the minimum payment

If the *Consolidated Account* statement shows a closing balance less than \$75, the minimum payment is the closing balance.

Otherwise, the minimum payment is the larger of:

- the excess of the closing balance over the *Facility Limit* (excluding any amount by which *your* credit limit was exceeded in a previous statement period, and which remains unpaid);
- 2.5% of the closing balance (rounded down to the nearest dollar); or
- \$75.

## Corporate Credit Cards and Business Credit Cards

How you can pay	<p>You can pay <i>your</i> account in Australian dollars:</p> <ul style="list-style-type: none"> <li>• by direct debit against a <i>Nominated Account</i>;</li> <li>• by cheque directed to the address shown on the statement; or</li> <li>• at any of <i>our</i> branches.</li> </ul> <p>We don't accept payment through overseas financial institutions.</p> <p>A payment is taken to be made when <i>we</i> credit it to <i>your</i> account. <i>We</i> aim to do this as soon as practical.</p>
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Paying by cheque	<p>Cheques must be cleared. If a cheque is dishonoured, <i>we'll</i> treat the dishonoured payment as a <i>Cash Advance</i> and charge interest on it from the date of dishonour.</p>
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## Corporate Charge Cards

What you need to pay	<p>Each Consolidated Account statement sets out:</p> <ul style="list-style-type: none"> <li>• a closing balance, which shows how much <i>you</i> owe <i>us</i>; and</li> <li>• the date the payment is due which is the statement date or, if that day is not a Business Day, the next Business Day.</li> </ul> <p><i>You</i> must also pay the outstanding balance of the Consolidated Account on cancellation of the <i>Facility</i>.</p>
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## Corporate Charge Cards

How you can pay	<p><i>You</i> must make payments in relation to a Corporate Charge Card <i>Facility</i> by direct debit against a <i>Nominated Account</i> unless otherwise agreed.</p>
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### B7.4.3 How we apply *your* payments

*We* apply *your* payments in this order:

- (a) Interest and government charges shown on any statement;
- (b) Any of *our* fees and charges (including *Enforcement Expenses*) shown on any statement;
- (c) *Cash Advance* shown on any statement;
- (d) Purchases shown on any statement before *your* last statement;
- (e) Purchases shown on *your* last statement;
- (f) *Cash Advance* not yet shown on a statement;
- (g) Purchases not yet shown on a statement; then
- (h) Interest, any of *our* fees and charges, *Enforcement Expenses* and government charges not yet shown on a statement.

### B7.4.4 Fees and charges

- (a) *You* must pay the fees set out in the 'Commonwealth Bank Business and Credit Card Standard Fees and Charges' brochure or <https://www.commbank.com.au/content/dam/commbank/business/pds/003-840-personal-liability-card-fees.pdf> (or 'Commonwealth Corporate Card Fees and Charges' brochure for Corporate Cards or refer to <https://www.commbank.com.au/corpcardfees>) *we* give *you*

as changed from time to time under **Clause A.4.**

- (b) We will debit any fees or charges from the *Card Account* at the end of each *Statement Period*, except:
- (i) non-Commonwealth Bank ATM fees, which we debit from the *Card Account* after any Cash Advance or balance enquiry; and
  - (ii) any annual fee, which we debit from the *Card Account* in your first statement period and then annually.

#### B7.4.5 Interest

- (a) You must pay interest at the *Interest Rate* on the interest-bearing balance, which is:
- (i) **For Business Credit Cards and Corporate Credit Cards:** the unpaid balance of each purchase, *Cash Advance* and other amount we are permitted to charge, except amounts with an interest-free period.
  - (ii) **For Corporate Charge Cards:** the unpaid balance of *Cash Advances*.
- (b) We debit the *Card Account* on the last day of each *Statement Period* for interest up to and including that day.

#### Your Interest Rate

- (c) Your *Interest Rate* is a reference rate as set out in your *Offer Document* plus or minus a margin. We divide your *Interest Rate* by 365 (even in a leap year) to get a daily rate, then apply it to the interest-bearing balance as described below.

#### How we calculate interest

- (d) At the end of each statement period, we calculate interest separately on:
- (i) purchases; and
  - (ii) *Cash Advances*.
- (e) Interest on each of these categories is added to the balance. Fees are considered purchases. We then follow these three steps:
- (i) Average the balances over the statement period;
  - (ii) Multiply the average by the daily interest rate; then
  - (iii) Multiply the result by the number of days in the *Statement Period*.
- (f) We add to these any interest relating to a previous period that hasn't yet been charged (for example, interest on amounts no longer subject to an interest-free period).

#### Credit Cards with interest-free periods

- (g) A *Business Credit Card* or *Corporate Credit Card* may have an interest-free period on purchases of up to 55 days. The actual interest-free period may be less than 55 days, depending on time between the date the purchase is made and the time payments due.
- (h) We won't charge you any interest on purchases shown on your statement if:
- (i) you paid in full the closing balance shown on the statement by the due date, and
  - (ii) you also paid in full the closing balance on your previous statement by its due date.

- (i) You will still be charged interest on *Cash Advances*.

- (ii) you continue to be responsible for any liabilities incurred on the *Consolidated Account* before the date of cancellation;

## **B7.5 Changes to your Facility**

### **B7.5.1 Fraud, Loss, Regulatory Risk**

- (a) We can suspend or cancel a *Card*, or suspend *your Facility*, without prior notice:
- (i) if you are in *Default*;
  - (ii) to protect you, or us, from fraud or other losses; or
  - (iii) to manage regulatory risk.
- We'll act fairly and reasonably when exercising this right.
- (b) If this occurs, you must continue paying all required amounts shown on each statement.

- (iii) you must cancel any recurring payment authority linked to a *Card Account*; and
- (iv) we will continue to charge any interest, fees, *Enforcement Expenses* and government charges until the *Outstanding Balance* is paid in full.

### **B7.5.2 Reducing or Cancelling your Facility Limit**

- (a) You can cancel *your Facility* at any time.
- (b) We may reduce *your Facility Limit* or cancel *your Facility* or *Card* by giving you 90 days' written notice including the reason for doing so if appropriate.
- (c) If we reduce *your Facility Limit*, you must, by the end of the notice period, repay such amount as is necessary to reduce the *Outstanding Balance* to an amount not exceeding the reduced *Facility Limit*.
- (d) If we cancel *your Facility*, you must repay the *Outstanding Balance* and any other amount owing to us by the end of the notice period.
- (e) If the *Facility* is cancelled:
- (i) all the *Cards* are immediately cancelled and you must return them;

- (f) If a *Card* is cancelled:
- (i) you must return it to us immediately, and
  - (ii) you must cancel any direct debit linked to the *Card Account*.
- (g) If we cancel *your Facility* and it is in credit we:
- (i) will pay you the amount of the credit balance; and
  - (ii) may charge you an amount that is our reasonable estimate of the costs of cancelling *your Facility*.

## **B7.6 Managing your account**

### **B7.6.1 Your liability**

- (a) You are liable for all the credit we extend as a result of you or any *Cardholder* using an *Access Method*. We will debit the *Card Account* or the *Consolidated Account*.
- (b) You must pay us:
- (i) the price of goods and services bought direct from a merchant or through mail, online and telephone orders (including regular payment arrangement transactions);



- (ii) the amounts shown on all *Cash Advance* vouchers;
  - (iii) the amounts of all *Cash Advances* and any other transactions charged, or intended to be charged, to *your Card Account* as a result of the use of *Electronic Equipment* or by use of a *Password* or *PIN*; and
  - (iv) any other amounts *we* may debit to the *Card Account* and the *Consolidated Account* with *your* or a *Cardholder's* authorisation under these *Terms and Conditions*.
- (c) *You* are liable for all the credit *we* extend on a *Card* issued to the *Cardholder*, before or after their *Card* is cancelled or after this *Contract* is terminated.

#### B7.6.2 Statements

- (a) *We* send a monthly statement for each *Card Account*. For Corporate Cards, *we* also send a statement of *Consolidated Account* for the *Facility*.
- (b) *We* won't send a statement if:
  - (i) there has been no account activity since the previous statement and the balance is less than \$2.00;
  - (ii) *we* have written off any amount *you owe us* under the *Facility* and no other entries have been made since the closing date for the previous statement; or
  - (iii) *you* have been in *Default* over three consecutive *Statement Periods*, including the most recent *Statement Period*, and *we* have not given credit on the *Card Account* during the most recent *Statement Period*.

#### B7.6.3 Mistakes and refunds

- (a) *You* should check *your* transaction history regularly, and each statement as soon as *you* receive it.
- (b) If *you* think there is an error or an unauthorised transaction, tell *us* as soon as *you* can. That's important because Mastercard scheme rules only allow *us* to seek a refund within strict time limits: see **clause B7.3.4(k)**.

#### B7.6.4 Documents

*We* will, at *your* request, give *you* a copy of *your* documents in *our* possession including:

- (a) Any relevant Security document;
- (b) Any notice *we* previously gave to *you* which is relevant to *us* exercising *our* rights

#### B7.6.5 How to dispute a Card transaction

- (a) *You* can challenge any *Card* transaction by contacting *us*.
- (b) If *we* can't resolve *your* concern immediately, *we'll* advise *you* in writing about *our* internal complaints resolution procedure.

#### **Investigating your complaint**

- (c) Within 21 days of hearing *your* concern, *we* will either complete an investigation into it or write and inform *you* that *we* need more time.
- (d) *We* aim to complete investigations of transactions involving use of a *Card* and *PIN* or *Card* and *Password* within 45 days (unless there are exceptional circumstances, in which case *we'll* write to advise *you* of the delay).
- (e) *We'll* advise *you* in writing of the outcome of *our* investigation, the reason for *our* decision, and the relevance of any of the terms and conditions of use of the *Card* that may apply.

### Fixing mistakes

- (f) If we find *your* account has been incorrectly debited or credited, we'll adjust the *Card Account* (including any interest and charges) and advise *you* of the debit or credit.
- (g) If we find *your* account has not been incorrectly debited or credited, or in the case of *Unauthorised Transactions*, that *you* are liable for the loss or part of the loss, we will give *you* copies of any documents and other evidence on which we based *our* finding.
- (h) If *you're* not satisfied with *our* decision, please see *our* brochure called *How we can help you*, available at any of *our* branches. Or visit *our* **Customer Complaint Guide**.

#### B7.6.6 Protecting *your Card, PIN* and *Password*

- (a) Each *Card* remains *our* property. If we ask, *you* must return a *Card* to *us*. *You* must also destroy any *Card* that is no longer valid.
- (b) A *Cardholder* must sign a *Card* as soon as they receive it, and keep it in a secure place.
- (c) In the event *you* do not inform *us* about the loss, theft or misuse *you* may not be eligible for refunds or any losses incurred (where *you* otherwise may have been).

### Keeping Access Methods secure

- (d) To prevent misuse, theft or loss, *Cardholders* should not share their *Card* or *PIN*. *You* must tell *us* straight away if:
  - (i) a *Card* or device containing the *Card* details has been lost or stolen, or

- (ii) *you* or a *Cardholder* suspects someone else has used a *Card Account* without permission or may know a *PIN* or *Password*.

### How to tell us about lost or stolen Cards, PINs or Passwords

- (e) In Australia: call *us* on 13 1576 anytime, or visit any branch during bank hours.
- (f) In the USA: call 1-800-Mastercard (1 800 627 8372) (free call).
- (g) In any other country: call +1 636 722 7111 reverse charges, or visit any financial institution displaying the Mastercard logo.
- (h) If *we're* contacted, we give the *Cardholder* a number as proof of the date and time of the report. The *Cardholder* should keep this in a safe place for future reference.
- (i) If the *Cardholder* can't report the loss, or register their suspicion of misuse because *our* hotline facilities are unavailable, they will need to visit or phone a branch.

### If a Card is found

- (j) If the *Cardholder* recovers their *Card* after reporting it lost or stolen, they must tell *us* and destroy the *Card*. *We* will provide a replacement *Card*. If the *Cardholder* is overseas at the time, they should tell a financial institution displaying the Mastercard logo.

## B7.6.7 Getting a refund on unauthorised transactions

### When you'll get a refund

You will get a refund for an unauthorised transaction if it's clear *you* or any other *User* didn't contribute to the loss, or the loss is because:

- (a) a *Cardholder* can't report a lost *Card* or *PIN* or register a suspicion of misuse because *our* hotline facilities are unavailable;
- (b) someone uses a *Card*, *PIN* or *Password* after *you* tell *us* the *Card* was lost, stolen or misused or that someone else may know the *PIN* or *Password*;
- (c) a bank employee or anyone involved in processing *your* transaction contributed to a loss by acting fraudulently or negligently;
- (d) the transaction involved faulty equipment, a forged or faulty *Card* or device or an expired or cancelled *Card*, *PIN* or *Password*;
- (e) someone uses a *Card*, *PIN* or *Password* before the *Cardholder* receives it; or
- (f) the same transaction is debited more than once.

You might get a partial refund for any unauthorised transaction:

- (g) conducted on any one day if the applicable daily transaction limit is exceeded before or as a result of the transaction;
- (h) on any *Card Account* where the available limit of that *Card Account* is exceeded before or as a result of the transaction; or
- (i) on any account as to which *we* had not agreed with *you* to give a *Cardholder* access using the *Access Method*.

### When you won't get a refund

You will not get a refund for an unauthorised transaction if *you* or any other *Cardholder* has contributed to the loss by:

- (j) committing fraud;
- (k) telling someone the *PIN* or *Password*, keeping an undisguised record of them, creating a *PIN* or *Password* that is easily guessed (like their name or date of birth) or otherwise contributing to the loss by not protecting the *PIN* or *Password*;
- (l) not promptly telling *us* that their *Card* was lost or stolen, or that someone else may know the *PIN* or *Password* (*you'll* be liable for transactions after *you* or the *User* should have told *us*); or
- (m) forgetting to collect the *Card* after using an ATM.

In any other circumstance not covered in the left hand column, *we* may hold *you* responsible for the transaction unless *we* are able to obtain a refund for *you* under the Mastercard scheme rules.

## B7.7 Meanings of words

In this **section B.7**, the following words have the meanings given below:

### Access Method

A method *we* make available for *you* to provide instructions to *us*, which *we* rely on as *our* mandate to act.

It includes all components of the *Access Method*, including *Devices, Identifiers, Codes* or a combination of these. It does not include authentication by a manual signature.

### Card

The Mastercard Card *we* issue on a *Card Account* to a *Cardholder*.

### Card Account

For Business Credit Card Accounts – the account *we* set up in *your* name to record *Cardholder* transactions.

For Corporate Card Accounts – the account *we* set up in the *Cardholder's* name to record *Cardholder* transactions under *your Facility*.

### Cardholder

A person who is issued a *Card* at *your* request, and anyone authorised by a *Cardholder* to use a *Card* or *Code*.

### Cash Advance

Any money *we* lend *you* under *your Card Facility*, except a purchase. Cash advances include:

- (a) ATM withdrawals (including any ATM fee);
- (b) money withdrawn at a branch or other financial institution;
- (c) transfers from *your Consolidated Account*, including transfers using *our* internet banking, mobile banking, phone banking or call centres, or Australia Post;

- (d) transactions for items *we* consider equivalent to cash, such as gambling, lottery tickets, money transfers or travellers cheques, including transactions which merchants tell *us* are for such items; and
- (e) dishonoured payments.

### Code

Information such as a *PIN* or *Password*, which:

- (a) is known to a *User*;
- (b) is intended to be known only to the *User*, or only to the *User* and *us*;
- (c) *we* require the *User* to keep secret; and
- (d) the *User* must provide (in any manner which *we* approve) to access a *Card Account* electronically or via a *Card*.

### Consolidated Account

The account *we* set up in *your* name to which *we* debit or credit amounts for *Card Accounts*.

### Device

A physical device used to electronically access a *Card Account*, such as a *Card*, computer or smartphone.

### Electronic Equipment

Includes an electronic terminal (like an EFTPOS terminal or ATM), computer, television, telephone, smartphone or smart watch.

### Enforcement Expenses

- (a) The cost to *us*, including *our* reasonable internal administrative expenses, if *we* take enforcement proceedings, such as: in a court, to recover a payment due under the *Contract* or a *Security*, and

- (b) to enforce the *Security*, including taking possession of the *Security Property*.

### **Identifier**

Information that:

- (a) is known to the *User* and others and not required to be kept secret, or
- (b) which the *User* must provide when accessing a *Card Account* with a *Card* or *Electronic Equipment*.

### **Password**

A password nominated by a *Cardholder* that meets *our* requirements, for use with the *Cardholder's Card*.

### **PIN**

A Personal Identification Number (PIN) which *we* issue to *Cardholders* (or which is selected by a *Cardholder*) for use electronically with a *Card*, typically at an EFTPOS or ATM terminal.

### **Statement Period**

The period for which *we* draw up a statement of the *Card Account*, or would have drawn up a statement if there had:

- (a) not been a breach of these *Terms and Conditions*, or
- (b) been a transaction on the *Card Account* (other than *us* writing off an amount owed to *us*) since the date *we* last drew up a statement.

### **User**

*You* and any *Cardholder*.



## B.8 PROCUREMENT MANAGEMENT ACCOUNT FACILITY

### B8.1 What the PMA Facility can be used for

Under this *PMA Facility*, you may have one or more Procurement Management Accounts (*PMAs*). A *PMA* may only be used to finance commercial procurement purchases from merchants who accept Mastercard card payments. When setting up a *PMA Facility*, you can choose one of 2 options, which are specified in the *Offer Document*:

- (a) *PMA Facility* - standard
- (b) *PMA Facility* with *VCN* functionality (procurement or travel).

### B8.2 Setting up and using your Facility

#### B8.2.1 Your *Facility* Limit

- (a) You can borrow up to the *Facility Limit* set out in the *Offer Document*.
- (b) You must ensure that at all times the *Outstanding Balance* does not exceed the *Facility Limit*.
- (c) We may debit any amount of the *Outstanding Balance* in excess of the *Facility Limit* to the *Nominated Account*, or at our option, we may require you to pay any excess immediately.

#### B8.2.2 Drawing on a PMA

You may draw on a *PMA* by use of the following *Access Methods*:

PMA option	Access method
PMA – standard	<i>PMA Details</i>
PMA with VCN functionality (procurement or travel)	<i>Virtual Card Number (VCN)</i>

Payments using these *Access Methods* may only be made to merchants who accept Mastercard card payments.

#### B8.2.3 PMA – Standard

Some limits can be set for the use of *PMA Details* including individual transaction limits and *Drawing* limits. You can also ask us to restrict the use of a *PMA* according to merchant categories.

#### B8.2.4 PMA with VCN functionality

You'll be issued with *PMA Details* for reconciliation purposes. You should keep these in a safe and secure place and you should not use those details for any purchase or other transaction. You must instead use *VCNs*. *VCNs* may be generated by certain *Authorised Users* using the *InControl* module in the *Smart Data Portal* or through an *API* or *SFTP*, including through a third party you authorise who supports the use of *VCNs* (such as a travel management company). When a *VCN* is issued, controls on its use may be applied. These include controls under which the *VCN*:

- (a) may only be used for a single transaction or limited number of transactions;
- (b) may only be used between specified dates;
- (c) may only be used to pay merchants in specified countries;
- (d) may only be used to pay one or more specified merchants or merchant categories; and
- (e) is subject to transactions limits within specified periods of time.

Further details on the restrictions you can apply to *VCNs* are available in the *VCN User Guide*.

#### B.8.2.5 Verifying identity under anti-money laundering laws

- (a) *We may require a person's identify to be verified in accordance with our policies and procedures before you or we allow any person to use an Access Method or to have access to the Smart Data Portal, including by API or SFTP*
- (b) *You agree to provide such co-operation and assistance as we reasonably require to verify the identity of any Authorised User.*

### B8.3 Protecting the Smart Data Portal

- (a) *You must ensure that each Smart Data Portal Passcode we issue to an Authorised User is kept secret and secure by the Authorised User. This includes ensuring that if any record of a Smart Data Portal Passcode is made, a reasonable attempt has been made to disguise it or otherwise protect it from unauthorised access.*
- (b) *If you or an Authorised User become aware, or should reasonably have become aware, that the security of a Smart Data Portal Passcode has been compromised, you must immediately notify us in order that we can prevent unauthorised access to the Smart Data Portal.*

### B8.4 Protecting the Access Methods

#### B8.4.1 Keeping Access Methods secure

Except for the purpose of initiating a purchase transaction, to prevent misuse, theft or loss, *you must not, and you must ensure that your Authorised Users do not, disclose to any person any information about an Access Method including:*

- (a) *the 16 digit code;*
- (b) *the expiry date; and*
- (c) *the CVC.*

#### B8.4.2 Reporting a compromised Access Method

*You must notify us immediately upon becoming aware that the security of an Access Method has been compromised including when we issue a Statement to you which includes any Unauthorised Transaction. You must do this by calling 13 15 76.*

### B8.5 Liability for losses

- (a) *We shall not be liable for any losses for Unauthorised Transactions to the extent such losses arise from your failure (including a failure by an Authorised User) to comply with your obligations under clause B8.3 or clause B8.4.*
- (b) *When you report any compromised Smart Data Portal Passcode or Access Method to us, you can ask for a record number as proof of the date and time of the report. You should keep this number as evidence that you told us about the compromised Smart Data Portal Passcode or Access Method.*
- (c) *If a Smart Data Portal Passcode or an Access Method is compromised and Unauthorised Transactions occur on the PMA, we will be liable for all losses occurring after we have been told that the Smart Data Portal Passcode or the Access Method, as the case may be, has been misused, stolen or otherwise compromised.*

### B8.6 Withdrawing authority to use the PMA or an Access Method

*At any time, by written notice to us, you may:*

- (a) *place a temporary stop on the operation of the PMA to be effective until you revoke the stop; or*

- (b) instruct *us* to close the *PMA*.  
If *you* instruct *us* to close the *PMA*, the *Outstanding Balance* will become immediately payable by *you*.

If *you* provide any such notice, *you* will remain liable for any transaction initiated before *we* have had the opportunity to take action based upon *your* notice.

## **B8.7 Supplier restrictions**

- (a) Some merchants who accept Mastercard card payments may not necessarily accept Mastercard card payments for all goods and services which they supply.
- (b) *We* make no representation in relation to goods or services financed using the *PMA* or in relation to any merchant's willingness to accept payment by means of an *Access Method*.

## **B8.8 Responsibility for use**

- (a) Each *Authorised User* is *your* agent with authority to bind *you* when they use the *Smart Data Portal* or an *Access Method*.
- (b) When *you* or any of *your Authorised Users* initiate a payment using an *Access Method* which is communicated to *us* through *Electronic Equipment*, *you* authorise *us* to make the payment to the relevant merchant and to debit the amount of the payment to the *PMA*.
- (c) *We* will not be liable for a failure to process a payment initiated using an *Access Method* where such a failure arises directly or indirectly from a failure or malfunction of the *Electronic Equipment* or any other circumstance beyond *our* control.

## **B8.9 Your payment obligations**

### **B8.9.1 Transactions with Access Methods**

- (a) *You* are liable for any *Drawing* as a result of *you* or any *Authorised User* using an *Access Method*, even if the use occurs after the *Access Method* is cancelled or after this *Contract* is terminated and *you* authorise *us* to debit each such amount to the *PMA*.
- (b) *You* must pay *us*:
- (i) the price of goods and services bought direct from a merchant using an *Access Method*;
  - (ii) any other amount *we* debit to the *PMA* with *your*, or an *Authorised User's* authorisation under these *Terms and Conditions*.
- (c) *You* must pay the *Outstanding Balance* in full on each *Bill Date*, unless otherwise agreed.
- (d) If for any reason the *Outstanding Balance* or any part thereof is not debited to the *Nominated Account*, then the balance will be immediately due and payable by *you*.

### **B8.9.2 Reducing or cancelling your Facility Limit**

- (a) *You* can cancel *your Facility* at any time.
- (b) *We* may reduce *your Facility Limit* or cancel *your Facility* or an *Access Method* or *your access to the Facility via the Smart Data Portal, an API or SFTP* by giving *you* 90 days' written notice including the reason for doing so if appropriate.
- (c) If *we* reduce *your Facility Limit*, *you* must, by the end of the notice period, repay such amount as is necessary to reduce the *Outstanding Balance* to an amount not exceeding the reduced *Facility Limit*.

- (d) If we cancel *your Facility*, you must repay the *Outstanding Balance* and any other amount owing to *us* by the end of the notice period.
- (e) If the *Facility* is cancelled:
- (i) all the *Access Methods and access via Smart Data Portal, API or SFTP* are immediately cancelled;
  - (ii) *you* continue to be responsible for any liabilities incurred on a *PMA* before the date of cancellation;
  - (iii) *you* must cancel any recurring payment authority linked to a *PMA* or *Access Method*; and
  - (iv) *we* will continue to charge any interest, fees, *Enforcement Expenses* and government charges until the *Outstanding Balance* is paid in full.
- (f) If an *Access Method* is cancelled:
- (i) *you* must cancel any direct debit linked to the *Access Method*.
- (g) If we cancel *your Facility* and it is in credit we:
- (i) will pay *you* the amount of the credit balance; and
  - (ii) may charge *you* an amount that is *our* reasonable estimate of the costs of cancelling *your Facility*.

### B8.9.3 Fees and Charges

- (a) *You* must pay the fees set out in the *Offer Document* as changed from time to time under clause A.4.
- (b) *We* will debit any fees or charges to the *PMA* on the closing date of each statement issued under clause B8.8.

## B8.10 Statements

- (a) *We* send a monthly statement for the *PMA* or, *we* can make statements available in CommBiz if *you* have access and choose this option.
- (b) *We* won't send a statement if:
  - (i) there has been no account activity since the previous statement and the balance is less than \$2.00;
  - (ii) *we* have written off any amount *you owe us* under the *Facility* and no other entries have been made since the closing date for the previous statement; or
  - (iii) *you* have been in *Default* over three consecutive *Statement Periods*, including the most recent *Statement Period*, and *we* have not given credit on the *PMA* during the most recent *Statement Period*.
- (c) Transaction values in statements will be expressed in Australian currency and must be settled in Australia with Australian currency.

## B8.11 Authorising transactions

- (a) *We* reserve the right to decline to provide authorisation for any *Drawing*. *We'll* act fairly and reasonably towards *you* in exercising this right. This might happen where *we* reasonably believe that such action is necessary to protect *our* legitimate interests, for instance, if *we* suspect a fraudulent transaction or have problems with *our* computer systems.
- (b) *We* may provisionally authorise a transaction made using Electronic Equipment —for example, when *you* check into

a hotel. When that happens, *your* available credit is reduced by the provisionally authorised amount for up to 31 Business Days (but usually less).

## B8.12 Refunds and Disputed Transactions

### B8.12.1 Accuracy of transaction amounts

- (a) Subject to this **clause B8.12**, including any rights to a chargeback, *you* and *your Authorised Users* are responsible for the accuracy of transaction amounts entered into *Electronic Equipment* when an *Access Method* is used.
- (b) *You* or *your Authorised Users* must deal directly with the merchant if *you* have a complaint about the goods or services financed using the *PMA* or the amount charged.

### B8.12.2 Refunds

- (a) If *you* become entitled to a refund from a merchant, *you* must only accept such a refund by a credit to the *PMA* using the same *Access Method* by which the purchase was made.
- (b) *We* have no obligation to credit the refund to the *PMA* unless and until *we* receive a valid credit voucher from the relevant merchant's bank.

### B8.12.3 Disputes

- (a) As a member of the Mastercard scheme, *we* may be able to request a refund ('chargeback') of a purchase transaction in certain situations, for example if the goods were not delivered. To take advantage of this chargeback process, contact *us* within 30 days of the date *your* statement is issued. Otherwise, *we* may not be able to claim a chargeback for *you*.

- (b) If the dispute relates to an unauthorised use of an *Access Method*, refer to clause B8.5 above in relation to liability for losses.
- (c) *You* should obtain and keep all vouchers and transaction receipts provided by merchants and check the details against statements *we* issue or make available to *you*. *You* agree that amounts shown on transaction receipts generated by *Electronic Equipment* when an *Access Method* is used will be evidence of the cash price of goods or services purchased and the time of purchase unless proven otherwise.

### B8.12.4 Investigating a disputed transaction

- (a) Within 21 days of hearing from *you* about a disputed transaction, *we* will either complete an investigation or write to inform *you* that *we* need more time.
- (b) *We* aim to complete investigations of transactions involving use of an *Access Method* within 45 days (unless there are exceptional circumstances, in which case *we* will write to advise *you* of the delay).
- (c) *We* will advise *you* in writing of the outcome of *our* investigation and the reason for *our* decision.

### B8.12.5 Fixing mistakes

- (a) If *we* find *your PMA* has been incorrectly debited or credited, *we'll* adjust the *Outstanding Balance* (including any interest and charges) and advise *you* of the adjustment.
- (b) If *we* find *your* account has not been incorrectly debited or credited, or in the case of *Unauthorised Transactions*,



that *you* are liable for the loss or part of the loss, we will give *you* copies of any documents and other evidence on which we based *our* finding.

- (c) If *you* are not satisfied with *our* decision, please see *our* brochure called *How we can help you*, available at any of *our* branches.
- (d) Refer to **clause B7.6.7** which describes the circumstance in which we would agree, or not agree, to refund an *Unauthorised Transaction*. For the purposes of the *PMA*, references in that clause to Card, PIN or Password should be taken to be references to *Access Method* and references to a Cardholder in that clause should be taken to be references to *Authorised Users* in relation to an *Access Method*.

### B8.13 Foreign currency transactions

- (a) Purchases in foreign currencies are converted to Australian dollars by Mastercard, which also determines the exchange rates and conversion process.
- (b) In some cases, overseas merchants may allow *you* to transact in Australian dollars, in which case they set the exchange rate. If *you* or an *Authorised User* chooses to do this, we will debit *your PMA* with the Australian dollar amount of the transaction.
- (c) We charge *you* an international transaction fee when *you* complete:
  - (i) a transaction in a foreign currency
  - (ii) a purchase in Australian dollars while overseas; or

- (iii) a purchase where the merchant, financial institution or entity processing the transaction is located overseas.

### B8.14 Blocking Strategies

- (a) *You* are responsible for any use of a *PMA* or VCN by an *Authorised User* and will be liable for any failure by an *Authorised User* to comply with a *Blocking Strategy*.
- (b) *You* acknowledge that a *Blocking Strategy* may fail if:
  - (i) we do not have to authorise a *PMA* transaction; or
  - (ii) a merchant's financial institution has not categorised that merchant in accordance with the usual category under the card scheme for merchants of that kind.
- (c) We are not liable in the event any *Blocking Strategy* fails.

### B8.15 Payments

#### B8.15.1 Nominated Account

- (a) *You* must maintain a *Nominated Account*. These Terms and Conditions do not relieve *you* of *your* responsibility to ensure that the *Nominated Account* is conducted in accordance with the Terms and Conditions applicable to that account. *You* irrevocably authorise *us* to debit to the *Nominated Account* all amounts payable under these Terms and Conditions. If the *Nominated Account* is maintained with another financial institution, *you* must provide *us* with a direct debit authority in the form we require to debit payments to that account.

- (b) You must ensure that the balance of the *Nominated Account* is sufficiently in credit or sufficiently within the overdraft limit on the *Nominated Account* so as to permit us to debit all amounts at the times authorised by these Terms and Conditions.

#### B8.15.2 Debiting the *Nominated Account*

- (a) On each *Bill Date*, the *Outstanding Balance* of the *PMA* will be debited to the *Nominated Account*, unless otherwise agreed.

#### B8.15.3 Interest

- (a) We divide your *Interest Rate* by 365 (even in a leap year) to get a daily rate, then apply it to the interest bearing balance as described below.
- (b) At the end of each *Statement Period*, we calculate interest separately on:
- (i) *Cash Advances* from the time of *Drawing*; and
  - (ii) the *Outstanding Balance* from the time it becomes due and payable under **B8.15.2(a)**.
- (c) Interest on each of these categories is added to the balance. We then follow these three steps:
- (i) Average the balances over the *Statement Period*;
  - (ii) Multiply the average by the daily interest rate; then
  - (iii) Multiply the result by the number of days in the *Statement Period*.
- (d) We set the interest rate by either adding a margin or subtracting a margin from an index interest rate. The index rate and margin are stated in the *Offer Document*.

- (e) We may vary the rate or the method of calculating interest at any time and will provide you with written notice.

### B8.16 Meaning of words

In this section B.8, the following words have the meanings given below:

#### Access Method

- (a) *PMA Details*; or
- (b) *Virtual Card Number (VCN)*.

#### Administrator

the persons nominated by you in writing to manage the InControl module settings.

#### Authorised User

a person authorised by you:

- (a) to use the *Smart Data Portal* and having an *Authorised User* profile, user ID and password and includes any *Administrator*, *VCN Approver* or *VCN Requestor*; and/or
- (b) to use an *Access Method*.

#### Bill Day

The monthly bill day You and we agree when you set up your *Facility*.

#### Blocking Strategy

merchant category controls which we may implement on the *PMA* as agreed with you or notified to you from time to time.

#### Cash Advance

*Drawings* of cash and transactions we treat as equivalent to cash, such as gambling, lottery tickets, money transfers, travelers cheques or gift cards including transactions which merchants or their financial institutions tell us are for such items.

### **Electronic Equipment**

Includes an electronic terminal (like an EFTPOS terminal or ATM), computer, television, telephone, smartphone or smart watch.

### **InControl**

a module in the *Smart Data Portal* which allows *you*, using *your* VCN Requestors and VCN Approvers, to request, configure and generate a VCN.

### **PMA**

a Commonwealth Bank Business Procurement Management Account provided by *us* to *you* and which under which *you* may make *Drawings* on a *PMA Facility*.

### **PMA Details**

the 16 digit account number, CVC and expiry date for a PMA.

### **PMA Facility**

the credit *facility* by which *you* may use one or more *PMA*s to pay procurement expenses on the terms set out in this *Contract*.

### **Smart Data Portal**

a Mastercard platform that allows VCNs to be issued and managed and through which activity and reporting tools are available in relation to VCN activity.

### **Smart Data Portal Passcode**

a one-time passcode *we* issue to an *Authorised User* and any subsequent passcode created by the *Authorised User* to access the *Smart Data Portal*.

### **Statement Period**

The period for which we draw up a statement of a PMA, or would have drawn up a statement if there had:

- (a) not been a breach of *these Terms and Conditions*, or
- (b) been a transaction on the *PMA* (other than *us* writing off an amount owed to *us*) since the date *we* last drew up a statement.

### **Unauthorised transaction**

a transaction on the *PMA* resulting from the use of an *Access Method* which was not authorised by *you* or an *Authorised User*.

### **Virtual Card Number or VCN**

a 16 digit virtual card number, CVC and expiry date linked to a PMA.

### **VCN Approver**

the person(s) nominated by *you* in writing to approve the issue of a *VCN*.

### **VCN Requestor**

the person(s) nominated by *you* in writing to request the issue of a *VCN* in the *Smart Data Portal* for approval by a *VCN Approver*.



