

IN THE FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY

No. VID 1019 of 2010

IN THE MATTER OF WILLMOTT FORESTS LIMITED (RECEIVERS AND MANAGERS
APPOINTED) (ADMINISTRATORS APPOINTED)
ACN 063 263 650

WILLMOTT FORESTS LIMITED (RECEIVERS AND MANAGERS APPOINTED)
(ADMINISTRATORS APPOINTED)
ACN 063 263 650

IN ITS PERSONAL CAPACITY AND IN ITS CAPACITY AS RESPONSIBLE ENTITY OF
EACH OF THE MANAGED INVESTMENTS SCHEMES LISTED IN SCHEDULE 1 AND IN
ITS CAPACITY AS MANAGER OF THE UNREGISTERED MANAGED INVESTMENT
SCHEMES LISTED IN SCHEDULE 2
First Plaintiff

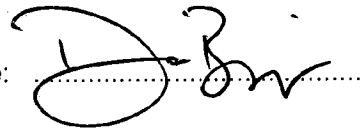
CRAIG DAVID CROSBIE
Second Plaintiff

IAN MENZIES CARSON
Third Plaintiff

CERTIFICATE IDENTIFYING EXHIBIT

This is the exhibit marked "CDC-12" now produced and shown to **CRAIG DAVID CROSBIE**
at the time of swearing his affidavit on 4 February 2011.

Before me:



DANIEL JOSEPH BRIGGS
Arnold Bloch Leibler
Level 21, 333 Collins Street
Melbourne 3000
An Australian Legal Practitioner within the
meaning of the Legal Profession Act 2004

Filed on behalf of the Plaintiffs
ARNOLD BLOCH LEIBLER
Lawyers and Advisers
Level 21
333 Collins Street
Melbourne 3000
ABL/1352538v1

DX 38455 Melbourne
Tel: 9229 9999
Fax: 9229 9900
Ref: 01-1565015
(Leon Zwier)

CommonwealthBank



Commonwealth Bank of Australia
ABN 48 123 123 124

NSW

Telephone 02 91172955
Facsimile
Internet: www.commbank.com.au

IAN CARSON & CRAIG CROSBIE
PPB ADVISORY
LEVEL 21
181 WILLIAM STREET
MELBOURNE VIC 3000

24 January 2011

Dear MESSRS CARSON & CROSBIE

LETTER OF OFFER

I am pleased to advise that the Commonwealth Bank has approved facilities totalling \$5,000,000 as detailed below.

Borrower(s): Willmott Forests Limited ACN 063 263 650 (Receivers and Managers Appointed)
(Administrators Appointed) (Willmott) and Ian Menzies Carson and Craig David Crosbie in their
personal capacities and as joint and several voluntary administrators of Willmott.

Total Facility Summary:	Approved
A. Overdraft	\$500,000
B. BetterBusiness Bill Facility - Variable Rate	\$4,500,000
Total Facility	\$5,000,000

This approval is subject to the conditions outlined in this Letter of Offer, the attached Terms and Conditions for Commercial Lending Facilities and the Fees and Charges Schedule. Please take the time to read these documents carefully before returning the signed Acceptance of Offer Document.

These facilities are subject to annual review.

On behalf of the Commonwealth Bank, it has been my pleasure to assist you with this finance. If you wish to discuss any aspect of the Letter of Offer or any other issues, please do not hesitate to contact me.

Yours sincerely

Stephen Musso
Manager Specialised Lending
Tel: 02 91172955

FACILITY INFORMATION

RETURN TO BANK

Product-specific information is highlighted below. General facility information is discussed in the next section titled 'General Facility Information'.

A. Overdraft

Purpose		Administration Funding Facility.
Limit	\$500,000	
Term		This Facility has an indefinite revolving term. The amount owing on the Overdraft is payable on demand.
Interest Rate	13.24% pa.	Overdraft Index Rate 11.24% pa. plus a margin of 2.00% pa. (Rates subject to change). Interest is to be charged monthly, unless otherwise agreed.
Interest Rate Applying to Excesses	15.74% pa.	Overdraft Index Rate 11.24% pa. plus a margin of 4.50% pa. (Rates subject to change). Interest is to be charged monthly, unless otherwise agreed.
Repayment Arrangements		Interest only payments.
Overdraft Line Fee	1.12% pa.	Calculated on the peak Limit or peak debt where the debit balance exceeds the Limit during the previous month.
		Payable on the first Business Day of each month and on cancellation of the Limit.
Nominated Account for Facility Payments		To be advised.
Specific Conditions of Use		Additional fees apply. Refer to the Fees and Charges section of the Business Cheque and Savings Accounts General Information and Terms and Conditions.

B. BetterBusiness Bill Facility - Variable Rate

Purpose		Administration Funding Facility.
Facility Limit	\$4,500,000	
Term of Facility	2 years	From the date of funding.
CBA Bill Rate	4.97% pa.	The bill rate is the indicative yield rate for 90 day bills with a face value of \$4,500,000.
		Indicative CBA Bill Rate 4.97% pa. (Rates subject to change).
		The actual CBA Bill Rate will be determined on the day of, or the working day preceding each drawdown.
Repayment Arrangements		Interest only payments.
		Residual balance: \$4,500,000.
Line Fee	3.50% pa.	Calculated as a percentage on the Bill Facility Limit. Payable within two months of the date of the signed Letter of Offer or on the date of implementation of this Facility (whichever occurs first) and monthly in advance thereafter.
Bill Handling Fee	\$150.00	Payable on initial drawdown and each time Replacement Bills are drawn.
Nominated Account for Facility Payments		To be advised.

RETURN TO BANK

Specific Conditions of Use

The Terms and Conditions for Commercial Lending Facilities (Terms and Conditions) are amended as follows:

All references in the Terms and Conditions to a "Bill Rate" or "Fixed Bill Rate" are to be replaced by "CBA Bill Rate" and "CBA Fixed Bill Rate" respectively as if references to the "Bill Rate" or "Fixed Bill Rate" were respectively references to the "CBA Bill Rate" and "CBA Fixed Bill Rate."

Clause 1 is amended by insertion of the following definitions:

CBA Bill Rate: the rate of discount, expressed as a percentage yield to maturity per annum, at which on the day the Bank is prepared to purchase Bills, under similar facilities which apply the CBA Bill Rate, for similar amounts and terms as those nominated by the Borrower where the Bank agrees to accept or endorse such Bills as an accommodation to the Borrower;

CBA Fixed Bill Rate: the rate of discount, expressed as a percentage yield to maturity per annum, agreed between the Borrower's Agent and the Bank pursuant to clause 5.3, 6.10 or 6.12 and which is fixed to apply for the Fixed Rate Period.

Specific Conditions of Use

The Bank may consider re-financing the residual balance at the Facility maturity date. Any request to refinance the residual balance should be presented to the Bank at least two months prior to the Facility maturity date along with latest financial data and would be considered by the Bank on a fresh transaction basis. Any request to refinance the residual balance would be subject to the Bank's credit policies and processes at that time. No commitment is given or implied that the Bank will refinance the residual balance at the Facility maturity date.

GENERAL FACILITY INFORMATION

Facility information that is relevant to multiple products (e.g., Bank fees, security and specific conditions) is highlighted below:

Facility Establishment

A non-refundable Establishment and Security Processing Fee of \$62,500 covering all facilities in this approval is now due.

Please refer to the attached Fees and Charges Schedule for additional Bank fees, government charges and duties and other incidental costs that may apply.

Terms and Conditions for Commercial Lending Facilities

Reference to the Terms and Conditions for Commercial Lending Facilities in this Letter of Offer relate to the publication dated 13/03/2009.

Security

Security for all facilities is as follows (unless otherwise specified):

Status	Details
New	The land known as "Bombala".

Security :

Subject to what follows, the Bank will not look to take security by way of mortgage or charge over the Company's assets for the provision of this financial accommodation but rather will rely on the Administrators' personal liability under section 443A of the Corporations Act ("the Act") for debts incurred during the Administration, and the fact that the Administrator has a statutory right of indemnity from the assets of the Company to cover debts incurred in the Administration pursuant to section 443D of the Act and a lien on those assets under section 443F to support that indemnity.

As a condition of acceptance of this offer, the Administrators will personally undertake that they will not grant a mortgage, charge or any other security interest over the unencumbered assets of the Company to any other party and will not seek any orders under section 447A of the Act relieving them of their personal liability under section 443A of the Act or altering the operation sections 443D or 443F of the Act.

In the event the Administrators seek relief from personal liability from the Court under section 447A of the Act, the Bank requires, as a condition of its continuing to make this financial accommodation available, that the Administrators will immediately grant to the Bank a mortgage in registrable form over the Bombala Land on such terms as the Bank thinks fit. In the event a mortgage is granted to the Bank over the Bombala Land, the Bank agrees that any free assets will be excluded from that mortgage.

RETURN TO BANK

Conditions prior to Funding

In addition to the conditions detailed in the attached Terms and Conditions for Commercial Lending Facilities, the following conditions need to be satisfied before you can access the facilities:

Valuation of Security Property

- A Valuation of the Security Property comprising the parcels of land known as "Bombala" is to be undertaken on the basis of instructions given by the Bank to a valuer approved by it. That valuation must be acceptable to the Bank.

Costs for the Borrowers' Account

- All costs including but not limited to statutory costs, legal fees, professional fees, valuation costs and Government charges are for the account of the Borrowers'.

Conditions after Funding

In addition to the conditions detailed in the attached Terms and Conditions for Commercial Lending Facilities, the following conditions need to be satisfied after funding:

Resignation of Administrator

- The Bank is to be advised as soon as practicable and no greater than 2 days subsequent to the resignation of either appointed administrator from Willmott Forests Limited and/or resignation from the PPB Advisory entity or any related partnership.

ACCEPTANCE OF OFFER

To accept this offer of finance, you must sign the Acceptance of Offer and return it within 30 days of the date of issue. Once accepted, this Letter of Offer, the Terms and Conditions for Commercial Lending, the Fees and Charges Schedule and any other document referred to herein and (if applicable) any Letters of Confirmation comprise the Contract.

I/We understand that the Bank may withdraw this offer or may not be obliged to make the facilities available, if I/we do not satisfy the conditions in this letter and the attached Terms and Conditions for Commercial Lending Facilities.

Execution

Joint borrowings involve joint and several liability. You should read the Contract carefully and fully understand your responsibilities before you sign.

By accepting this Letter of Offer I/We acknowledge that any Security listed as securing a particular Facility or Facilities only secures that Facility or Facilities and any other Security listed in this Letter of Offer extends to cover my/our obligations under the Contract. I/We also acknowledge that any land mortgage listed in this Letter of Offer given by me/us on or after 13 June 2005 covers all other moneys I/we owe to the Bank now or in the future on any accounts which are not subject to the National Credit Code.

I/We acknowledge that the name of individual persons given to the Bank are true and correct and that the law prohibits the use of false names, as well as the giving, use or production of false and misleading information or documents in connection with the provision of financial services and the making, possession or use of a false document in connection with an identification procedure.

I/We further acknowledge that I/we have considered appropriate advice, legal or otherwise, before entering into this Contract.

Dated ____/____/____

SIGNED by Ian Menzies Carson:

.....

Signature of Borrower

SIGNED by Craig David Crosbie:

.....

Signature of Borrower

EXECUTED by
Willmott Forests Limited ACN 063 263 650 (Receivers and Managers Appointed) (Administrators Appointed)
by being signed by its joint and several administrators who are authorised
to sign for the company, in the presence of:

.....

Witness

Full Name:

Address:

.....

Administrator

Full Name: Ian Menzies Carson

Address:

.....

Administrator

Full Name: Craig David Crosbie

Address:

FEES & CHARGES SCHEDULE

The following schedule contains the estimated Bank fees, Business MasterCard fees (if applicable), government charges and duties and incidental costs associated with your facilities. This information is accurate as of 24/01/2011.

The Bank may change the amount of the fee(s) and method of calculation, and impose new fee(s) in accordance with the Bank's Terms & Conditions for Commercial Lending Facilities.

The Bank reserves the right to debit any new fees from the Nominated Account or the Loan Account in accordance with the Bank's Terms & Conditions for Commercial Lending Facilities.

Commitment Fees

Overdraft	0.15% pa.	Calculated on the approved limit or amount. Payable monthly in advance whilst the outstanding commitment or undrawn balance exceeds \$25,000 and has not been taken up within two months of the date of acceptance of this Offer.
------------------	-----------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Other Bank Fees

Establishment and Security Processing Fee	\$62,500	<p>This fee is to partially reimburse the Bank for the costs involved in the investigation of applications and the implementation of advances and security documentation.</p> <p>It is payable on your acceptance of this offer and is non-refundable.</p>
--------------------------------------------------	----------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Commercial Lending Facilities.

Terms and Conditions



These are the Bank's Terms and Conditions for Commercial Lending Facilities. The Contract for a Facility is made up of these Terms and Conditions and the Letter of Offer or Acceptance Document which sets out the particulars of the Facility including any of the particulars of special covenants or undertakings.

Other terms and conditions may apply to a Facility by operation of law.

The Contract for a Variable Rate Facility, a BetterBusiness Loan Fixed Rate Residentially Secured, a Contingent Liability Facility or a Trade Finance Facility is made on the day the Bank receives the Letter of Offer or Acceptance Document for the Facility signed or executed by the Borrower. The Contract for a Facility which includes a fixed rate facility (other than a BetterBusiness Loan Fixed Rate Residentially Secured), a Flexi Loan or both is made on the day the Bank receives the Letter of Offer or Acceptance Document signed or executed by the Borrower which includes a completed Authority to Act as Agent relating to the Facility bearing the signature of the Borrower's Agent.

If the Borrower is an individual or small business the relevant provisions of the Code of Banking Practice apply to the Loan facility provided under the Contract.

NOTE: The Bank has published a booklet called "The Better Banking Book" which contains useful information on a range of banking matters including the rights and obligations that arise out of the banker and customer relationship, account opening procedures, our obligations regarding confidentiality of the Borrower's information, the Bank's complaint handling procedures, bank cheques, the advisability of the Borrower informing the Bank promptly when the Borrower is in financial difficulty and the advisability of the Borrower reading the terms and conditions applying to any banking service provided to the Borrower or in which the Borrower is interested. You can obtain a copy of The Better Banking Book from any branch of the Bank or by asking your Relationship Manager.

Contents

PART I – DEFINITIONS AND INTERPRETATION	3
1. Definitions	3
2. Interpretation	10
PART II – PRODUCTS	10
3. Loan amounts and Loan funding	10
4. Loan repayments and Facility reductions	12
5. Bill Facility and the proceeds of discounting Bills	14
6. Interest rates and Bill rates	16
7. Prepayment of Loans and retirement of Bills	20
8. Contingent Liability Facilities, Trade Finance Facilities and Multi-Option Facilities	23
9. Multi-Option & Trade Finance Facility, Foreign Bills Negotiated Facility, Irrevocable Documentary Credit Facility and Trade Advance Facility	25
10. Flexi Loans	26
11. Variations	30
12. Default	31
PART III – SECURITY	34
13. Security	34
PART IV – CONDITIONS PRECEDENT TO THE BANK'S OBLIGATIONS UNDER THE CONTRACT	34
14. Conditions Precedent To The Bank's Obligations Under The Contract	34
PART V – UNDERTAKINGS, WARRANTIES, INDEMNITIES & ACKNOWLEDGEMENTS	36
15. Undertakings, acknowledgments and authorities given by the Borrower	36
16. Representations and warranties made by the Borrower	38
17. Financial Undertakings and Covenants	39
PART VI – GENERAL	41
18. General	41
19. Withdrawal of approval	43
PART VII – FEES & CHARGES	44
20. Fees and charges	44
PART VIII – BUSINESS SELECT	45
21. Business Select Terms and Conditions	45

PART I – DEFINITIONS AND INTERPRETATION

1. Definitions

The following definitions apply under the Contract:

Acceptance Document: the acceptance document prepared by the Bank setting out the particulars or indicative particulars of a Facility, or variation of a Facility (and any acceptance document replacing an earlier acceptance document) and includes a Terms Schedule and other documents attached to the acceptance document;

Accounts: the Borrower's and all of the Related Parties' profit and loss accounts and balance sheets on an individual and consolidated basis for a particular period, together with any statements, reports and notes (including, without limitation any directors' statements and reports and any auditor's reports) attached to or intended to be read with the profit and loss accounts or the balance sheets or both;

Administrative Fee or Administration Fee: the fee the Borrower must pay the Bank to cover the Bank's administrative costs relating to the prepayment of a BetterBusiness Loan – Fixed Rate or a Fixed Rate Bill Facility or a Flexi Fixed Rate Sub-Account or a Flexi Market Rate Sub-Account. The amount of the fee is set out in the Bank's Fees and Charges Schedule for Commercial Lending Facilities;

Aggregate Facility Limit (AFL): the limit on the Borrower's Credit Exposure as set out in the Letter of Offer or Acceptance Document;

AgriBusiness Line of Credit: the facility under that name made available under the Contract;

Approved Limit: the total amount of credit specified in the Letter of Offer or Terms Schedule which the Bank is prepared to advance to the Borrower under a Business Select facility;

Authorised Representatives: the representatives of the Borrower or a Third Party Drawer (as the context requires) identified in an authority, relating to the drawing of Bills, given respectively by the Borrower or the Third Party Drawer to the Bank;

Authorised Signatories: any officer of the Bank;

Authority to Act as Agent: the authority signed or executed by the Borrower, in the form provided by the Bank, which specifies a person appointed by the Borrower to agree by telephone, facsimile transmission, email or any other method approved by the Bank in writing:

- (i) the particulars of the date of first drawdown or funding first instalment due date, frequency of instalments, fixed rate maturity date and/or Fixed Rate Period or term, and interest rate to

be included in the Letter of Offer or the Terms Schedule or the Letter of Confirmation;

- (ii) the necessary particulars to be included in any replacement Letter of Offer or Terms Schedule to be utilised upon the variation of or addition to any Facility under the Contract or on the occurrence of any of the events contemplated in clauses 6.9, 6.10 and 6.12;
- (iii) the particulars necessary to complete any agreement ancillary to or contemplated by any Facility under the Contract including, without limitation, any arrangement or instrument relating to the protection or minimisation of the interest rate or Bill Rate or CBA Bill Rate under any Facility; and
- (iv) or, in respect of any Flexi Loan, the matters necessary to fund or vary a Sub-Account, including the drawdown amount, the date of first drawdown, the date of variation, the interest rate type, the interest charging cycle, the Reset Period, the Nominated Account and, in the case of a Flexi Fixed Rate Sub-Account, the Fixed Rate Period;

and any replacement authority, in the form provided by the Bank, signed or executed by the Borrower which appoints another person to agree by telephone, facsimile transmission, email or any other method approved by the Bank in writing the matters referred to in (i), (ii), (iii) and (iv) above;

Availability Period: the period expiring on the third anniversary of the date of the initial "Letter of Offer" or Acceptance Document in respect of the Business Select facility subject to any extensions, reductions or cancellations as referred to in clause 21.2;

Average Debtor Collections: The number of days calculated by the following function:

- closing debtors;

multiplied by:

- the number of days in a Reporting Period;

divided by:

- total sales in the Reporting Period;

Average Stock Turnover: The number of days calculated by the following function:

- closing stock;

multiplied by:

- the number of days in a Reporting Period;

divided by:

- total stock purchases in the Reporting Period;

Bank: Commonwealth Bank of Australia ABN 48 123 123 124, its successors or assigns;

BBSY (Bid) Rate:

- (a) the bank bill swap rate (expressed as a percentage per annum to four decimal places) which is the bid rate shown at approximately 10.10 a.m. (Sydney time) on the page "BBSY" of the Reuters Monitor System on the first day of that Interest Period for that Interest Period; 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 the Bank by the Reference Banks at or about 10.30 a.m. (Sydney time) on the first day of that Interest Period (disregarding the highest and lowest rates quoted) for the purchase of a Bill accepted by the Bank or Reference Banks having a face amount equal to the amount of the Advance and a tenor equal or approximately equal to that Interest Period (or, if that Interest Period is subject to adjustment, for a term equal or approximately equal to the duration of that Interest Period prior to such adjustment), or, if fewer than 2 Reference Banks are willing to provide quotes;
- (c) the rate reasonably determined by the Bank to be its cost of funds having regard to prevailing market conditions.

For 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 the Borrower and the Bank may from time to time agree.

Beneficiary: a beneficiary of a trust of which the Borrower or a Related Party is a trustee;

BetterBusiness Loan: the loan under that name made available under the Contract or the balance of that Loan at any time remaining unpaid;

BetterBusiness Loan – Fixed Rate: the BetterBusiness Loan made available under the Contract while it is being conducted at a fixed interest rate;

BetterBusiness Loan – Fixed Rate Residentially Secured: the BetterBusiness Loan made available in that name under the Contract while it is being conducted at the residentially secured fixed interest rate;

BetterBusiness Loan – Variable Rate: the BetterBusiness Loan made available under the Contract while it is being conducted at a variable interest rate;

Bill: a bill of exchange (other than a cheque) for the purposes of the Bills of Exchange Act 1909;

Bill Facility: the facility made available under the Contract and by which the Borrower may raise money by having Bills discounted;

Bill Rate: the rate of discount, expressed as a percentage yield to maturity per annum, at which

the Bank is prepared to purchase Bills of an amount and term nominated by the Borrower where the Bank agrees to accept or endorse such Bills as an accommodation to the Borrower;

Borrower: the person or persons set out in the Letter of Offer or the Acceptance Document and their successors;

Borrower's Agent: the agent of the Borrower in respect of a Facility identified in an Authority to Act as Agent;

Business Asset Ratio: the ratio of:

- the sum of each Group Member's:
 - Qualifying Current Assets;
 - cash; and
 - short term deposits/investments;

to:

- the sum of each Group Member's Creditors;

Business Day: a day that is not:

- (a) a Saturday or Sunday; or
- (b) a public holiday, special holiday or bank holiday:
 - in the case of charging and payment of interest and fees, throughout Australia; or
 - in all other cases, in any place where a payment is required by the Contract.

Business Line of Credit: the facility under that name made available under the Contract;

Business Select: the facility under which credit is available to the Borrowers up to the Approved Limit through one or more facilities in accordance with Part VIII;

Capital Equity: the facility under that name made available under the Contract;

CBA Bill Rate: the rate of discount, expressed as a percentage yield to maturity per annum, at which on the day the Bank is prepared to purchase Bills, under similar facilities which apply the CBA Bill Rate, for similar amounts and terms as those nominated by the Borrower where the Bank agrees to accept or endorse such Bills as an accommodation to the Borrower;

CBA Fixed Bill Rate: the rate of discount, expressed as a percentage yield to maturity per annum, agreed between the Borrower's Agent and the Bank pursuant to clause 5.3, 6.10, 6.12 and which is fixed to apply for the Fixed Rate period;

Common Maturity Pool Date: the date set by the Bank at its option when the pool constituted by the aggregation of fixed rate term advances or bill facilities of which the BetterBusiness Loan – Fixed Rate or Bill Facility or Flexi Fixed Rate Sub-Account has been taken by the Bank to be part, falls due for repayment in full being a date within one calendar month on

either side of the maturity date set out in the Letter of Offer or Terms Schedule;

Common Rollover Date: the date set by the Bank for the rollover of Bills when the pool constituted by the aggregation of Bills, of which Bills under a Bill Facility have been taken by the Bank to be part, mature, being a date within the Common Rollover Date Range;

Common Rollover Date Range: the range of dates, determined by the Bank, by reference to the bill term selected under clause 5.2, with which a Bill may be set to mature;

Compliance Certificate: the certificate, in the form attached to the Letter of Offer or Acceptance Document and referred to as the 'Compliance Certificate', the Borrower is required to give the Bank from time to time under clause 17.1(a);

Conditions after Funding: the conditions, covenants or undertakings (if any) to be observed by the Borrower after funding of the Facility set out in the section of the Letter of Offer or Acceptance Document headed "Conditions after Funding" or at Item 14 of the Terms Schedule (other requirements are set out in these Terms and Conditions);

Contingent Liability: any financial accommodation the Bank makes available to the Borrower under a Contingent Liability Facility and includes a letter of credit or a bank guarantee issued at the Borrower's request or an autopay facility;

Contingent Liability Facility: a facility made available under the Contract under which the Bank, at the Borrower's request from time to time, issues or makes available contingent liabilities up to a limit set by the Bank;

Contract: the agreement between the parties which is comprised of the Letter of Offer or Acceptance Document the Borrower signs and any other documents referred to in the Letter of Offer or Acceptance Document and these Terms and Conditions and any Letter of Confirmation;

Control: the power to directly or indirectly govern the financial and operating policies of an Entity so as to obtain benefits from its activities;

Credit Exposure (CE): the amount of all facilities the Bank is willing to make available to the Borrower at a particular time during the term of the Borrower's facilities. The Letter of Offer or Acceptance Document sets out the CE at the date the Bank prepared the Letter of Offer or Acceptance Document;

Credit Funds: any moneys owing or payable or to become owing or payable to the Borrower or any Security Provider by the Bank;

Creditors: the aggregate value of Trade Creditors and Sundry Creditors/Accruals;

Current Assets: the sum of each Group Member's total current assets less the amount of any loans, which are due and payable within twelve months, by any Group Member to beneficiaries or to its shareholders, directors or Related Parties;

Current Liabilities: the sum of each Group Member's total current liabilities less the sum of the amount of any loans, which are due and payable within twelve months, to any Group Member from beneficiaries or from its shareholders, directors or Related Parties;

Current Ratio: the ratio of:

■ Current Assets;

to;

■ Current Liabilities;

Debt Service Coverage Ratio: The ratio of:

■ Earnings Before Interest, Tax, Depreciation and Amortisation (EBITDA);

plus:

– Non Recurring Expenses;

minus:

– Non Recurring Income;

to:

■ Principal and interest expenses;

Donations and Grants: The sum of all gifts or other contributions to charity, community or sporting bodies or purposes;

Early Repayment Adjustment: the adjustment the Bank makes in accordance with clause 7 on the prepayment or partial prepayment of a BetterBusiness Loan – Fixed Rate during a fixed rate period or a Fixed Rate Bill Facility during a fixed rate period or on the repayment in full, within 3 years of the date of funding, of a BetterBusiness Loan Variable Rate – Economiser;

Earnings Before Interest and Tax (EBIT): the sum for the Reporting Period of each Group Member's Net Profit Before Tax plus Interest Expenses;

Earnings Before Interest, Tax, Depreciation and Amortisation (EBITDA): the sum of each Group Member's Net Profit Before Tax for a Reporting Period from each Group Member's business operations plus the sum of each Group Member's:

■ Interest Expense; and

■ depreciation expense and amortisation,

for the Reporting Period;

Entity: any legal, administrative or fiduciary arrangement, organisational structure or other party (including a person);

Event of Default: any of the events of default specified in clause 12.1;

Facility: a facility (other than a lease) which the Bank makes available to the Borrower under the Contract

and the particulars of which are in the Letter of Offer or Acceptance Document signed or executed by the Borrower and (if applicable) a Letter of Confirmation;

Facility Amount or Facility Limit: the limit or amount set out in the Letter of Offer or Terms Schedule to which (as the case may be) the Overdraft, Capital Equity, Contingent Liability Facility, Business Line of Credit, AgriBusiness Line of Credit or Bill Facility can be drawn, or in respect of a Flexi Loan, the total amount of credit which the Bank is prepared to advance (the total of all Sub-Account debit balances must not exceed the Facility Limit);

Fees and Charges Schedule: the Fees and Charges Schedule accompanying the Letter of Offer or Acceptance Document and any variations or additions to it in accordance with clause 11.5;

Fixed Bill Rate: the Bill Rate which is fixed to apply for a Fixed Rate Period;

Fixed Rate Bill Facility: the Bill Facility made available under the Contract while it is being conducted at a Bill Rate or CBA Bill Rate that is fixed;

Fixed Rate Period: any period, ending on a fixed rate maturity date set out in the Letter of Offer or Terms Schedule, Letter of Confirmation or Sub-Account Confirmation Letter in which the interest rate on a BetterBusiness Loan – Fixed Rate or Flexi Fixed Rate Sub-Account or the Bill Rate or CBA Bill Rate on a Fixed Rate Bill Facility is fixed;

Flexi Fixed Rate Sub-Account: A Sub-Account conducted at a fixed interest rate during a Fixed Rate Period;

Flexi Loan: The Flexi Loan facility which the Bank makes available under the Contract which can consist of up to 20 Sub-Accounts, particulars of which are in the Letter of Offer, the Sub-Account Confirmation Letters and any other Bank's letters confirming any variation of a Sub-Account;

Flexi Loan Market Interest Rate: The interest rate (exclusive of any margin), determined by the Bank having regard to current market rates, to be charged on all Flexi Market Rate Sub-Accounts of all customers on which interest is set on that day until the same Reset Date;

Flexi Loan Variable Reference Rate: The reference interest rate (exclusive of any margin), published by the Bank and charged on all Flexi Variable Rate Sub-Accounts;

Flexi Market Rate Sub-Account: A Sub-Account conducted at a Flexi Loan Market Interest Rate;

Flexi Variable Rate Sub-Account: A Sub-Account conducted at a variable interest rate which is set according to the Flexi Loan Variable Reference Rate;

Foreign Bills Negotiated Facility: the Foreign Bills Negotiated Facility made available under the Contract;

Gaming Machine Commissions: (Victoria) the portion of profits from gaming machines distributed by the Victorian Casino and Gaming Authority to approved operators;

Gross Margin for Bar & Bottle Trade: The ratio of:

- Total Revenue (Bar and Bottle) less Cost of Sales (Bar and Bottle);

to:

- Total Revenue (Bar and Bottle);

where:

- Cost of Sales (Bar and Bottle) is to exclude such items as wages, poker machine tax or liquor licence fees where shown in the Accounts under bar and bottle trade;

Group: the Borrower and each party set out in the Letter of Offer or Acceptance Document collectively;

Group Member: the Borrower and each party set out in the Letter of Offer or Acceptance Document individually;

Index Rate: The applicable index rate, reference rate or other interest rate published by the Bank in accordance with clause 11.1 as varied in accordance with clause 11.2.

Interest Coverage Ratio: the ratio of:

- the sum of:
 - Net Profit Before Tax; and
 - Interest Expensefor a Reporting Period;

to:

- Interest Expense for the Reporting Period;

Interest Expense: the aggregate amount of all interest paid or accrued in respect of the sum of all moneys borrowed or raised by or in respect of any financial accommodation granted to any Group Member (including, but not limited to, any fees and charges with respect to any guarantee, indemnity or letter of credit or under any bill of exchange, promissory note or any other acceptance or discounting arrangement and any finance charges paid or payable under any hire purchase agreement or lease agreement for which a Group Member is actually or contingently liable);

Interest Off-set Account: the account in the Borrower's name identified in the Letter of Offer or Terms Schedule as the interest off-set account and any replacement or additional account agreed to by the Borrower and the Bank from time to time;

Irrevocable Documentary Credit Facility: the Irrevocable Documentary Credit Facility made available under the Contract;

Letter of Confirmation: the document, including a Terms Schedule, prepared by the Bank from time to time supplementing the Letter of Offer or Acceptance Document and setting out the date of first and any

subsequent drawdown or funding, first instalment due date, frequency of instalments, fixed rate maturity date and/or Fixed Rate Period or term, and interest rate not completed in the Letter of Offer, a copy of which is sent by post to the Borrower;

Letter of Offer: the offer document prepared by the Bank setting out the particulars or indicative particulars of a Facility, or variation of a Facility (and any offer document replacing an earlier acceptance document) and includes any other documents attached to the offer document;

Limit: the limit or amount set out in the Letter of Offer or Terms Schedule to which (as the case may be) the Overdraft, Capital Equity, Contingent Liability Facility, Business Line of Credit, AgriBusiness Line of Credit or Bill Facility can be drawn or in the case of Multi-Option Facility or Trade Finance Facility the amount set out in the Letter of Offer which contingent liabilities or trade finance facilities provided under such Facility when converted to the Australian Dollar equivalent must not exceed;

Liquidity Ratio: is the ratio of:

- the sum of:
 - Current Assets; and
 - the amount of the financial accommodation the Bank has made available to the Borrower less the amount outstanding actually or contingently under that accommodation;

to:

- Current Liabilities;

Loan: any one of the Overdraft, the Capital Equity, the Business Line of Credit, the AgriBusiness Line of Credit, the BetterBusiness Loan – Variable Rate or the BetterBusiness Loan – Fixed Rate or (as relevant in the context where the word 'Loan' appears in the Contract) the Bank makes available under the Contract;

Loan Account: the account the Bank keeps in the Borrower's name, with which the Bank debits a Loan, any part of a Loan, a Sub-Account or any part of a Sub-Account;

Management Accounts: all or some (at the option of the Bank) of the following:

- balance sheet and profit and loss statement for a Reporting Period; and
- any of the records referred to in sub-clauses 15.2(b)(i)-(iv) the Bank requires for any calendar month which the Bank notifies the Borrower in writing; or
- the extract in the form referred to as the 'Management Account Extract';

Maximum Borrowings: The maximum amount during the previous 12 months of any form of indebtedness (other than Trade Creditors), whether actual or

contingent in respect of money borrowed or raised or other financial accommodation under the Contract or otherwise and including indebtedness under or in respect of a guarantee of such indebtedness or a guarantee given to a financier; any fully drawn loan, a finance lease, a commercial hire purchase, a swap, option, hedge, forward, futures or similar transaction; an acceptance, endorsement or discounting arrangement; a redeemable share or redeemable stock; or; the deferred purchase price (for more than 90 days) of an asset or service or an obligation to deliver assets or services paid for in advance by a financier or otherwise relating to a financing transaction;

Net Gaming Takings: (All States/Territories excluding Victoria) Gross gaming machine takings less gaming machine payouts before gaming machine tax;

Net Profit Before Tax: Net Sales/Revenue less the sum of all expenditure (brought to account on an accrual basis) in the normal operating activities of each Group Member's business;

Net Profit Before Tax (Bar and Bottle): Net Sales/Revenue less the sum of all expenditure (brought to account on an accrual basis) in the normal operating activities of each Group Member's business and is net of Gaming Machine Tax, but before Donations and Grants;

Net Sales/Revenue: the sum of each Group Member's gross sales/revenue, less discounts allowed in the normal operating activities of a Group Member's business;

Net Trading Surplus: the profit available before allowances are made for taxation, interest, depreciation, leases and hire purchase plus wages/drawings of the Borrower's proprietors/directors;

Net Worth: the sum of each Group Member's Total Tangible Assets less the sum of each Group Member's Total External Liabilities;

Nominated Account: the account set out in the Letter of Offer or Terms Schedule, or the account nominated by the Borrower's Agent in respect of a Flexi Fixed Rate Sub-Account, which is an account for which a statement issues (other than a BetterBusiness Loan, Home Loan, Personal Loan or credit card account) opened by and in the name of the Borrower with the Bank or any account substituted for that account with the Bank's prior written consent;

Non-Tangible Assets: includes but is not limited to goodwill, copyright, patents and licences;

Overdraft: the Overdraft Facility made available under the Contract;

Parties: the Borrower and the Bank;

Prepayment: includes retirement of Bills outstanding under a Bill Facility prior to the end of the Term of the Bill Facility other than as required under the Contract;

Proscribed Person: a person who appears to the Bank either to be:

- (a) a proscribed person or entity under the Charter of the United Nations Act 1945 (Cth);
- (b) in breach of the laws of any jurisdiction relating to money-laundering or counter-terrorism;
- (c) a person with whom dealings are proscribed by the government or a regulatory authority of any jurisdiction; or
- (d) acting on behalf of, or for the benefit of, a person referred to in (a) – (c) above;

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 (QCA): the aggregate of:

- accounts receivable which are of less than 91 days standing;
- finished goods excluding:
 - goods declared by the Bank, in writing, or by the Group Member who owns the goods to be obsolete; and
 - goods which are subject to any claim by a supplier on the Group Member; and
- work in progress and raw materials excluding:
 - raw materials declared by the Bank, in writing, or by the Group Member performing the work or which owns the raw materials to be obsolete; and
 - raw materials and goods used in work-in-progress which are subject to any claim by a supplier on a Group Member;

Quick Asset Ratio: the ratio of:

- Current Assets less Total Inventory;

to:

- Current Liabilities;

Related Party:

- any Entity that, at any time during a Reporting Period, has Control or significant influence over the Borrower;
- any Entity that, at any time during a Reporting Period, is subject to Control or significant influence by the Borrower;

- any Entity that, at any time during a Reporting Period, is subject to the Control of the Entity which has Control over the Borrower;
- any Entity that, at any time during a Reporting Period, is subject to the Control of the same Entity which has a significant influence on the Borrower;
- any Entity that, at any time during a Reporting Period, is subject to significant influence by the same Entity which has Control over the Borrower.

For the purposes of this definition:

- a trust may be a Related Party; and
- 'significant influence' means the capacity of an Entity to affect substantially the financial or operating policies or both of another Entity;

Reliquification Bill: a Bill prepared by the Bank pursuant to clause 5.12 to reliquify its position;

Repayment Redraw Facility: the facility described in clauses 4.8 to 4.15 under which the Bank may again make available to the Borrower special repayments made to the BetterBusiness Loan – Variable Rate Loan Account;

Replacement Bill: the Bill which replaces another Bill when that other Bill matures;

Reporting Period: any period of time that the Bank notifies the Borrower in writing to be the Borrower's reporting period;

Requisite Period: means the period between the 16th day of the calendar month immediately prior to the end of a fixed rate period and the end of that calendar month;

Reset Confirmation Letter: The Bank's letter confirming the next Reset Date or other variation to a Sub-Account;

Reset Date: The date specified in a Sub-Account Confirmation Letter or Reset Confirmation Letter (being the last day of the Reset Period);

Reset Period: The period commencing on the day of funding of a Flexi Market Rate Sub-Account or the day after the previous Reset Date and ending on the Reset Date during which the Flexi Loan Market Interest Rate is set.

Rollover Date: the date on which a Bill matures;

Security: any security referred to in the Letter of Offer or Acceptance Document or any security substituted for it with the Bank's prior written consent;

Security Property: the property mortgaged or charged to the Bank by the Security for the purpose of securing the repayment of all moneys owing or to become payable to the Bank under the Contract;

Security Provider: any individual or company (other than the Borrower) providing a Security;

Shortfall: the difference between the face value amount of a Bill maturing on the Rollover Date and the proceeds

of discount of the Replacement Bill for the maturing Bill;

Specific Conditions of Use: the section of the product-specific information for a Facility headed "Specific Conditions of Use", within the Letter of Offer or Terms Schedule, setting out some conditions of the Facility (in addition to those set out in these Terms and Conditions);

Sub-Account: Any Flexi Fixed Rate Sub-Account, Flexi Market Rate Sub-Account or Flexi Variable Rate Sub-Account;

Sub-Account Confirmation Letter: the document prepared by the Bank from time to time supplementing the Letter of Offer and confirming the date of first drawdown and any subsequent drawdown and funding or other variation of a Sub-Account, a copy of which is sent to the Borrower;

Sundry Creditor/Accrual: amounts which are due and payable within the next 12 months by a Group Member to any third party, other than:

- Trade Creditors; or
- amounts in respect of loans to its shareholders, directors or Related Parties or any two or more of them;

Terms and Conditions: the terms and conditions set out in this document;

Term of Facility (BetterBusiness Loan or Bill Facility): the period of time which commences on the date the Loan is funded or the Bill Facility is implemented and expires or matures on the date set out in the Letter of Offer or Acceptance Document;

Term of Facility (Flexi Loan): the period specified in the Letter of Offer;

Term or Term of Facility (Overdraft, Business Line of Credit, AgriBusiness Line of Credit, or Capital Equity): the period of time which commences on the date the Limit is implemented and expires when the Facility is cancelled and repaid;

Term of Facility (Contingent Liability): the period of time which commences on the date the Facility is implemented and expires on the date (if any) set out in the Letter of Offer or Acceptance Document or when it is cancelled;

Terms Schedule: the latest terms schedule (if any) prepared by the Bank setting out the particulars or indicative particulars of a Facility and includes any terms schedule replacing an earlier terms schedule;

Third Party Drawer: the person (if any), other than the Borrower, on whom Bills are drawn under the Bill Facility;

Total Assets: a Group Member's total current and noncurrent assets;

Total External Liabilities: total liabilities (current and non-current liabilities) less any loans to a Group Member

from beneficiaries or from its shareholders, directors or Related Parties other than those loans to a Group Member from beneficiaries or from its shareholders, directors or Related Parties that are subordinated under a deed of subordination in favour of the Bank in respect of the Facility;

Total Interest Bearing Debt: the aggregate amount of moneys borrowed or raised by each of the Group Members or financial accommodation made available to any Group Member (excluding any loans to a Group Member from beneficiaries or from shareholders, directors or Related Parties) which incurs Interest Expense;

Total Inventory: the sum of each Group Member's:

- finished goods;
- work in progress; and
- raw materials;

Total Liabilities: the sum of each Group Member's total current and non-current liabilities;

Total Revenue: the total of gaming machine commissions (in Victoria) or gaming machine net takings (in all other States/Territories) plus all other revenue (eg. bar takings and catering, commissions, interest and rent received and sundry income) but excluding abnormal and extraordinary items;

Total Revenue (Bar and Bottle): the total of bar sales and revenue from bottle shop sales (if any);

Total Tangible Assets: Total Assets less:

- the sum of each Group Member's Non-Tangible Assets; and
- 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;

Trade Advance Facility: the Trade Advance Facility made available under the Contract;

Trade Creditor: amounts which are due and payable within the next 12 months by a Group Member where such amounts payable were incurred for purchases to be used in the normal operating activities of the Group Member's business;

Trade Finance Accommodation: any financial accommodation the Bank makes available to the Borrower under a Trade Finance Facility;

Trade Finance Facility: a facility made available under the Contract under which the Bank, at the Borrower's request from time to time, makes financial accommodation available to the Borrower for trade finance or other purposes approved by the Bank up to a limit set by the Bank;

Value of Qualifying Current Assets (VQCA): the sum

of each Group Member's Qualifying Current Assets from time to time;

Variable Rate Facility: includes BetterBusiness Loan – Variable Rate, a Bill Facility while it is being conducted at a Bill Rate or CBA Bill Rate that is not fixed, an Overdraft, Business Line of Credit, AgriBusiness Line of Credit, and Capital Equity facilities;

2. Interpretation

General

- 2.1 When two or more Borrowers are parties to the Contract their undertakings and agreements contained in the Contract bind them jointly and each of them severally.
- 2.2 Words denoting the singular number include the plural number and vice versa.
- 2.3 Words denoting individuals or persons include corporations, authorities, governments and government agencies and vice versa.
- 2.4 Words denoting any gender include all genders.
- 2.5 References to statutes include all statutes, statutory rules, ordinances, or regulations amending, consolidating or replacing the statutes, statutory rules, ordinances or regulations referred to and by-laws, rules, ordinances and regulations made under them.
- 2.6 References to paragraphs, sub-clauses, clauses or any instrument are references to paragraphs, sub-clauses and clauses of the Contract or any instrument as varied or replaced from time to time.
- 2.7 Where the day on or by which any act, matter or thing is done or is taken to be done is not a Business Day, that act, matter or thing must be done or be taken to have been done on or by the immediately succeeding Business Day.
- 2.8 Where reference is made to any number, value, or amount being estimated, calculated, or determined on a day, it must, unless the context or subject otherwise requires, be estimated, calculated, or determined immediately prior to close of business on that day.
- 2.9 Except where express provision is made to the contrary, whenever the Bank's consent is required under or in connection with the Contract then the Bank may withhold that consent in its absolute discretion or, where granted, may impose any conditions as the Bank in its absolute discretion determines.
- 2.10 'Writing' and words of like import include all means of reproducing words in a tangible and permanently visible form.
- 2.11 The words including 'including' or 'for example'

and similar words or expressions when introducing an example do not limit the meaning of the words, to which the example relates, to that example or examples of a similar kind.

- 2.12 In calculating a year or parts of a year, the Bank treats the year as consisting of 365 days even in a leap year.

Current accounting practice

- 2.13 Unless a contrary intention appears, all computations and determinations as to financial matters and all Accounts, financial statements, records and books of account referred to in the Contract must be made or kept in accordance with:
 - (a) the Corporations Act;
 - (b) the accounting standards applied by, and the regulations made under, the Corporations Act; and
 - (c) generally accepted Australian accounting practices and principles from time to time consistently applied.

Specific Conditions of Use and Conditions after Funding

- 2.14 The Borrower must comply with any conditions or undertakings set out in any Specific Conditions of Use or Conditions after Funding or both. If any condition or undertaking stated in a Specific Conditions of Use or Conditions after Funding is consistent with these Terms and Conditions, both these Terms and Conditions and the Specific Conditions of Use or Conditions after Funding condition or undertaking operate but if and to the extent they are inconsistent, the condition or undertaking set out in the Specific Conditions of Use or Conditions after Funding prevails.

References to clauses in Terms Schedule

- 2.15 Any references in Terms Schedule to clauses by number have no effect and are to be disregarded.

PART II – PRODUCTS

3. Loan amounts and Loan funding

Overdraft Limit, Business Line of Credit Limit, AgriBusiness Line of Credit Limit, Capital Equity Limit and Bill Facility Limit

- 3.1 The Limit on the Overdraft, the Business Line of Credit, the AgriBusiness Line of Credit or the Capital Equity Loan Account, the Bill Facility, the Foreign Bills Negotiated Facility, the Irrevocable Documentary Credit Facility and the Trade Advance Facility is set out in the Letter of

Offer or Terms Schedule and are subject to the Bank's annual review. In addition, the Bank may cancel or reduce the Limit at any time and from time to time in the Bank's absolute discretion.

Amounts of BetterBusiness Loans

- 3.2 The amount of each BetterBusiness Loan made available by the Bank to the Borrower under the Contract is set out in the Letter of Offer or Terms Schedule.

Funding Loans

- 3.3 The Borrower may draw on an Overdraft, Business Line of Credit, AgriBusiness Line of Credit, or a Capital Equity Loan Account up to the Limit. The Bank may from time to time agree to drawings in excess of the Limit. The Bank's approval of any drawing in excess of the Limit does not constitute a waiver of the Bank's right to require the Loan Account to be conducted within the Limit. A higher interest rate is payable on balances in excess of the Limit.
- 3.4 The Bank makes the full amount of a BetterBusiness Loan available by a single Loan drawing unless:
- (a) the Contract provides otherwise; or
 - (b) the Bank agrees to the Borrower's request to fund the Loan by progressive Loan drawings.
- 3.5 The Bank funds a Loan:
- (a) by paying each Loan drawing on the Borrower's written instructions; or
 - (b) when the Borrower or anyone authorised by the Borrower requests credit in a manner approved by the Bank (including by having a cheque presented to the Bank for payment or by a withdrawal at an electronic terminal) and the Bank provides that credit. The Bank records the Borrower's debt to the Bank by debiting the Loan Account at the time the Loan or any part of the Loan is funded.
- 3.6 If the Loan is to be funded by progressive Loan drawings, an Event of Default must not have occurred and the Borrower must also satisfy the Bank's requirements for the funding of each Loan drawing. For example, the Bank may require a request for any progressive Loan drawing to be supported by:
- (a) satisfactory evidence of the value of work completed;
 - (b) satisfactory reports by officers appointed by the Bank; or
 - (c) both of the above.

When the Bank does not fund Loans or discount Bills

- 3.7 The Bank is not obliged to fund a Loan or draw, accept, endorse or discount a Bill or a Replacement Bill under a Bill Facility, continue to provide a Contingent Liability Facility or continue to provide a Trade Finance Facility if:
- (a) the Borrower is in default under the Contract;
 - (b) the Borrower fails to satisfy the Bank's conditions precedent, set out in clause 14 or in the Letter of Offer or Acceptance Document;
 - (c) the Loan lapses under clause 3.9;
 - (d) the Bill Facility lapses under clause 3.9;
 - (e) the Bank withdraws its approval under clause 19;
 - (f) the Bank considers that the Borrower may not be able to repay the Loan or meet its obligation under a Facility due to a change in the Borrower's financial position since the date the Borrower applied for the Loan or Facility.

Due Date (for Funding) – Fixed Rate

- 3.8 A BetterBusiness Loan – Fixed Rate, (other than a BetterBusiness Loan – Fixed Rate Residentially Secured) and a Fixed Rate Bill Facility must be fully funded or fully drawn down within 3 months of the date of the Letter of Offer or letter of approval which enclosed the Acceptance Document unless:
- (a) the Borrower requests the Bank's consent to postpone the funding or drawdown;
 - (b) the Bank consents to the Borrower's request; and
 - (c) the Borrower complies with any conditions the Bank makes on consenting to the Borrower's request.
- A BetterBusiness Loan – Fixed Rate (other than a BetterBusiness Loan – Fixed Rate Residentially Secured) and a Fixed Rate Bill Facility must be fully funded or fully drawn down within 1 month of the date when the Borrower's Agent, agrees with the Bank matters referred to in clause 6.5, including the interest rate or in clause 5.3, including the Fixed Bill Rate or CBA Fixed Bill Rate.
- 3.9 If:
- (a) a BetterBusiness Loan – Fixed Rate or a Fixed Rate Bill Facility is not fully funded or drawn down within 3 months of the date of the Letter of Offer or letter of approval which enclosed the Acceptance Document or the date set out in the Letter of Confirmation as the date of first drawdown or funding;
 - (b) the Bank does not consent to the Borrower's request under clause 3.8; or

- (c) the Borrower fails to comply with any of the conditions set by the Bank for its consent to the Borrower's request under clause 3.8,

the Bank may at its option regard the Loan, the Bill Facility or both as lapsed and, except in the case of a BetterBusiness Loan – Fixed Rate Residentially Secured, charge the Borrower with an Early Repayment Adjustment in accordance with clause 7.5 (or the Administrative Fee) as if the Loan was funded or the Fixed Rate Bill Facility was drawn down and prepaid on the date set out in the Letter of Confirmation as the Date of First Drawdown or Funding.

The Parties acknowledge that the damages the Bank pre-estimates under this clause 3.9 may be difficult to quantify to the satisfaction of a court in the event of a dispute between the Borrower or any Security Provider and the Bank and are an agreed pre-estimate of the damages that the Bank would incur in the circumstances and agree that the method in clause 7.5 is the most appropriate method of calculating the Bank's damages.

- 3.10 To the extent that the amount derived under clause 3.9 constitutes a benefit to the Bank, the Bank may retain the amount for its own use and benefit absolutely. In that event the Administrative Fee will not be payable by the Borrower.

4. Loan repayments and Facility reductions

Overdraft, Business Line of Credit, AgriBusiness Line of Credit and Capital Equity facilities

- 4.1 If the Limit is cancelled, the Borrower must pay on the Bank's demand the debit balance of the Overdraft, Business Line of Credit, AgriBusiness Line of Credit, or the Capital Equity Loan Account. If the Limit is reduced, the Borrower must reduce the debit balance on the Loan Account to an amount equal to or less than the reduced Limit on the Bank's demand. Demand under this clause may be made at any time and from time to time.
- 4.2 Where the Borrower has a Capital Equity facility, the Borrower must make the monthly payment set out in the Letter of Offer or Terms Schedule within seven Business Days of the end of each calendar month to which the payment relates. The Borrower must make the first monthly payment on or before the date set out in the Letter of Offer or Terms Schedule. Any payments required by the Bank on the Capital Equity Loan Account do not affect the Bank's right to demand repayment of the Capital Equity Loan Account in full at any time.

BetterBusiness Loan – Fixed Rate repayable

by instalments of principal

- 4.3 The Borrower must repay a BetterBusiness Loan – Fixed Rate by the instalments of principal set out in the Letter of Offer or Terms Schedule. The Borrower must make the instalments of principal at the intervals set out in the Letter of Offer or Terms Schedule and on the first day of the month in which they are due. The Borrower must pay the first instalment of principal on the date set out in the Letter of Offer or Terms Schedule or Letter of Confirmation. On the date, which is at the end of the term set out in the Letter of Offer or Terms Schedule or Letter of Confirmation, the Borrower must pay to the Bank any amount then owing and remaining unpaid in relation to the Loan. The Bank debits the Nominated Account with the instalments of principal which the Borrower must repay under this clause.

Variation of principal instalments

- 4.4 Although under no obligation to do so, the Bank may consider any written request by the Borrower to vary the instalments of principal set out in the Letter of Offer or Terms Schedule. The conditions the Bank may impose on the giving of its consent may include the Borrower agreeing to pay for any loss or cost the Bank expects to incur because the repayments are different to those it expected to receive under the Contract.

BetterBusiness Loan – Fixed Rate or BetterBusiness Loan – Variable Rate comprising an interest only loan

- 4.5 The Borrower must repay an interest only BetterBusiness Loan – Fixed Rate or an interest only BetterBusiness Loan – Variable Rate in full on the date which is at the end of the term set out in the Letter of Offer or Terms Schedule.

The Bank may, but is not obliged to, consider extending or re-financing the Facility at maturity, provided any request to extend the Facility is presented to the Bank at least two months prior to maturity. Any such request will be considered by the Bank as a fresh transaction and is subject to the Bank's usual credit policies and processes at that time. The Bank is not obliged to extend the Facility at maturity.

BetterBusiness Loan – Variable Rate repayable by principal and interest instalments

- 4.6 The Borrower must repay a BetterBusiness Loan – Variable Rate by the instalments of principal or principal and interest set out in the Letter of Offer or Terms Schedule. The Borrower must make the instalments of principal or principal and interest at the intervals set out in the Letter of

Offer or Terms Schedule until all moneys owing in relation to the Loan are paid. The first instalment or repayment is due on the date set out in the Letter of Offer or Terms Schedule.

Repayments of BetterBusiness Loans Variable Rate – Economiser

- 4.7 The Borrower must make instalments or repayments on the BetterBusiness Loan Variable Rate – Economiser from a suitable account held with the Bank in the amounts and at the frequency set out in the Letter of Offer or Terms Schedule; additional repayments from those set out are not permitted. In this regard, the Borrower will provide the Bank with a written authority to draw from that account, as required, the amounts the Borrower must pay under the Contract.

Repayment Redraw Facility

- 4.8 Any reference to a 'special repayment' in clauses 4.10 and 4.11 is to a repayment made in addition to the regular instalments or repayments the Bank requires the Borrower to make on the BetterBusiness Loan – Variable Rate.
- 4.9 The Bank may not make the Repayment Redraw Facility available to the Borrower if the Borrower gives any person other than the Bank a security interest in the Security Property. The Bank may at its discretion reduce, suspend or cancel the Repayment Redraw Facility at any time.
- 4.10 The Bank allows the Borrower to redraw on the Repayment Redraw Facility if:
- (a) the Borrower applies to redraw at least \$2,000. The Bank does not allow the Borrower to redraw on the Repayment Redraw Facility if the total of the special repayments available for redrawing is less than \$2,000;
 - (b) all of the parties forming the Borrower ask for the redrawing by completing and signing a withdrawal form;
 - (c) the Borrower satisfies the conditions in clauses 14.1 and 14.2; and
 - (d) the Borrower has kept to the terms of the Contract.
- 4.11 The amount available for redrawing on the Repayment Redraw Facility at any one time is the amount of special repayments made on the Loan Account less:
- (a) the amount of special repayments the Borrower has redrawn on the Loan Account previously; and
 - (b) any amount for which the Borrower is in

arrears on the Loan Account.

- 4.12 All amounts the Borrower redraws on the Repayment Redraw Facility are debited to the Loan Account.
- 4.13 No further redrawings are available on the Repayment Redraw Facility if the borrower changes to a BetterBusiness Loan – Fixed Rate.
- 4.14 If the Borrower changes only a portion of the Loan to a fixed interest rate and continues to conduct the other portion of the Loan at a variable interest rate, the Borrower's right to redraw on the Repayment Redraw Facility continues provided that before changing, the Borrower requests the Bank to continue to make available the Repayment Redraw Facility on the variable interest rate portion of the Loan.
- 4.15 The Borrower's right to redraw on the Repayment Redraw Facility ends when the Loan Account is repaid in full.

Cancellation and Reduction of Limits

- 4.16 The Borrower may cancel or reduce the Limit on the Loan Account at any time. Any reduction or cancellation of the Limit on the Loan Account under this clause does not affect the Borrower's obligations under the Contract for credit made available on the Loan Account before the date on which the Limit is reduced or cancelled. Further, any limitation of a Borrower's liability will be of no effect to the extent that the Bank is obliged to make further advances to any other Borrower.

BetterBusiness Loan – Variable Rate/Variable Rate Economiser repayable by principal and interest instalments – interest changes and instalments/repayments.

- 4.17 Under a BetterBusiness Loan Variable Rate (including a BetterBusiness Loan Variable Rate-Economiser) repayable by principal and interest instalments, the instalments or repayments set out in the Letter of Offer or Terms Schedule for the Loan as varied by the Bank under clause 4.17(c), clause 4.18 or clause 11.4 may be insufficient to repay the Loan by the end of the period set out in the Letter of Offer or Terms Schedule on or following an increase in the interest rate applying to the Loan. If that occurs:
- (a) The Bank is under no obligation to exercise its rights under clause 11.4;
 - (b) The Borrower must continue to pay the instalments or make the repayments at the intervals set out in the Letter of Offer or Terms Schedule as varied by the Bank under clause 4.17(c), clause 4.18 or clause 11.4 before as well as after the end of the period set out in the Letter of Offer or Terms Schedule until all

moneys owing in relation to the Loan are paid;
and

- (c) if the borrower requests, the Bank will set or re-set the instalments or repayments so that the Loan will be repaid on or about the end of the period set out in the Letter of Offer or Terms Schedule for the Loan. The new instalments or repayments set or re-set by the Bank will replace the instalments or repayments previously set or re-set by the Bank in the Letter of Offer or Terms Schedule for the Loan as varied by the Bank under this clause 4.17(c), clause 4.18 or clause 11.4.

- 4.18 If the instalments or repayments are set or re-set under clause 4.17(c), this clause 4.18 or clause 11.4 and interest rates subsequently decrease, if the Borrower requests, the Bank will set or re-set the instalments or repayments so that the Loan will be repaid on or about the end of the period set out in the Letter of Offer or Terms Schedule for the Loan. The new instalments or repayments set or re-set by the Bank will replace the instalments or repayments previously set or re-set by the Bank in the Letter of Offer or Terms Schedule for the Loan as varied by the Bank under clause 4.17(c), this clause 4.18 or clause 11.4.

5. Bill Facility and the proceeds of discounting Bills

Drawing and Accepting Bills

- 5.1 In respect of Bills drawn under a Bill Facility on which the Bill Rate or CBA Bill Rate is not fixed, the Authorised Representatives may, on the Borrower's behalf, give to the Bank instructions to:
- (a) draw Bills on the Borrower's behalf where the Bill Facility is a bill acceptance facility; or
 - (b) accept Bills on the Borrower's behalf where the Bill Facility is a bill endorsement facility.
- 5.2 The Authorised Representatives' instructions under clause 5.1 must be given no later than one Business Day before the date the Bills are to be drawn or accepted and must specify:
- (a) the Bill Facility under which the Bills are to be drawn or accepted by the Bank;
 - (b) the date on which the Bills are to be discounted or, the date on which the Bills are to be accepted and delivered to the Borrower;
 - (c) the aggregate face value amount of the Bills to be drawn or accepted by the Bank on the Borrower's behalf after any reduction of the face value of the outstanding Bills required under the Contract;
 - (d) the term of each of the Bills provided that the

term is:

- (i) the same for all Bills drawn on a particular day;
- (ii) for other Bills, not less than 21 days nor more than 185 days;
- (iii) to end on a day which is a Business Day; and
- (iv) to end no later than the date which is the first to occur of:
 - (A) the next due date for the Borrower to reduce the outstanding face value of Bills under the Bill Facility in accordance with clause 5.21; or
 - (B) the date at the end of the term set out in the Letter of Offer or Terms Schedule for the Bill Facility.

- 5.3 Provided the Bank has received the Borrower's signed acceptance of the Letter of Offer or Acceptance Document for the Fixed Rate Bill Facility including a duly completed Authority to Act as Agent and the Borrower's Agent agrees with the Bank the date of first drawdown, fixed rate maturity date and/or Fixed Rate Period and Fixed Bill Rate or CBA Fixed Bill Rate, then on the agreed date of first drawdown the Bank draws or accepts bills under the Fixed Rate Bill Facility on the Borrower's behalf:

- (a) initially for an aggregate face value equal to the Limit, then at each Rollover Date for an aggregate face value considering any reduction of the face value of the outstanding Bills required under the Contract;
- (b) initially for a term requested by the Borrower's Agent and agreed to by the Bank and thereafter on any Rollover Date for the same term as the initial term, provided that the term may be adjusted by the Bank to expire on the closest Common Rollover Date set by the Bank falling either side of the next Rollover Date;
- (c) to end on the due date for reductions set out in the Letter of Offer or Terms Schedule so that all outstanding Bills under the Fixed Rate Bill Facility are retired by the date on which the Term of the Bill Facility matures.

The Bank sends the Borrower a Letter of Confirmation of the terms agreed by the Borrower's Agent.

Form of Bills

- 5.4 All Bills under a Bill Facility:
- (a) are drawn by the Authorised Signatories on Bill forms specified by the Bank;
 - (b) in the case of a Bill Facility under which the

- Bank accepts Bills, name the Borrower as the drawer and payee and name the Bank as acceptor;
- (c) in the case of a Bill Facility under which the Bank endorses Bills, name a third party as drawer and payee and name the Borrower as acceptor; and
- (d) are for a minimum face value amount of \$100,000 or the current amount of the Limit if less than \$100,000, unless the Bank agrees to a lesser value.
- 5.5 Not later than 11.00 am local time on the date Bills are to be drawn or accepted by the Bank, if the Bill Rate or CBA Bill Rate is not fixed, the Bank notifies the Authorised Representatives of the Bill Rate or CBA Bill Rate for Bills of a similar term and amount to those the Borrower wishes to have drawn or accepted.
- 5.6 On the day the Bank draws or accepts Bills under a Bill Facility:
- (a) in the case of a Bill Facility on which the Bill Rate or CBA Bill Rate is fixed, the Bank discounts or arranges for the discounting of the Bills at the Fixed Bill Rate or CBA Fixed Bill Rate;
- (b) in the case of any Bills which are to be discounted by the Bank, the Bank discounts or arranges for the discounting of the Bills at the Bill Rate or CBA Bill Rate ; or
- (c) for any other Bills, the Bank delivers the Bills at the direction of the Borrower's Authorised Representatives.

Paying Bill discount proceeds

- 5.7 The Bank applies the proceeds from discounting Bills under a Bill Facility:
- (a) on any Rollover Date in or towards discharging the obligation of the Borrower to indemnify the Bank in respect of the Bills which mature on that Rollover Date under the Bill Facility; and
- (b) otherwise at the direction of the Authorised Representatives for a Bill Facility on which the Bill Rate or CBA Bill Rate is not fixed, and at the direction of the Borrower or the Borrower's Agent for a Fixed Rate Bill Facility.

Replacement Bills

- 5.8 Where the Borrower has a Bill Facility under which the Bank discounts or arranges for the discounting of Bills, on each Rollover Date (other than the one which is within 30 days of the date which is at the end of the Term of the Bill Facility) the Bank draws or accepts Bills to replace the Bills maturing on the Rollover Date. The Replacement Bills will have an

aggregate face value equal to the face value of the maturing Bills less the face value of:

- (a) the maturing Bills which are to be retired in accordance with clause 7; and
- (b) the maturing Bills which must be retired in accordance with the Borrower's obligations under the Contract to reduce the face value of the outstanding Bills.
- 5.9 Subject to clause 5.8, in the case of a Bill Facility on which the Bill Rate or CBA Bill Rate is fixed, on each Rollover Date the Bank will arrange to discount Bills on the Borrower's behalf to replace Bills drawn under the Fixed Rate Bill Facility maturing on the Rollover Date.
- 5.10 Subject to clause 5.8, in the case of a Bill Facility on which the Bill Rate or CBA Bill Rate is not fixed, not later than one Business Day prior to any Rollover Date and in accordance with clause 5.2 the Authorised Representatives will instruct the Bank of the term of the Bills to replace the Bills maturing on the Rollover Date but if they fail to do so, the Borrower is deemed to elect that the Replacement Bills have a term equal to the term of the Bills being replaced.
- 5.11 The Bank debits the Nominated Account with any Shortfall on the replacement of each maturing Bill.

Bank may request Reliquification Bills

- 5.12 The Bank may, from time to time, prepare one or more Reliquification Bills in respect of a BetterBusiness Loan and may deliver any Reliquification Bill to the Borrower requesting the Borrower to draw it on the Bank as acceptor. Each Reliquification Bill will be payable to such person and at such place as the Bank may require.

Requirements of Reliquification Bills

- 5.13 (a) The Bank will not require the Borrower to draw Reliquification Bills the total face amount of which exceeds the amount owing by the Borrower on the BetterBusiness Loan.
- (b) The maturity date of any Reliquification Bill may be no later than the maturity date for the BetterBusiness Loan to which it relates.

Drawing of Reliquification Bills

- 5.14 (a) Within one Business Day of delivery of any Reliquification Bill under clause 5.12, the Borrower shall draw that Reliquification Bill as requested by the Bank, and return it to the Bank.
- (b) If:
- (i) the Borrower does not draw and deliver a Reliquification Bill as requested by the Bank under this clause; or

- (ii) the Borrower requests the Bank to do so, the Borrower authorises the Bank and each Authorised Signatory of the Bank to draw Reliquification Bills on its behalf in accordance with this clause.

Dealing with Reliquification Bills

- 5.15 The Bank may realise or deal with any Reliquification Bill as it thinks fit.

Indemnity

- 5.16 Subject to clause 5.15, the Bank indemnifies the Borrower against, and shall pay the Borrower the amount of, all losses, liabilities, costs and expenses incurred by the Borrower by reason of it being a party to a Reliquification Bill.

Borrower's obligations not Affected

- 5.17 The Bank's liability under clause 5.16 does not affect any obligation of the Borrower under this Agreement. In particular, the obligations of the Borrower to pay any principal, interest or other moneys under this Agreement is absolute and unconditional and is not in any way affected by any liability of the Bank, actual or contingent, under clause 5.16.

Application of Payment Discharging Bill

- 5.18 If a Reliquification Bill is presented to the Borrower and the Borrower discharges it by payment, the amount of the relevant payment is to be treated as having been applied against the BetterBusiness Loan.

Stamp Duty

- 5.19 The Bank shall pay any stamp duty on Reliquification Bills.

Further Assurances

- 5.20 The Borrower shall do everything necessary to be done under the Bills of Exchange Act 1909 on its behalf to ensure the validity of any Reliquification Bill.

Reductions to face value of Bills

- 5.21 The Borrower must:
- (a) reduce the face value of outstanding Bills under a Bill Facility by the amounts and at the intervals set out in the Letter of Offer or Terms Schedule for that Bill Facility and on reduction of the Limit by such additional amounts as notified by the Bank in writing. The Borrower will retire Bills, with a face value equal to the amount of the reduction required under this clause, drawn to mature on the due date for the reduction; and

- (b) retire all outstanding Bills under a Bill Facility by the date which is at the end of the term set out in the Letter of Offer or Terms Schedule for that Bill Facility.

Debiting the face value of retired Bills

- 5.22 The Bank may debit the face value of Bills retired under clause 5.21 to either:

- (a) the Nominated Account; or
- (b) a bills matured account the Bank opens in the Borrower's name. Clauses 12.5, 12.6 and 12.7 apply to any bills matured account opened under this clause.

Indemnity given to the Bank by the Borrower in respect of Bills

- 5.23 The Borrower indemnifies the Bank and agrees to keep the Bank at all times indemnified against all liabilities of the Bank as acceptor or endorser of any Bill accepted, endorsed or held by the Bank under a Bill Facility. The Borrower agrees with the Bank that, as between the Bank and the Borrower, the Borrower is primarily liable in respect of Bills drawn by the Borrower or drawn by a third party and accepted by the Borrower and accordingly:
- (a) as between the Borrower and the Bank, the liability of the Borrower with respect to Bills is not taken to be discharged by reason of the Bank becoming the holder of any Bill before or on or after its maturity date;
 - (b) in respect of Bills accepted by the Bank and in respect of Bills held by the Bank at maturity, the Borrower will, not later than 1.00pm on each day on which the Bills fall due for payment, pay to the Bank an amount equal to the face value amount of the Bills; and
 - (c) in respect of Bills endorsed by the Bank and held by a third party at maturity the Borrower will, if demand is made on the Bank as endorser of a Bill by the holder of the Bill, immediately on the Bank's demand pay to the Bank an amount equal to the face value amount of the Bill,

PROVIDED THAT where any Bill is replaced on its Rollover Date by a Replacement Bill the amount to be paid to the Bank under this clause is reduced by an amount equal to the proceeds of that Replacement Bill.

6. Interest rates and Bill rates

How the Bank sets interest rates on Loans other than BetterBusiness Loans – Fixed Rate

- 6.1 The Bank sets the interest rate for a Loan, (Overdraft, Business Line of Credit, AgriBusiness Line of Credit, Capital Equity facility or a BetterBusiness Loan – Variable Rate), except

during a capped rate period, by adding a margin to or subtracting a margin from an index rate. The margin and the index rate under the Contract for each Loan are set out in the Letter of Offer or Terms Schedule. For Overdrafts, Business Line of Credit, AgriBusiness Line of Credit and Capital Equity facilities, the Bank may charge a higher interest rate on any debit balance which exceeds the Limit.

BetterBusiness Loans – Capped Rate

- 6.2 During any capped interest rate period the Bank sets the interest rate for the Loan (the "capped interest rate") as the lesser of:
- (a) the rate set by adding or subtracting the margin (if any) stated in the Letter of Offer or Terms Schedule to or from the index rate applying from time to time; or
 - (b) the rate set by adding or subtracting the margin (if any) stated in the Letter of Offer or Terms Schedule to or from the sum of the index rate applying on the date the Bank first funds the Loan and the margin shown in the Letter of Offer or Terms Schedule as the capped interest margin.

Provided that if and for so long as the Borrower is in default during a capped interest rate period, the Bank may increase the margin or apply a margin to determine the capped interest rate.

- 6.3 The capped interest rate period commences from the date the Borrower agrees with the Bank to pay the capped facility fee and instructs the Bank to apply a capped interest rate to the Loan and ends on the capped rate expiry date shown in the Letter of Offer or Terms Schedule. The capped interest rate will not apply if the Borrower fails to contact the Bank to agree on the capped facility fee or fails to instruct the Bank to apply a capped interest rate. Any existing capped interest rate will cease to apply from the commencement of the new capped interest rate period.
- 6.4 Following the expiry of the capped interest rate period the interest rate changes to a variable interest rate with no cap unless the Bank agrees to the Borrower's request for another capped interest rate period or a fixed interest rate period.

The Bank has a schedule of interest rates available. Simply call 13 19 98 or visit www.commbank.com.au

BetterBusiness Loans – Fixed Rate

- 6.5 The interest rate for the BetterBusiness Loan – Fixed Rate (other than a BetterBusiness Loan – Fixed Rate Residentially Secured) is not the rate set out in the Letter of Offer or Acceptance Document.

The Bank sets the interest rate for the

BetterBusiness Loan – Fixed Rate (other than a BetterBusiness Loan – Fixed Rate Residentially Secured) when the Borrower's Agent, agrees with the Bank the date of funding, first instalment due date, frequency of instalments and/or Fixed Rate Period and interest rate.

The Bank sends the Borrower a Letter of Confirmation of the terms agreed by the Borrower's Agent.

- 6.6 The interest rate for any Fixed Rate Period of the BetterBusiness Loan – Fixed Rate Residentially Secured is set by the Bank from its current Home and Investment Home Loan fixed interest rates plus or minus a margin (if any). The margin (if any) for the Loan and an indicative interest rate for the Fixed Rate Period are stated in the Letter of Offer or Terms Schedule.

The actual interest rate will be the Bank's Home and Investment Home Loan interest rate for the applicable Fixed Rate Period current at the date of funding or renewal plus or minus the margin (if any).

The interest rate options the Borrower has if the term of a BetterBusiness Loan – Fixed Rate or a Fixed Rate Bill Facility exceeds a fixed rate period

- 6.7 Variable rate option – If the Term of a Loan or a Bill Facility, which is a BetterBusiness Loan – Fixed Rate, (other than a BetterBusiness Loan – Fixed Rate Residentially Secured), or a Fixed Rate Bill Facility exceeds the fixed rate maturity date set out in the Letter of Offer or Terms Schedule, at that fixed rate maturity date, the Borrower may, without any additional fee or charge, choose to change the interest rate applicable to the balance of the Loan or the Bill Rate or CBA Bill Rate applicable to the Bill Facility then outstanding to a rate which is not fixed. Then, the interest rate for the Loan is a rate which is the aggregate of the index rate the Bank generally applies to a BetterBusiness Loan – Variable Rate from time to time and a margin set by the Bank. The Bill Rate or CBA Bill Rate on a Bill drawn under a variable rate Bill Facility is the Bill Rate or CBA Bill Rate applying at the date the Bill is drawn and a margin set by the Bank.

At the end of a Fixed Rate Period, the interest rate of a BetterBusiness Loan – Fixed Rate Residentially Secured changes to a variable interest rate unless the Bank agrees to the Borrower's request for another fixed interest rate period. The Bank sets the variable interest rate for the Loan by adding a margin (if any) to the Residential Equity Rate applying at the end of the Fixed Rate Period.

- 6.8 Fixed Rate Option – Alternatively, the Borrower may continue with the BetterBusiness Loan

– Fixed Rate or the Fixed Rate Bill Facility for a further fixed rate period nominated by the Borrower and approved by the Bank at the interest rate or Bill Rate or CBA Bill Rate which the Bank offers to the Borrower for the further fixed rate period.

Before the end of any fixed rate period the Borrower may request the Bank to quote the indicative interest rates or indicative Bill Rates or CBA Bill Rates which the Bank is prepared to offer the Borrower for a further fixed rate period to help the Borrower make its choice under clause 6.7.

Note: The Bank does not offer introductory Guaranteed Rate fixed interest rates or Discounted Rate variable interest rates under either the Fixed Rate Option or the Variable Rate Option.

What happens when at the end of a fixed rate period the Borrower chooses the variable rate option

6.9 Where the Borrower chooses to change the interest rate applicable to the BetterBusiness Loan – Fixed Rate or the Bill Rate or CBA Bill Rate applicable to the Fixed Rate Bill Facility to a variable interest rate or Bill Rate or CBA Bill Rate which is not fixed, within the requisite period the Borrower's Agent must agree the particulars necessary to complete all items of a replacement Letter of Confirmation:

- (a) replacing the immediately preceding Letter of Confirmation;
- (b) setting out the instalments of principal and interest payable by the Borrower to the Bank for the Loan or reductions to the face value of Bills on and from the date specified in the Letter of Confirmation;
- (c) including the margin or the line fee, facility fee, usage fee or endorsement fee if varied; and
- (d) including any other change agreed to by the Bank.

The Bank will provide the Borrower with a letter detailing the terms agreed.

What happens when at the end of a fixed rate period the Borrower chooses a further fixed rate period

6.10 If the Borrower chooses to continue to conduct the BetterBusiness Loan – Fixed Rate at a fixed interest rate or the Fixed Rate Bill Facility at a Bill Rate or CBA Bill Rate which is fixed for a further fixed rate period, within the requisite period the Borrower's Agent must agree the terms of the amended facility, including the date of drawdown or funding, first instalment due date, frequency

of instalments, fixed rate maturity date and/or Fixed Rate Period or term and Fixed Bill Rate or CBA Fixed Bill Rate or interest rate and any other change agreed to by the Bank.

The Bank will send by post to the Borrower a Letter of Confirmation of the fixed rate or Fixed Bill Rate or CBA Fixed Bill Rate and terms agreed by the Borrower's Agent.

What happens when at the end of a fixed rate period the Borrower does not make a choice

6.11 If:

- (a) the Borrower does not make a choice under clause 6.7 by the end of any fixed rate period;
- (b) the Parties fail to agree on the rate to apply to the Loan or Bill Facility at the end of any fixed rate period; or
- (c) the person approved by the Borrower under the Authority to Act as Agent fails to agree with the Bank the terms of any further extension of the Fixed Rate Period within the requisite period,

the Borrower is taken to have chosen to continue the BetterBusiness Loan – Fixed Rate or the Fixed Rate Bill Facility from the end of the relevant fixed rate period as a Facility on which the interest rate or the Bill Rate or CBA Bill Rate is not fixed and clauses 6.7 and 6.9 apply, except that an Authorised Signatory may (and is irrevocably appointed the Borrower's attorney to do so) agree the first instalment due date, frequency of instalments or rollover, discount or interest rate for and on the Borrower's behalf.

What happens if the Borrower wants to change to a fixed rate

6.12 Where the Borrower has a BetterBusiness Loan – Variable Rate or a Bill Facility which is being conducted at a Bill Rate or CBA Bill Rate which is not fixed, the Bank will, on the Borrower's request, as to the whole or part of the Loan or Bill Facility quote an indicative interest rate or Bill Rate or CBA Bill Rate at which the Bank may be prepared to convert the Bill Rate or CBA Bill Rate on the Bill Facility to a Fixed Bill Rate or CBA Fixed Bill Rate or to convert the interest rate on the Loan to a fixed rate for a specified period.

The Bank quotes a firm fixed interest rate or Fixed Bill Rate or CBA Fixed Bill Rate, provided it has received a signed Authority to Act as Agent from the Borrower, when the Borrower's Agent agrees with the Bank the date of first drawdown or funding, first instalment due date, frequency of instalments, fixed rate maturity date and/or Fixed Rate Period or term, and interest rate or Fixed Bill Rate or CBA Fixed Bill Rate. Until the time those matters are agreed in accordance

with the Authority to Act as Agent, the variable interest rate and the Bill Rate or CBA Bill Rate apply to the BetterBusiness Loan and the Bill Facility respectively.

The Bank will send by post to the Borrower a Letter of Confirmation or Terms Schedule detailing the fixed rate or Fixed Bill Rate or CBA Fixed Bill Rate and other terms agreed by the Borrower's Agent.

Charging and payment of interest on Loans

- 6.13 The Borrower must pay interest on all amounts debited to a Loan Account. If the Letter of Offer or Terms Schedule states the times or frequency at which interest is to be paid, the Borrower must pay interest at those times or frequency.

Interest:

- (a) begins to accrue from the date the Bank first debits an amount to the Loan Account;
- (b) if not payable in advance, accrues daily;
- (c) if the Bank consents to it being paid in advance, accrues on the first day of the interest in advance period for the whole interest in advance period;
- (d) is calculated on the unpaid daily balance of the Loan Account at the interest rate then applying to the Loan Account;
- (e) if not payable in advance, is charged monthly, unless the Bank has agreed with the Borrower on a different interest charging cycle on the first Business Day after the end of a debiting period; and
- (f) if the Bank consents to it being paid in advance, is charged for the whole interest in advance period on the first day of the interest in advance period.

Where the Bank agrees that interest can be paid in advance

- 6.14 The Bank may consent to the Borrower's request to pay interest in advance on the Borrower's BetterBusiness Loan – Fixed Rate for a period not exceeding 12 months from a date nominated by the Borrower and agreed to by the Bank in writing. At the start of any interest in advance period, if the Borrower has not paid the amount of interest payable in advance for that period, the Bank may debit that amount to the Nominated Account. Unless the Bank consents to another interest in advance period, at the end of any interest in advance period clause 6.19 applies.
- 6.15 Despite the Borrower having paid interest in advance on a BetterBusiness Loan – Fixed Rate, the Bank may debit the Nominated Account, or if an Event of Default has occurred, the Loan

Account with:

- (a) interest including default interest on any amount (other than interest paid in advance and any amount on which interest has been paid in advance) debited to the Loan Account during the interest in advance period; and
- (b) default interest on any amount overdue for payment during the interest in advance period, provided that the Bank will deduct any interest paid in advance on the overdue amount for the period in which the amount is overdue, in accordance with the Contract.

- 6.16 At the end of any interest in advance period, the Bank may consent to the Borrower's request for a further interest in advance period not exceeding 12 months. If the Bank consents to the Borrower's request, it will give the Borrower written notice of the consent.

Interest on the AgriBusiness Line of Credit

- 6.17 The Bank may allow interest debited to the AgriBusiness Line of Credit Loan Account to be unpaid for continuous periods of up to 2 years provided the balance of the Loan Account after the debiting of such interest and any other amount due remains below the Limit. At the end of such period the Bank may require the Borrower to commence paying interest and to reduce the amount owing. If, at any time, the debiting of interest would increase the amount owing to beyond the Limit the Bank may require the Borrower to pay interest.

Default interest on Loans

- 6.18 The Borrower must pay to the Bank default interest on any amount the Borrower fails to pay in relation to a Loan on the due date under the Contract.

Default interest:

- (a) is charged at an interest rate equal to the Bank's monthly index rate for overdraft accounts plus a margin of 4.5% per annum subject to clause 11.5; and
- (b) accrues daily on the overdue amount from the due date of payment of the amount until the amount is paid.

Debiting of Loan interest and default interest

- 6.19 The Bank debits the Loan Account or at the request of the Borrower any other account in the name of the Borrower agreed to by the Bank or, in the case of a BetterBusiness Loan – Fixed Rate on which the Borrower is not in default, the Nominated Account with the interest on the Loan, including any default interest accrued up to the end of the day prior to the debiting:

- (a) monthly, unless the Bank has agreed with the Borrower on a different interest charging cycle; and
- (b) on the day the Loan Account is repaid in full.

Bill Rates or CBA Bill Rates when the rate is not fixed

- 6.20 The Bank uses the Bill Rate or CBA Bill Rate to discount Bills under a Bill Facility on which the Bill Rate or CBA Bill Rate is not fixed.

Offset Interest BetterBusiness Loan Variable Rate (except BetterBusiness Loan Variable Rate Capped) and Overdraft

- 6.21 The Bank calculates interest on the amount outstanding on the Loan Account daily as follows:

- Up to the credit balance of the Borrower's off-set account:
 - at the interest off-set rate as set out in the Letter of Offer or Terms Schedule; and
- Above the credit balance of the Borrower's off-set account:
 - at the interest rate otherwise applying to the Loan.

No credit interest is payable to the Borrower's off-set account(s) even if the credit balance exceeds the amount outstanding on the Loan Account.

While ever an interest off-set is allowed on the Loan:

- (a) the Bank may at any time WITHOUT NOTICE to the Borrower apply the whole or any part of the balance at any time standing to the Borrower's credit in the Interest Off-set Account in or towards payment of any balance that may stand to the debit of Loan and the Borrower agrees that whether any such book entries shall or shall not have been made, the Bank may treat any such credit balances as having been so applied and may deal with the accounts accordingly;
- (b) the Bank has the right at any time to refuse access by the Borrower to the Interest Off-set Account; and
- (c) the Borrower's interest in the Interest Off-set Account at any time is limited to any difference in their favour between the credit balance of the Interest Off-set Account and the amount at that time is owing or may become payable under the Loan subject to the interest offset.

The Borrower declares that the Interest Off-set Account is the Borrower's own property and does not include trust funds.

Where the Borrower chooses to switch to a

BetterBusiness Loan – Fixed Rate, the interest off-set arrangement will cease to apply.

Notwithstanding the provisions of Clause 6.19, interest on the Loan will be debited to the Borrower's off-set account while an interest off-set is allowed on the Loan.

Capitalising unpaid interest, fees and charges

- 6.22 The Bank charges interest on unpaid interest, fees and charges. However, the interest only becomes part of the principal sum when the Bank makes a special entry to that effect in its books of account. The Bank can do this at any time without informing the Borrower. Until the Bank makes that entry, unpaid interest and unpaid fees and charges are included in the outstanding balance of a Loan Account or the Nominated Account as unpaid interest and unpaid fees and charges, not as part of the principal sum. The Bank does not show the items that make up the outstanding balance in any statement of a Loan Account or the Nominated Account.

7. Prepayment of Loans and retirement of Bills

Prepayment of BetterBusiness Loans – Fixed Rate and Fixed Rate Bill Facility

- 7.1 During any fixed rate period for a BetterBusiness Loan – Fixed Rate or on any Rollover Date for a Fixed Rate Bill Facility, the Borrower may:

- (a) prepay the BetterBusiness Loan – Fixed Rate in full or retire all Bills outstanding under the Fixed Rate Bill Facility which are not due to be retired by special arrangement under clause 7.2, or in any other case under clauses 7.4 to 7.8 (inclusive);
- (b) partially prepay any amount of principal outstanding on the BetterBusiness Loan – Fixed Rate or retire some of the outstanding Bills under the Fixed Rate Bill Facility which are not due to be retired from time to time, by special arrangement under clause 7.2

PROVIDED THAT:

- (i) the amount of the partial prepayment is not less than the minimum amount set out in the Letter of Offer or Terms Schedule or if no such amount is set out, \$25,000 in the case of the BetterBusiness Loan – Fixed Rate and \$100,000 in the case of the Fixed Rate Bill Facility; and
- (ii) for the Fixed Rate Bill Facility, on the prepayment, the residual sum of Bills outstanding under the Facility is not less

than \$100,000.

The Bank does not accept partial prepayments of BetterBusiness Loans – Fixed Rate or Fixed Rate Bill Facility other than in accordance with this clause.

The Borrower must give the Bank at least two Business Days' prior written notice of its intention to make a prepayment specifying the amount of the BetterBusiness Loan – Fixed Rate or the face value of Bills to be prepaid.

- 7.2 If the Borrower gives written notice under clause 7.1 to the Bank and provided the prepayment is to be made within three calendar months of the date of the written notice:
- (a) for a partial prepayment, the Bank will quote the Early Repayment Adjustment which it is prepared to accept or pay as a condition of allowing the prepayment; or
 - (b) for a full prepayment, the Borrower may request the Bank to quote the Early Repayment Adjustment which the Bank is prepared to accept instead of the Early Repayment Adjustment calculated in accordance with clause 7.5.
- 7.3 If the Borrower accepts the Bank's quote made under clause 7.2, on the nominated date for the prepayment:
- (a) the Borrower must pay the prepayment;
 - (b) if the Early Repayment Adjustment constitutes a cost to the Bank, the Borrower will pay to the Bank, or the Bank will debit the Nominated Account with, the Early Repayment Adjustment quoted by the Bank and the Administrative Fee; or
 - (c) if the Early Repayment Adjustment constitutes a benefit to the Bank, it will debit the Administrative Fee to the Nominated Account and no credit, offset or allowance will be made by the Bank which will be entitled to retain any such benefit for itself absolutely; and
 - (d) the provisions of clause 7.4 will not apply to the prepayment
- The provisions of clause 7.9 will apply if the whole or any part of the proposed prepayment is not paid by the Borrower to the Bank on the nominated date for prepayment.
- 7.4 On full prepayment of a BetterBusiness Loan – Fixed Rate or Fixed Rate Bill Facility during any fixed rate period, the Bank may in its absolute discretion:
- (a) make the Early Repayment Adjustment calculated in the manner set out in clause

7.5; and

- (b) charge the Administrative Fee.

How the Early Repayment Adjustment is calculated

- 7.5 The aggregate of the present value amounts, calculated under this clause 7.5 constitutes the Early Repayment Adjustment the Bank makes on full prepayment of a BetterBusiness Loan – Fixed Rate or a Fixed Rate Bill Facility where that adjustment is not pre-arranged under clause 7.2.

for a BetterBusiness Loan – Fixed Rate

- (a) the Bank takes the fixed interest rate ('the Rate') at which the amount of the proposed prepayment ('the Sum') could be re-lent or reinvested by the Bank for the remainder of the fixed interest rate period from the proposed date of prepayment ('the Period') with similar interest payment dates and similar principal repayment amounts and dates. The Rate may be fixed by reference to the Bank's practices for aggregating investments and not necessarily by reference to any particular contract or investment of equal amount to the prepayment; and
- (b) the Bank determines the difference ('the Difference') between each amount which the Bank could earn if it re-lent or reinvested the Sum at the Rate for the Period as compared with the amounts it would have earned if the prepayment had not been made and the Borrower had made all scheduled repayments on their due date until the fixed rate maturity date set out in the Letter of Offer or Terms Schedule;

for a Fixed Rate Bill Facility

- (c) the Bank takes the Bill Rate or CBA Bill Rate ('the Rate') which the Bank is prepared to fix for the discount of Bills, with a face value equal to the Bills to be retired by the Borrower, for the period ('the Period') between the date on which the Borrower retires the Bills and the fixed rate maturity date set out in the Letter of Offer or Terms Schedule. The Rate is fixed by reference to the Bank's practices for fixing its Bill Rates or CBA Bill Rates and not necessarily by reference to any particular Fixed Rate Bill Facility the Bank may enter into on or after the Rollover Date on which the Bills are to be retired.

These practices take into account the probability that such a discounting may be of an unmarketable parcel of Bills for an irregular term; and

- (d) the Bank determines the difference ('the Difference') between each Shortfall which the Bank would be paid if it discounted Bills, with a face value of the Bills being retired by the Borrower, at the Rate over the Period as compared with the Shortfalls the Bank expected the Borrower to pay if the Borrower had conducted the Fixed Rate Bill Facility over the Period on the basis that the term of the Bills being compared were of an equal length of no less than 30 days and no greater than 185 days set by the Bank;

and for each of a BetterBusiness Loan – Fixed Rate and Fixed Rate Bill Facility

- (e) the Bank then determines the present value amount of each Difference calculated so that if the amount were invested at the Rate for the term until the amounts in question would have been earned, it would compound to the Difference; and
- (f) the aggregate of the present value amounts constitutes the Early Repayment Adjustment.
- (g) for the purpose of calculating the amount of any Early Repayment Adjustment in respect of a BetterBusiness Loan – Fixed Rate other than a BetterBusiness Loan – Fixed Rate Residentially Secured, the Rate shall be determined without reference to the fixed interest rates applying to BetterBusiness Loans – Fixed Rate Residentially Secured at the time of the proposed prepayment.
- (h) for the purpose of calculating the amount of any Early Repayment Adjustment in respect of a BetterBusiness Loan – Fixed Rate Residentially Secured, the Rate shall be determined by reference only to the fixed interest rates applying at the time of the proposed prepayment to BetterBusiness Loans – Fixed Rate Residentially Secured (or, if there are no such rates, the Bank's Home Loan fixed interest rate) and after deducting the same concession (if any) on interest rates granted the Borrower.

How the Early Repayment Adjustment is charged

- 7.6 The Bank debits the Administrative Fee and the amount of the Early Repayment Adjustment derived under clause 7.5, if it constitutes a cost to the Bank, to the Nominated Account.
- 7.7 The Bank will not set off the amount of the Early Repayment Adjustment derived under clause 7.5, if it constitutes a benefit to the Bank, against the proposed prepayment or face value of the Bills to be retired and no credit, offset or allowance will be made by the Bank in favour

of the Borrower and the Bank will be entitled to retain any such benefit for itself absolutely. In all cases the Bank debits the Administrative Fee to the Nominated Account.

- 7.8 The Bank will on the written request of the Borrower provide a statement in reasonable detail setting out the calculation of the Early Repayment Adjustment payment on prepayment of a BetterBusiness Loan – Fixed Rate or a Fixed Rate Bill Facility.

What happens when the Borrower does not make the agreed prepayment

- 7.9 If the Borrower has accepted the Bank's quote for an Early Repayment Adjustment under clause 7.2, but fails for any reason to pay the Bank any part of the proposed prepayment ('the Sum' for a BetterBusiness Loan – Fixed Rate or the 'Bill Sum' for a Fixed Rate Bill Facility) on the nominated date for prepayment in accordance with clause 7.2, the following provisions will apply:

- (a) the agreed Early Repayment Adjustment:
- (i) if it constitutes a cost to the Bank, will be aggregated on and from the nominated date for prepayment with: or
 - (ii) if it constitutes a benefit to the Bank, will be retained by the Bank for itself and no credit, offset or allowance will be made against:

for a BetterBusiness Loan – Fixed Rate

- (A) the Sum and the provisions of clauses 6.7 and 6.9 will apply as if the Borrower chose to convert the interest rate on the amount outstanding to a variable interest rate from the date nominated for the prepayment, except that an Authorised Signatory may (and is irrevocably appointed the Borrower's attorney to do so) agree the date of first drawdown or funding, first instalment due date, frequency of instalments, fixed rate maturity date, and/or Fixed Rate Period or term, and interest rate for and on the Borrower's behalf; or

for a Fixed Rate Bill Facility

- (B) the Bill Sum and the provisions of clauses 6.7 and 6.9 will apply as if the Borrower chose to convert the Bill Rate or CBA Bill Rate to a Bill Rate or CBA Bill Rate which is not fixed from the nominated date for the prepayment except that an

Authorised Signatory may (and is irrevocably appointed the Borrower's attorney to do so) agree the date of first drawdown or funding, first instalment due date, frequency of instalments, fixed rate maturity date and/or Fixed Rate Period or term, and discount rate for and on the Borrower's behalf; and

- (b) where the facility is a Bill Facility, the Borrower irrevocably authorises the Bank to draw or accept Bills on the Borrower's behalf and discount or arrange the discounting of the Bills on the Rollover Date for any periods as in the Bank's opinion are necessary and in those amounts sufficient to result in the net proceeds from discounting those Bills being equal to the amount aggregated under clause 7.9(a). The Bank applies the proceeds of discounting the Bills under this clause 7.9(b) to the fees payable in respect of those Bills and then to the amount the Borrower has failed to pay.

Prepaying a BetterBusiness Loan – Fixed Rate during an interest in advance period

- 7.10 If the Borrower prepays all or part of a BetterBusiness Loan – Fixed Rate during an interest in advance period applying to that Loan, the Bank pays the Borrower a rebate of interest paid in advance by the Borrower. The Bank calculates the rebate by multiplying the amount prepaid by the interest rate applying to the Loan, then multiplying the result by the number of days left in the interest in advance period and then dividing the result by 365.

Any rebate payable by the Bank under this clause will be set-off against any amount outstanding on the Loan Account or set against the amount of the Early Repayment Adjustment or Administrative Fee payable by the Borrower under these terms and conditions.

Prepaying Loans on which the interest rate is not fixed and retiring Bills on which the Bill Rate or CBA Bill Rate is not fixed

- 7.11 On giving the Bank not less than two Business Days' written notice (or shorter period as may be agreed), the Borrower may:
 - (a) prepay a Loan which is at a variable rate at any time; or
 - (b) retire a Bill on which the Bill Rate or CBA Bill Rate is not fixed, on a Rollover Date.

Prepayment of BetterBusiness Loans Variable

Rate – Economiser

- 7.12 If a BetterBusiness Loan Variable Rate – Economiser is repaid in full within 3 years of the date of funding, the Borrower shall pay to the Bank an Early Repayment Adjustment calculated as follows:

- (a) if the Loan is repaid within one year of the date it is funded, an additional three months' interest calculated on the principal sum outstanding on the date of early repayment at the interest rate applicable to the Loan at that date;
- (b) if the loan is repaid after one year, but within two years of the date it is funded, an additional two months' interest calculated on the principal sum outstanding on the date of early repayment at the interest rate applicable to the Loan at that date;
- (c) if the loan is repaid after two years, but within three years of the date the Loan is funded, an additional one months' interest calculated on the principal sum outstanding on the date of early repayment at the interest rate applicable to the Loan at that date.

Switching of BetterBusiness Loans Variable Rate – Economiser

- 7.13 If the Borrower elects, within 3 years of the date of funding, to change a BetterBusiness Loan Variable Rate – Economiser to a BetterBusiness Loan – Variable Rate or BetterBusiness Loan – Fixed Rate the Borrower shall pay to the Bank an Early Repayment Adjustment calculated in accordance with clause 7.12.

8. Contingent Liability Facilities, Trade Finance Facilities and Multi-Option Facilities

Establishment

- 8.1 The Borrower may request the Bank to issue or make available contingent liabilities or provide financial accommodation under the Borrower's Contingent Liability Facility, Trade Finance Facility or Multi-Option Facility as the case may be or provide financial accommodation under Foreign Bills Negotiated Facility, Irrevocable Documentary Credit Facility or Trade Advance Facility. The Bank will accept the Borrower's request only if:
 - (a) the request is made in the form required by the Bank;
 - (b) the documents to be issued by the Bank under the Facility are in its standard form for such accommodation or in such other form as the Bank agrees to;

- (c) the Borrower accepts the terms and conditions, additional to those under the Contract, on which the Bank issues or makes the accommodation available (this includes any conditions the Bank might impose if it agrees to a request to issue its guarantee or other contingent liability document electronically); and
- (d) at the time of the Borrower's request:
 - (i) the amount of the requested contingent liability or financial accommodation is no greater than the Limit (if any) set out in the Letter of Offer or Acceptance Document; or
 - (ii) the sum of the requested contingent liability or financial accommodation and all other contingent liabilities or financial accommodation made available by the Bank to the Borrower under the Borrower's Contingent Liability Facility, Trade Finance Facility or Multi-Option Facility is no greater than the Limit (if any) set out in the Letter of Offer or Acceptance Document. The aggregate Australian dollar equivalent of all amounts outstanding (contingent or otherwise) may be calculated in accordance with clause 8.12.

Reduction or Cancellation of Limit

- 8.2 The Bank may reduce or cancel the Limit (if any) of the Borrower's Contingent Liability Facility, Trade Finance Facility or Multi-Option Facility on sending written notice of the reduction or cancellation to the Borrower.

Inability to establish contingent liabilities or financial accommodation

- 8.3 If:
- (a) by reason of any law, regulation, order or directive (whether or not having the force of law) or by reason of its interpretation by any government authority or by any court of competent jurisdiction; or
 - (b) by reason of any national or international, financial or economic conditions or exchange controls,

the Bank is unable or unwilling to make a contingent liability or financial accommodation available to the Borrower in accordance with the Borrower's request under clause 8.1, the Bank will notify the Borrower as soon as practicable. On notice being given by the Bank to the Borrower, any obligation of the Bank to make the requested contingent liability or financial accommodation available to the Borrower

ceases and the Borrower is deemed to have withdrawn their request for that contingent liability or financial accommodation.

Indemnity

- 8.4 The Borrower indemnifies the Bank on the Bank's demand against all actions, proceedings, claims and demands which may be brought or made against the Bank and all losses, costs, charges, damages and expenses which the Bank may incur or sustain or for which the Bank may become liable by reason either directly or indirectly of the Bank making a contingent liability or financial accommodation available to the Borrower under a Contingent Liability Facility, Trade Finance Facility, Multi-Option Facility, Foreign Bills Negotiated Facility, Irrevocable Documentary Credit Facility or Trade Advance Facility or the Bank exercising any right to terminate making contingent liabilities or financial accommodation available to the Borrower.

Authorisation and direction

- 8.5 The Bank is hereby irrevocably authorised and directed by the Borrower to:
- (a) pay immediately on any demand appearing or purporting to be made by or on behalf of a beneficiary of a contingent liability any sums up to the limit of the liability stated in the contingent liability which may be demanded from the Bank from time to time without reference to the Borrower. The Borrower acknowledges that as between the Borrower and the Bank a demand is conclusive evidence that the sum demanded is properly due and payable; and
 - (b) debit an account ('the contingent liability payment account') opened by the Bank in the Borrower's name with any amount which the Bank is called on to pay, or which the Bank may in its discretion pay, under or by reason of the establishment by the Bank of a contingent liability.

The contingent liability payment account

- 8.6 The Borrower must pay interest on all amounts debited to the contingent liability payment account opened under clause 8.5.

Interest:

- (a) begins to accrue from the date the Bank first debits an amount to the contingent liability payment account;
- (b) accrues daily; and
- (c) is calculated on the unpaid daily balance of the account at an interest rate equal to the Bank's monthly index rate for overdraft

accounts plus a margin of 4.5% per annum subject to clause 11.5 until the outstanding amount of the account is repaid.

- 8.7 The amount outstanding on the contingent liability payment account opened under clause 8.5 is payable without the necessity of the Bank making prior demand on the Borrower.
- 8.8 Any exercise of the Bank's rights under clause 8.5 will not act as a waiver of the Bank's rights under clause 12.2.

Termination

- 8.9 The Bank may terminate its liability under any contingent liability at any time on the payment to the beneficiary of the contingent liability of the face amount of the contingent liability less any amounts the Bank has previously paid under the contingent liability.

Obligations not affected

- 8.10 If the Bank has exercised due care, the Borrower's obligations under this clause 8 will not be affected or limited by any falsity, inaccuracy, insufficiency or forgery of or in any notice or demand under any contingent liability or financial accommodation or the Bank's failure to enquire whether any notice or demand has been transmitted or received accurately from any cause whatsoever or has been given or sent by an unauthorised person or the passing of the expiry date of the Contingent Liability if the Bank receives a notice of demand before the expiry date.

Benefit of contingent liability cannot be assigned

- 8.11 The Borrower acknowledges that the benefit of any contingent liability cannot be assigned, but that claims by a beneficiary of a contingent liability may be paid at the beneficiary's direction to another party.

Australian dollar equivalent

- 8.12 For the purpose of any payment under a contingent liability or a financial accommodation, or calculating the amount owing or outstanding, in respect of a Contingent Liability Facility, Trade Finance Facility, Multi-Option Facility, Foreign Bills Negotiated Facility, Irrevocable Documentary Credit Facility or Trade Advance Facility which is denominated in foreign currency, the Australian dollar equivalent of the payment, or amount owing or outstanding, is calculated at the Bank's same day value selling rate of exchange for the currency in which the facility is denominated at 11.00 am on the day the Bank makes the payment or performs the calculation.

9. Multi-Option & Trade Finance Facility, Foreign Bills

Negotiated Facility, Irrevocable Documentary Credit Facility and Trade Advance Facility

Overdraft and Bill Facilities

- 9.1 Any Overdraft or Bill Facility provided under the Multi-Option or Trade Finance Facility is subject to the relevant terms and conditions applying to Overdraft or Bill Facilities. The Bank may require that the Borrower sign a further Letter of Offer or Acceptance Document setting out the terms and conditions, additional to those under the Contract, on which the Bank makes the financial accommodation available.

Import Documentary Credit

- 9.2 Should the Borrower wish to utilise the import documentary credit option under the Multi-Option Facility or Trade Finance Facility or obtain accommodation under an Irrevocable Documentary Credit Facility, a completed and signed Application for Irrevocable Documentary Credit in the Bank's usual form must be provided to the Bank. The terms and conditions set out in the Application for Irrevocable Documentary Credit applies to the issue of documentary credits under the Facility.
- 9.3 The Bank may issue sight and term documentary credits in favour of local and overseas suppliers. Validity periods (i.e. date of issuance until the expiry date) of the documentary credit will not exceed six months, unless the Bank agrees to a longer term.
- 9.4 The Borrower must immediately reimburse the Bank an equivalent amount in Australian dollars (calculated in accordance with clause 8.12) for the amounts paid by it under sight documentary credits issued by the Bank and in accordance with any application by the Borrower for the issue of the relevant documentary credit.
- 9.5 The Borrower must reimburse the Bank an equivalent amount in Australian dollars (calculated in accordance with clause 8.12) for the amounts paid by it under term documentary credits issued by the Bank on the maturity date of the relevant drawing and in accordance with any application by the Borrower for the issue of the relevant documentary credit.
- 9.6 Where discount charges under term documentary credits are for the Borrower's account, the Borrower must pay to the Bank the interest component of those charges, calculated by the Bank at a rate, applied by it or the Bank's overseas agent/reimbursing bank and determined by the Bank as appropriate to the

currency, term and amount of the drawing.

Trade Advance

- 9.7 Trade Advances are available in Australian and freely available foreign currencies for minimum amounts of AUD\$20,000 or equivalent and for terms of not less than 30 days and not more than 185 days. Should the Borrower wish to utilise this option under the Multi-Option Facility or Trade Finance Facility or obtain accommodation under a Trade Advance Facility, a written request in the Bank's usual form is to be submitted detailing the amount, currency and maturity date of the advance and providing full and complete disposal instructions for the funds. The request is to be signed in accordance with the Borrower's account operating authority current at the time of the request and the terms and conditions set out in each request applies to the respective Trade Advance. Repayments are to be made in the currency of the advance or the Australian dollar equivalent calculated using prevailing exchange rates.

Contingent Liability

- 9.8 The option of issuing contingent liabilities under the Multi-Option Facility or Trade Finance Facility is for contingencies of a short term nature such as Bid Bonds, Performance Guarantees, missing Bill of Lading guarantees, etc. Fees will depend on the type of instrument issued by the Bank and are available upon request.

Foreign Bills Negotiated

- 9.9 The negotiation constitutes a transfer of the bills by way of security for an advance of the amount of the face value of the bills by the Bank.
- 9.10 The Bank may negotiate bills of exchange denominated in Australian or freely available foreign currencies which are presented with commercial documents for collection. Generally, the term of bills drawn on overseas buyers should not be greater than 185 days.
- 9.11 Proceeds received from overseas buyers for bills negotiated by the Bank will be applied by the Bank to repay negotiations. In the event of a bill being partially paid, dishonoured due to non-acceptance/non-payment of the bill by the buyer or in the event of a currency restriction/moratorium being imposed by the buyer's country, or for any other reason, the Borrower will be liable to repay to the Bank the amount of the bill in the currency of the bill together with interest at the Bank's usual rate from the date of negotiation to the date of repayment.
- 9.12 To utilise this option under the Multi-Option

Facility or Trade Finance Facility or obtain accommodation under a Foreign Bills Negotiated Facility, a completed and signed Lodgement Authority for Overseas Documentary Bill in the Bank's usual form is to be provided to the Bank with the relevant Bill of Exchange and commercial documents.

Multi-Option and Trade Finance Limits

- 9.13 At any time the aggregate Australian dollar equivalent of all amounts outstanding (contingent or otherwise) in respect of this and all other facilities under the Multi-Option Facility or Trade Finance Facility must not exceed the Multi-Option Facility or Trade Finance Facility limit set out in the Letter of Offer or Acceptance Document.

Limits of Foreign Bills Negotiated Facility, Irrevocable Documentary Credit Facility or Trade Advance Facility

- 9.14 At any time the aggregate Australian dollar equivalent of all amounts outstanding (contingent or otherwise) in respect of the Foreign Bills Negotiated Facility, the Irrevocable Documentary Credit Facility or the Trade Advance Facility must not exceed the Limit set out in the Letter of Offer Acceptance Document or Terms Schedule.

10. Flexi Loans

- 10.1 The Flexi Loan is funded by the Bank advancing funds up to the Facility Limit through Sub-Accounts at the direction of the Borrower's Agent in accordance with clauses 10.3 and 10.9. The Flexi Loan may consist of up to a maximum of 20 Sub-Accounts.
- 10.2 The Flexi Loan facility is subject to annual review. At annual review, the Bank may confirm continuation of the Flexi Loan. In addition, the Bank may cancel or reduce the Facility Limit at any time and from time to time.
- 10.3 If the Borrower is not in default, the Borrower's Agent may instruct the Bank to:
- (a) add additional Sub-Accounts;
 - (b) transfer funds between Sub-Accounts; and/or
 - (c) close Sub-Accounts (subject to clauses 10.20 to 10.24 inclusive);
- provided that the total debit balances of all Loan Accounts for all Sub-Accounts collectively does not exceed the Facility Limit and there are not more than 20 Sub-Accounts.

Due Date (for Funding)

- 10.4 At least one Flexi Variable Rate Sub-Account must be funded before a Flexi Market Rate Sub-Account or Flexi Fixed Rate Sub-Account is funded and in any event within three months of the date of the Letter of Offer unless:

- (a) the Borrower requests the Bank's consent to postpone the funding or drawdown;
 - (b) the Bank consents to the Borrower's request; and
 - (c) the Borrower complies with any conditions the Bank makes on its consent to the Borrower's request.
- 10.5 Each Flexi Market Rate Sub-Account must be fully funded within one calendar month of the date when the Borrower's Agent agrees with the Bank matters referred to in clause 10.10, including the date for funding, the interest type and the Reset Date (unless otherwise agreed by the Bank in writing).
- 10.6 Each Flexi Fixed Rate Sub-Account must be fully funded within one month of the date when the Borrower's Agent agrees with the Bank matters referred to in clause 10.9, including the interest rate and Fixed Rate Period (unless otherwise agreed by the Bank in writing).
- 10.7 If:
- (a) at least one Flexi Variable Rate Sub-Account is not funded in accordance with clause 10.4;
 - (b) a Flexi Market Rate Sub-Account or Flexi Fixed Rate Sub-Account is not fully funded or drawn down within the time specified respectively in clauses 10.5 or 10.6;
 - (c) the Bank does not consent to any request by the Borrower to an extension of time;
 - (d) the Borrower fails to comply with any of the conditions set by the Bank for its consent to the Borrowers' request; or
 - (e) the Borrower fails to open and keep open the Nominated Account,

the Bank may at its option regard the Flexi Loan, the Sub-Account or both as lapsed and in the case of a Flexi Fixed Rate Sub-Account charge the Borrower with an Early Repayment Adjustment in accordance with clause 10.23 (or the Administration Fee) as if the Sub-Account had been funded and prepaid on the date set out in the Sub-Account Confirmation Letter as the Date of Funding.

The parties acknowledge that the damages the Bank pre-estimates under this clause 10.7 may be difficult to quantify to the satisfaction of a court in the event of a dispute between the Borrower and any Security Provider and the Bank and are an agreed pre-estimate of the damages that the Bank would incur in the circumstances and agree that the method in clauses 10.23 and 7.5 is the most appropriate method of calculating the Bank's damages.

- 10.8 To the extent that the amount derived under clause 10.7 constitutes a benefit to the Bank, the Bank may retain the amount for its own use and benefit absolutely. In that event the Administration Fee will not be payable by the Borrower.

Sub-Account funding

- 10.9 Provided the Bank has received the Borrower's signed acceptance of the Letter of Offer for the Flexi Loan including a duly completed Authority to Act as Agent and the Borrower's Agent agrees with the Bank the drawdown amount, the date of first drawdown, the interest rate type, the interest charging cycle and, in the case of a Flexi Fixed Rate Sub-Account, the Fixed Rate Period, then on the agreed date of first drawdown the Bank funds the Sub-Account in accordance with clauses 10.10, 10.11 and 10.12 but subject to clauses 10.13 and 10.14. The Bank sends the Borrower a copy of the Sub-Account Confirmation Letter setting out the terms agreed by the Borrower's Agent.
- 10.10 The Borrower's Agent's instructions under clause 10.9 must be given no later than one Business Day before the date the Sub-Account is to be funded.
- 10.11 The Bank funds Sub-Accounts by paying funds to the Borrower's account nominated by the Borrower's Agent or in accordance with the Borrower's Agent's instructions. The Borrower's account will be credited with those funds one Business Day after the Sub-Account has been debited.
- 10.12 If the Bank agrees to fund a Flexi Market Rate Sub-Account by progressive funding, such funding (other than the first) will take place on the next Business Day after the Reset Date. The Borrower's Agent must provide their instructions for the funding before the Reset Date.

When is the Bank not obliged to fund a Flexi Loan or Sub-Account

- 10.13 The Bank is not obliged to fund a Flexi Loan or Sub-Account if:
- (a) an Event of Default has occurred (for example, if the Bank is not satisfied with the value or title to the Security Property);
 - (b) the Borrower fails to satisfy the Bank's conditions precedent, set out in clause 14 or in the Letter of Offer;
 - (c) the Flexi Loan lapses under clause 10.7;
 - (d) the Sub-Account lapses under clause 10.7;
 - (e) the Bank withdraws its approval under clause 19;
 - (f) the funding of the Sub-Account would result

- in the Facility Limit being exceeded; or
- (g) the Bank considers that the Borrower may not be able to repay the Flexi Loan or meet its obligation under the Flexi Loan or a Facility due to a change in the Borrower's financial position since the date the Borrower applied for the Flexi Loan or Facility.
- 10.14 If a Sub-Account is to be funded by progressive drawings, the Borrower must also satisfy the Bank's requirements for the funding of each drawing. For example, the Bank may require a request for any progressive drawing to be supported by:
- (a) satisfactory evidence of the value of work completed;
 - (b) satisfactory reports by officers appointed by the Bank; or
 - (c) both of the above.

Flexi Loan repayments and limit reductions

- 10.15 Except during any Term of Facility the Bank may cancel or reduce the Facility Limit at any time and from time to time in the Bank's absolute discretion.
- 10.16 If the Facility Limit is cancelled, the Borrower must pay on the Bank's demand the debit balances of all Loan Accounts of all Sub-Accounts.
- 10.17 If the Facility Limit is reduced, the Borrower must reduce the aggregate Loan Account debit balances of all Sub-Accounts to an amount equal to or less than the reduced Facility Limit on the Bank's demand.
- 10.18 Except during any Term of Facility the Bank may make demand under clauses 10.16 or 10.17 at any time and from time to time.
- 10.19 Subject to clauses 10.21, 10.22, 10.23 and 10.24, the Borrower's Agent may cancel or reduce the Facility Limit at any time provided that the total debit balances of all Loan Accounts for all Sub-Accounts collectively does not exceed the reduced Facility Limit. Any reduction or cancellation of the Facility Limit does not affect the Borrower's obligations under the Contract for credit made available on the Flexi Loan before the date on which the Limit is reduced or cancelled. Further, any limitation of a Borrower's liability will be of no effect to the extent that the Bank is obliged to make further advances to any other Borrower.
- 10.20 The Borrower may make repayments on a Flexi Variable Rate Sub-Account at any time by arrangement with the Bank or by using the BPay electronic payment scheme promoted by BPAY Pty Limited (ACN 079 137 518).
- 10.21 The Borrower may only make repayments on a Flexi Market Rate Sub-Account by prior arrangement with the Bank on a Reset Date. If the Borrower wholly or partially repays a Flexi Market Rate Sub-Account before the Reset Date, the Bank may charge a prepayment fee and an Administration Fee. The prepayment fee is calculated by the Bank as follows:
- (a) The Bank takes the Flexi Loan Market Interest Rate for the period which most closely approximates the period until the next Reset Date and applies the same interest margins as those applying to the Sub-Account being repaid to determine the interest rate ('the Rate') at which the amount of the proposed prepayment ('the Sum') could be re-lent by the Bank. The Rate may be determined by reference to the Bank's practices for aggregating investments and not necessarily by reference to any particular contract of equal amount to the prepayment; and
 - (b) the Bank then determines the prepayment fee as the difference between the amount which the Bank could earn if it re-lent the Sum at the Rate until the Reset Date as compared with the amounts it would have earned if the prepayment had not been made until the Reset Date.
- The Bank debits the Administration Fee and the amount of the prepayment fee, if the difference constitutes a cost to the Bank, to the Nominated Account or a Flexi Variable Rate Sub-Account of the Borrower.
- 10.22 The Borrower must make, in accordance with clauses 10.20 or 10.21, any repayments specified in a Letter of Offer, Sub-Account Confirmation Letter or other letter of variation sent by the Bank on the dates so specified.
- 10.23 The Borrower must not repay or make repayments to a Flexi Fixed Rate Sub-Account (except for any repayments specified in a Letter of Offer, Sub-Account Confirmation Letter or letter of variation on the dates so specified). If the Borrower wholly or partially repays a Flexi Fixed Rate Sub-Account during any Fixed Rate Period the Bank may make an Early Repayment Adjustment and charge an Administration Fee in accordance with clauses 7.4, 7.5, 7.6, 7.7 and 7.8 as if the references in those clauses to a BetterBusiness Loan – Fixed Rate were references to the Flexi Fixed Rate Sub-Account.
- 10.24 The Borrower must maintain at least one Flexi Variable Rate Sub-Account at all times until cancellation or repayment of the Flexi Loan facility.

Interest

Flexi Variable Rate Sub-Accounts

- 10.25 The Bank sets the interest rate for a Flexi Variable

Rate Sub-Account by adding or subtracting the client margin to or from the Flexi Loan Variable Reference Rate. The client margin rate under the Contract is set out in the Letter of Offer (subject to the Bank's right to vary that margin in accordance with clause 11.5). Where the Borrower requests an interest charging cycle other than monthly, the Bank may add a further margin which is set out in the Sub-Account Confirmation Letter.

Flexi Market Rate Sub-Accounts

10.26 The Bank sets the interest rate for a Flexi Market Rate Sub-Account until the next Reset Date by adding or subtracting the client margin to or from the Flexi Loan Market Interest Rate. The actual interest rate until the first Reset Date will be determined by the Bank on the day of, or the Business Day prior to, funding. Thereafter the interest rate will be determined by the Bank on the Reset Date. The client margin under the Contract is set out in the Letter of Offer. At least one Business Day before the Reset Date the Borrower's Agent must agree with the Bank on the next Reset Period. If no Reset Period is agreed then the Sub-Account will reset for a further similar Reset Period at the relevant prevailing Flexi Loan Market Interest Rate and the applicable client margin.

Flexi Fixed Rate Sub-Accounts

10.27 Provided the Bank and the Borrower's Agent have agreed the matters referred to in clause 10.9 the Bank sets the interest rate for a Flexi Fixed Rate Sub-Account during the Fixed Rate Period by adding or subtracting the client margin to or from the agreed fixed interest rate. The client margin under the Contract is set out in the Letter of Offer.

10.28 Prior to the end of the Fixed Rate Period the Borrower's Agent may instruct the Bank, (subject to its agreement) to continue the Flexi Fixed Rate Sub-Account for a further Fixed Rate Period or to vary the Sub-Account to a Flexi Variable Rate Sub-Account or Flexi Market Rate Sub-Account (and the first Reset Period of that Sub-Account). If no instructions are provided at the end of the Fixed Rate Period the Sub-Account becomes a Flexi Variable Rate Sub-Account with interest charged on a monthly basis in accordance with clause 10.25.

Changing Sub-Account types

10.29 The Borrower's Agent may instruct the Bank, subject to its agreement, to change a Flexi Market Rate Sub-Account to a Flexi Variable Rate Sub-Account or a Flexi Fixed Rate Sub-Account provided such instructions are given at

least one Business Day prior to the next Reset Date of the relevant Sub-Account and will take effect the next Business Day after the Reset Date. The Borrower's Agent may instruct the Bank at any time, subject to its agreement, to change a Flexi Variable Rate Sub-Account to a Flexi Market Rate Sub-Account or a Flexi Fixed Rate Sub-Account. Any agreement to change a Sub-Account to a different type of Sub-account must include agreement as to:

- (a) the Reset Date if the change is to a Flexi Market Rate Sub-Account;
- (b) the Fixed Rate Period if the change is to a Flexi Fixed Rate Sub-Account;
- (c) the interest charging cycle (if other than monthly) if the change is to a Flexi Variable Rate Sub-Account.

Following the change to the Sub-Account the Bank will send the Borrower a copy of the Sub-Account Confirmation Letter confirming the terms agreed by the Borrower's Agent.

How is interest charged

10.30 The Bank may charge a higher interest rate (not exceeding the rate specified in clause 10.34) on any debit balance which exceeds the Facility Limit.

10.31 The Borrower must pay interest on all amounts debited to a Loan Account of a Sub-Account. Interest:

- (a) accrues daily from the date the Bank first debits an amount to the Sub-Account;
- (b) is calculated on the unpaid daily balance of the Loan Account at the interest rate then applying to the Sub-Account;
- (c) is debited monthly to the Loan Account of a Flexi Variable Rate Sub-Account, unless the Bank has agreed with the Borrower on a different interest charging cycle, on the first Business Day after the end of a debiting period;
- (d) is debited on the Reset Date to the Loan Account of a Flexi Market Rate Sub-Account;
- (e) is debited monthly to the Loan Account of a Flexi Fixed Rate Sub-Account, unless the Bank has agreed with the Borrower on a different interest charging cycle, or unless the Bank agrees to interest being paid in advance; and
- (f) is also debited on the day a Sub-Account is repaid in full or the day the Sub-Account is changed to a different type of Sub-Account pursuant to clause 10.29

When must interest be paid

- 10.32 The Borrower must pay interest as soon as it is debited to the Loan Account of a Flexi Market Rate Sub-Account or Flexi Fixed Rate Sub-Account except during any period which the Bank has agreed that interest may be unpaid by the Borrower or while interest is paid in advance. The Bank may arrange payment of interest when due by debiting the amount of such interest to the Nominated Account in respect of that Flexi Market Rate Sub-Account or Flexi Fixed Rate Sub-Account or, if that Nominated Account has insufficient funds, to the Loan Account of a Flexi Variable Rate Sub-Account of the Borrower.
- 10.33 Except for any period during which the Bank has agreed that interest may be unpaid or unless it agrees otherwise, within one month of the date of a statement of the Loan Account the Borrower must pay any interest and fees and charges debited to the Loan Account of a Flexi Variable Rate Sub-Account.

Default interest on Loans

- 10.34 The Borrower must pay to the Bank default interest on any amount the Borrower fails to pay in relation to a Sub-Account on the due date under the Contract.

Default interest:

- (a) is charged at an interest rate equal to the Bank's monthly index rate for overdraft accounts plus a margin of 4.5% per annum subject to clause 11.5;
- (b) accrues daily on the overdue amount from the due date of payment of the amount until the amount is paid; and
- (c) is debited in accordance with clause 10.31,

Capitalising unpaid interest, fees and charges

- 10.35 The Bank charges interest on unpaid interest, fees and charges. However, the interest only becomes part of the principal sum when the Bank makes a special entry to that effect in its books of account. The Bank can do this at any time without informing the Borrower. Until the Bank makes that entry, unpaid interest and unpaid fees and charges are included in the outstanding balance of a Sub-Account's Loan Account or the Nominated Account as unpaid interest and unpaid fees and charges, not as part of the principal sum. The Bank does not show the items that make up the outstanding balance in any statement of a Loan Account or the Nominated Account.
- 10.36 If the Bank agrees to interest being paid in advance on a Flexi Fixed Rate Sub-Account (for a period of up to 12 months), the Borrower must pay interest in advance for the whole of the interest in advance period on or before the

commencement of that period. If the Borrower has not paid the amount of interest payable in advance, the Borrower authorises the Bank to debit the Nominated Account with such interest in advance. If there are not sufficient available funds or credit in the Nominated Account to cover the amount of the interest in advance and the Borrower has failed to pay such interest, the Bank may cancel the interest in advance arrangement and interest will be payable monthly in arrears and shall be debited to the Nominated Account.

11. Variations

Interest Rates

- 11.1 The Bank's index rates and reference rates are published once a week in at least one newspaper generally circulated throughout a State or Territory.
- 11.2 The Bank may reduce or increase its index rates and reference rates from time to time. The Bank advertises any reduction or increase in the index rates or reference rates in at least one newspaper generally circulated throughout a State or Territory no later than the day on which the change takes effect.
- 11.3 The Bank:
- (a) will not change the interest rate applying to a BetterBusiness Loan – Fixed Rate or to a Flexi Fixed Rate Sub-Account during any Fixed Rate Period for that Loan or Sub-Account;
 - (b) will not, after the date the first Bill is discounted under a Fixed Rate Bill Facility, change the Bill Rate or CBA Bill Rate applying to the Fixed Rate Bill Facility during any fixed rate period for that Facility; and
 - (c) may change the interest rate applying to a Loan, which is at a variable interest rate, or to a Flexi Variable Rate Sub-Account, from time to time **PROVIDED THAT**, for a Loan which is a BetterBusiness Loan – Variable Rate on which the interest rate is capped, the interest rate will not exceed the capped interest rate set out in the Letter of Offer or Terms Schedule or subsequently agreed between the Bank and the Borrower until the capped rate expiry date set out in the Letter of Offer or Terms Schedule or any agreed capped rate expiry date. If the interest rate is not set by reference to an index rate or reference rate, the Bank either:
 - (aa) gives the Borrower written notice of any increase in the interest rate no later than the day the change takes effect; or
 - (bb) advertises the increase in the interest rate in at least one newspaper generally circulated throughout a State or Territory

no later than the day on which the change takes effect.

Repayment

- 11.4 The Bank may set or re-set instalments or repayments on a Loan so that the Loan will be repaid on or about the end of the period set out in the Letter of Offer or Terms Schedule for the Loan:
- (a) on or at any time after a change in the interest rate applying to the Loan; or
 - (b) at any time if the instalments or repayments the Bank has set under the Contract are insufficient to repay the Loan over that period. When it re-sets instalments or repayments, the Bank gives the Borrower written notice at least 30 days before the change takes effect.

Variations Generally

- 11.5 The Bank may impose any new fee and vary:
- (a) the amount of any fee except the line fee or endorsement fee for a Fixed Rate Bill Facility during a Fixed Rate Period unless it reasonably considers the Borrower's credit worthiness or probability of default has deteriorated;
 - (b) the interest and fee charging cycles;
 - (c) the basis of calculating and charging of interest;
 - (d) any interest or default interest rate margin;
 - (e) any index rate or reference rate;
 - (f) the interest rate (except during any Fixed Rate Period); and
 - (g) any link to an index rate or reference rate.
- The Bank gives the Borrower 30 days' written notice of:
- (aa) any variation in the basis of calculating interest;
 - (bb) any variation in an interest charging cycle;
 - (cc) any new fee; or
 - (dd) the adoption of another index rate or reference rate for calculating interest.

The Bank advertises any variation of the amount of any fee or, only if it is not publicised by the government, the introduction of any new government charge or the variation in any existing government charge in at least one newspaper generally circulated throughout a State or Territory or notifies the Borrower in writing no later than the day on which the variation takes effect.

- 11.6 The Bank may vary any other term of the Contract on giving the Borrower at least 30 days' written notice.

- 11.7 Where the Bank applies interest rate margin concessions, fee concessions or other concession to any Facility because of the Borrower's, or a related party's, participation in a package or other arrangement with the Bank then those concessions shall cease whenever the package or agreement under which they are provided ceases or terminates and the Bank on giving notice in accordance with clauses 11.5, 11.6 or both may increase any interest rate margin or fee or apply any fees or remove any other concession.
- 11.8 The Bank may change the Fixed Rate Period of any BetterBusiness Loan – Fixed Rate or Flexi Fixed Rate Sub-Account or Fixed Rate Bill Facility so that the Facility is repaid on a Common Maturity Pool Date. The Bank will give the Borrower written notice of the change no later than 30 days' prior to any such change.

12. Default

Events of Default

- 12.1 An Event of Default occurs if:
- (a) the Borrower:
 - (i) fails to pay any sum payable by it under the Contract on the due date for payment of that sum; or
 - (ii) fails to ensure there is sufficient credit available on the Nominated Account to satisfy the Borrower's obligations under the Contract;
 - (b) the Borrower fails to pay any amount when due in respect of the Nominated Account;
 - (c) the Borrower:
 - (i) defaults in the due observance and performance of any of the other covenants or agreements binding it contained:
 - (A) in this Contract; or
 - (B) in any other contract between the Bank and the Borrower for the provision of a finance facility; or
 - (ii) fails to comply with the terms of any consent granted by the Bank under clause 15.1(a); or
 - (iii) uses the proceeds of any Facility other than for the purpose (if any) stated in the Letter of Offer or Terms Schedule; or
 - (iv) defaults in the due observance and performance of the covenants and undertakings it has made or given under the Conditions after Funding; and, where that default can be remedied, the

- default remains unremedied 5 Business Days after written notice is given to the Borrower by the Bank requiring the Borrower to remedy the default;
- (d) the Borrower or any Security Provider is a company and:
 - (i) an application is filed, an order is made or a resolution is passed for the winding-up of it or a meeting is convened for the purpose of considering such a resolution;
 - (ii) an administrator or provisional liquidator is appointed to it;
 - (iii) the appointment to it of an administrator or provisional liquidator is threatened or proposed;
 - (iv) it enters into any arrangement, reconstruction or composition with its creditors; or
 - (v) it proposes to enter into any arrangement, reconstruction or composition with its creditors;
 - (e) the Borrower or any Security Provider is an individual and:
 - (i) a petition is presented or an order is made for the sequestration of their estate;
 - (ii) they execute an authority authorising the calling of a meeting of their creditors under Part X of the Bankruptcy Act 1966; or
 - (iii) they execute a Deed of Assignment or Deed of Arrangement or they enter into a composition under that Part;
 - (f) a receiver or receiver/manager is appointed over:
 - (i) the undertaking or any part of the undertaking of a Borrower or any Security Provider where either is a company; or
 - (ii) the business or any asset comprising part of a business of a Borrower or any Security Provider where either is an individual;
 - (g) an encumbrancer takes possession of any of the assets of the Borrower or any Security Provider;
 - (h) any execution or other process of any court or authority or any distress is issued against or levied on:
 - (i) any or all of the assets of the Borrower or any Security Provider; or
 - (ii) the Security or Security Property;
 - (i) the Borrower or any Security Provider without the Bank's prior written consent creates, purports to create or attempts to create any security interest whether ranking in priority to or of equal ranking with the Security;
 - (j) the Borrower or any Security Provider, without the Bank's prior written consent:
 - (i) charges;
 - (ii) assigns;
 - (iii) purports to charge; or
 - (iv) purports to assign, Credit Funds;
 - (k) any execution or other process of any court or authority or any distress is issued against or levied on any Credit Funds or any floating charge over Credit Funds becomes a fixed charge;
 - (l) the Borrower or any Security Provider without the Bank's prior written consent:
 - (i) stops payment to any of its creditors;
 - (ii) is unable to or admits inability to pay its debts as they fall due; or
 - (iii) ceases or threatens to cease to carry on its business;
 - (m) in the opinion of the Bank a materially adverse change occurs to the financial position of the Borrower or any Security Provider which renders it less likely that the Borrower or any Security Provider is able to substantially comply with its obligations under the Contract or the Security;
 - (n) any representation or warranty is made by the Borrower to the Bank that, in the reasonable opinion of the Bank, is incorrect in any material respect when made (whether the lack of correctness is apparent at the time or becomes apparent subsequently);
 - (o) the Bank in its absolute discretion determines that a material change in the legal or beneficial ownership or effective control of the Borrower, or a Related Party is not acceptable to the Bank;
 - (p) at any time the Bank is not satisfied with the value or the title to the Security Property or both;
 - (q) in the opinion of the Bank, a change in relevant State or Federal legislation or any other event adversely affects the amount that would be recoverable by the Bank under a Security or the Bank's ability to recover under that Security;
 - (r) the Bank in its absolute discretion determines

- that there has been a material change in the legal or beneficial ownership of the Borrower or any Related Party or a material change in the Control of the Borrower or any Related Party which in the opinion of the Bank would render the Borrower substantially less likely to be able to perform its obligations under the Contract; or
- (s) an Entity becomes a Related Party of the Borrower and at any time:
- (i) the Bank provides and/or is committed to provide financial accommodation to that Entity; and
 - (ii) prior to the date 60 days after the Bank receives a notice under clause 17.1(i), the Bank declares that the aggregate financial accommodation the Bank provides and/or which is available to that Entity and the Borrower is excessive.
- (t) the Borrower, Authorised Representative, a Related Party, Security Provider, Third Party Drawer or a person who has an Authority to Act as Agent appears to the Bank to be a Proscribed Person.

Bank's Rights on Default

12.2 If an Event of Default occurs, the Bank may, without further notice:

- (a) decide that any amounts owing or payable (contingently or otherwise) to the Bank under the Loan or Facility are immediately payable without any demand or notice to the Borrower to that effect being necessary;
- (b) cancel any Bill Facility, so that the Bank is no longer obliged to accept, endorse or discount any Bills under the Contract;
- (c) cancel any Contingent Liability Facility, so that the Bank is no longer obliged to enter into any liability under the Facility;
- (d) cancel any Trade Finance Facility, so that the Bank is no longer obliged to issue any facility or enter into any liability under that Facility;
- (e) cancel any other Facility;
- (f) in the case of a BetterBusiness Loan - Fixed Rate or a Flexi Fixed Rate Sub-Account, debit any amount owing under the Contract to the Loan Account rather than the Nominated Account;
- (g) refuse to process or complete any transaction of the Borrower and/or a Proscribed Person;
- (h) stop payments or suspend the provision of a product or service under a Facility;

- (i) refuse its consent to any dealings with any Security Property by the Borrower or Security Provider
 - (j) sue the Borrower for payment of the money the Borrower owes under the Contract; and
 - (k) exercise its rights under the Security.
- 12.3 The Bank's rights under clause 12.2 are exercisable despite any delay or previous waiver of those rights.

Liability for Early Repayment Adjustment after default

- 12.4 Without in any way limiting the amount the Bank is entitled to recover from the Borrower after the occurrence of an Event of Default, the Borrower must, after the Bank exercises its rights under clause 12.2 and on the Bank's demand, pay the pre-estimate of the Bank's damages in respect of the BetterBusiness Loan – Fixed Rate or a Fixed Rate Bill Facility or Flexi Fixed Rate Sub-Account or any combination of them due to the Facility not being conducted for the full term of the then current fixed rate period. The Bank pre-estimates its damage in the same way it calculates an Early Repayment Adjustment under clause 7, as if:
- (a) the date the Bank exercises its rights under clause 12.2 were the date the Borrower proposed to prepay the BetterBusiness Loan – Fixed Rate or Flexi Fixed Rate Sub-Account in full or retire all outstanding Bills under the Fixed Rate Bill Facility;
 - (b) the remainder of the fixed rate period referred to in clause 7 ended on the fixed rate maturity date set out in the Letter of Confirmation for a BetterBusiness Loan – Fixed Rate or on the fixed bill rate maturity date set out in the Letter of Confirmation for a Fixed Rate Bill Facility;
 - (c) for a BetterBusiness Loan – Fixed Rate, the amount of the prepayment were the moneys due and payable under the Contract at the date the Bank exercises its rights under clause 12.2;
 - (d) for a Fixed Rate Bill Facility, the face value of the Bills to be retired were the face value of the Bills outstanding under the Fixed Rate Bill Facility at the date the Bank exercises its rights under clause 12.2; and
 - (e) for a Flexi Fixed Rate Sub-Account clauses 7.4, 7.5, 7.6, 7.7 and 7.8 apply as if the references in those clauses to a BetterBusiness Loans – Fixed Rate were references to the Flexi Fixed Rate Sub-Account and the remainder of the fixed rate period referred to in clause 7 ended on the

fixed rate maturity date set out in the Sub-Account Confirmation Letter and the amount of the prepayment were the moneys due and payable under the Contract in respect of that Sub-Account at the date the Bank exercises its rights under clause 12.2;

The Parties:

- (aa) acknowledge that the damages the Bank pre-estimates under this clause 12.4 may be difficult to quantify to the satisfaction of a court in the event of a dispute between the Borrower or any Security Provider and the Bank;
- (bb) acknowledge that the damages payable under this clause 12.4 are an agreed pre-estimate of the damages that the Bank would incur in such circumstances;
- (cc) agree that the method in this clause 12.4 is the most appropriate method of estimating the Bank's damages; and
- (dd) acknowledge that in the Event of Default under clause 12.1(t), the Bank will not be responsible for any loss, liability or costs incurred by the Borrower where the Bank is unable to receive or does not act on the Borrower's instructions.

Authority for the Bank to rollover Bills on default

- 12.5 Despite any other provision of this Contract, if the Borrower fails to make any payment due to the Bank under the Contract in respect of Bills on the due date for payment, the Bank may:
- (a) use any authority it holds in relation to the Bill Facility to (and for better assuring the Bank's rights, the Bank is irrevocably appointed the Borrower's attorney to) draw or accept on the Borrower's behalf and discount or arrange the discounting of Bills for any periods as in the Bank's opinion are necessary and in those amounts sufficient to result in the net proceeds from discounting the Bills being equal to the amount the Borrower has failed to pay. The Bank applies the proceeds of discounting the Bills under this clause 12.5 to the fees payable in respect of those Bills and to the amount the Borrower has failed to pay; or
 - (b) debit the amount the Borrower has failed to pay to a bills matured account opened by the Bank in the Borrower's name.

Bills matured account

- 12.6 The Borrower must pay interest on all amounts debited to the bills matured account opened under clause 5.22 or 12.5.

Interest:

- (a) begins to accrue from the date the Bank first debits an amount to the bills matured account;
- (b) accrues daily; and
- (c) is calculated on the unpaid daily balance of the account at an interest rate equal to the Bank's monthly index rate for overdraft accounts plus a margin of 4.5% per annum, subject to clause 11.5, until the outstanding amount on the account is repaid.

- 12.7 The amount outstanding on the bills matured account opened under clause 5.22 or 12.5 remains payable without the necessity of the Bank making prior demand on the Borrower.
- 12.8 Any exercise of the Bank's rights under clause 5.22 or 12.5 will not act as a waiver of the Bank's rights under clause 12.2.

PART III – SECURITY

13. Security

- 13.1 Where the Security required by the Bank includes a registered mortgage or charge over any Security Property referred to in the Letter of Offer or Acceptance Document is to rank in priority after an existing mortgage or charge over the same Security Property, then a priority position satisfactory to the Bank must be established with the prior mortgagee or chargee.

PART IV – CONDITIONS PRECEDENT TO THE BANK'S OBLIGATIONS UNDER THE CONTRACT

14. Conditions Precedent To The Bank's Obligations Under The Contract

- 14.1 The Bank has obligations under the Contract only if:
- (a) the valuation and title of the Security Property and any other legal requirements connected with the Facility are to the Bank's satisfaction;
 - (b) where the Borrower has entered into the Contract as trustee of any trust or where the Facility is to be secured by security from a trustee in that capacity or both, the Borrower satisfies the Bank, in the manner required by the Bank from time to time, that the Facility or the security or both will be valid and enforceable against the trustee;

- (c) where the Borrower is a company, the Borrower provides the Bank on the Bank's request with a copy of the constitution of the Borrower certified by a director or the secretary of the Borrower as being true and up to date;
 - (d) any representations and warranties the Borrower makes in relation to the Contract are correct and not misleading;
 - (e) where the Borrower has a Bill Facility on which the Bill Rate or CBA Bill Rate is not fixed, the Borrower gives the Bank an authority in a form required by the Bank under which the Borrower appoints Authorised Representatives, amongst other things, to give instructions to the Bank:
 - (i) in the case of a Bill Facility which is a bill acceptance facility, as to when Bills are to be drawn by the Bank on the Borrower's behalf;
 - (ii) in the case of a Bill Facility which is a bill endorsement facility, as to when Bills are to be accepted by the Bank on the Borrower's behalf;
 - (iii) as to the aggregate face value amount of the Bills to be drawn or accepted by the Bank on the Borrower's behalf on any drawdown or Rollover Date and the term for which the Bills are to be so drawn or accepted; and
 - (iv) as to the application of the proceeds from the Bank discounting Bills, where the proceeds do not have to be applied in or towards discharging the Borrower's obligation to indemnify the Bank under the Contract;
 - (f) where the Borrower has a Bill Facility on which the Bill Rate or CBA Bill Rate is not fixed and under which the Bank accepts Bills drawn by a Third Party Drawer, the Borrower ensures that the Third Party Drawer gives the Bank an authority in a form required by the Bank under which the Third Party Drawer appoints Authorised Representatives, amongst other things, to give instructions to the Bank:
 - (i) as to when Bills are to be drawn by the Bank on the Third Party Drawer's behalf under the Bill Facility and, if so, whether the Bills are to be drawn on a 'without recourse' basis;
 - (ii) as to the aggregate face value of the Bills to be drawn or accepted by the Bank on the Third Party Drawer's behalf on any drawdown or Rollover Date and the term for which the Bills are to be so drawn; and
 - (iii) as to the name of the payee on the Bills to be drawn by the Bank on the Third Party Drawer's behalf;
 - (g) where the Borrower has a Bill Facility, the Borrower or the Third Party Drawer gives the Bank a power of attorney in a form required by the Bank under which the Borrower or the Third Party Drawer appoints every officer of the Bank authorised by the Bank to draw or accept Bills on the Borrower's behalf or to draw Bills on the Third Party Drawer's behalf;
 - (h) where the Borrower has accepted the Bank's offer of a Bill Facility or a BetterBusiness Loan – Fixed Rate, the Nominated Account is open;
 - (i) in the case of a BetterBusiness Loan – Fixed Rate (other than a BetterBusiness Loan – Fixed Rate Residentially Secured), or Fixed Rate Bill Facility the Borrower's Agent agrees the date of funding, first instalment due date, frequency of instalments, fixed rate maturity date/fixed rate term, and fixed interest rate in the manner specified in the Authority to Act as Agent prior to the drawdown of the Facility; and
 - (j) the Borrower provides the identification information required by the Bank.
- 14.2 The Borrower must pay the Bank any costs the Bank incurs relating to any of the matters in clause 14.1, whether or not the Bank makes the Facility available to the Borrower. The costs may be the Bank's or they may be costs the Bank has to pay to a third party or that the Bank retains in reimbursement of an amount the Bank has paid to a third party. The costs are due and payable on the date the Bank incurs them.
- 14.3 The Bank may withdraw its approval of:
- (a) a BetterBusiness Loan – Fixed Rate (other than a BetterBusiness Loan – Fixed Rate Residentially Secured), a Flexi Loan or a Fixed Rate Bill Facility, if the Bank does not receive the Letter of Offer or Acceptance Document signed or executed by the Borrower within one calendar month of the date of the Letter of Offer or Acceptance Document; or
 - (b) any other facility, if the Bank does not receive the Letter of Offer or Acceptance Document signed or executed by the Borrower within two calendar months of the date of the Letter of Offer or Acceptance Document.
- 14.4 If any one or more of the conditions precedent in this clause 14 are not satisfied within one

calendar month of the date the Bank receives the Letter of Offer or Acceptance Document signed or executed by the Borrower the Bank is under no obligation to make the Facility available to the Borrower and may retain any fees or charges paid by the Borrower to the Bank in respect of the Facility.

- 14.5 If the Facility is a BetterBusiness Loan – Fixed Rate (other than a BetterBusiness Loan – Fixed Rate Residentially Secured) or a Fixed Rate Bill Facility and the Borrower's Agent does not agree with the Bank the date of first drawdown or funding, first instalment due date, frequency of instalments, fixed rate maturity date and/or Fixed Rate Period or term, and interest rate within one calendar month of the date the Bank receives the Letter of Offer or Acceptance Document signed or executed by the Borrower, the Bank is under no obligation to make the Facility available to the Borrower and may retain any fees or charges paid by the Borrower to the Bank in respect of the Facility.

PART V – UNDERTAKINGS, WARRANTIES, INDEMNITIES & ACKNOWLEDGEMENTS

15. Undertakings, acknowledgments and authorities given by the Borrower

- 15.1 Where the Borrower is a company:

- (a) the Borrower must not without the prior written consent of the Bank enter into any deed ('Deed of Cross-Guarantee') in connection with the granting by the Australian Securities & Investments Commission of an order pursuant to the provisions of the Corporations Act giving relief to the directors of a corporation from the requirements of the Corporations Act as to accounts and reports;
- (b) the Borrower must notify the Bank immediately upon the Borrower becoming aware of any proposal to request or require the Borrower to enter into any Deed of Cross-Guarantee;
- (c) where the Bank has given its consent under clause 15.1(a) or the Borrower has entered into any Deed of Cross-Guarantee prior to entering into the Contract and that Deed of Cross-Guarantee has not been revoked or released in respect of the Borrower, the Borrower must not consent to the amendment, termination, revocation,

suspension or repudiation of or waive its rights or entitlements arising from any Deed of Cross-Guarantee without the Bank's prior written consent; and

- (d) the Borrower must notify the Bank immediately upon the Borrower becoming aware of any proposal that the Borrower consents to any of the actions referred to in clause 15.1(c) in respect of any Deed of Cross-Guarantee.

- 15.2 The Borrower undertakes and acknowledges as follows:

- (a) it will provide the Bank with copies of the Accounts of the Borrower and consolidated Accounts of the Borrower and all Related Parties as and when required by the Bank;
- (b) it will provide the Bank with copies of annual Accounts of the Borrower for each financial year within one hundred and twenty (120) days of the close of a financial year together with (unless otherwise specified by the Bank in writing to the Borrower):
 - (i) balance sheets and income statements for the same period for each of the Borrower's directors, shareholders or proprietors and any person guaranteeing the Borrower's obligations to the Bank;
 - (ii) copies of individual and consolidated cash flow projections on a month to month basis for the following financial year or as otherwise required for the Borrower and its Subsidiaries and Related Parties;
 - (iii) a listing of all outstanding accounts payable and all accounts receivable for the Borrower at the end of the period covered by the annual Accounts noting how long each account has been outstanding; and
 - (iv) a list (in a form as directed by the Bank) of stock held by the Borrower at the end of the period covered by the annual Accounts. The Bank will accept unaudited Accounts at its discretion and on the condition that the Bank may at any time require that the books and Accounts of the Borrower be audited; and
- (c) it will provide copies of unaudited Management Accounts for the Borrower and any additional information as required by the Bank to obtain a true and fair view of the state of the affairs of the Borrower, within thirty five (35) days of the end of each month or Reporting Period as nominated by the Bank.

- 15.3 Where the Borrower is an individual, the

- Borrower must make a full and true disclosure of the Borrower's current financial position to the Bank from time to time on request.
- 15.4 The Loan is to be secured by the security as may from time to time be required by the Bank. Any security presently required is referred to in the Letter of Offer or Acceptance Document. The security must be in the form or forms as required by the Bank. The value and title to the Security Property must be to the Bank's satisfaction at all times during the term of the Contract. Any expenses incurred by the Bank in arranging an inspection, investigation or valuation of the Security Property or title to it must be paid by the Borrower whether or not the Facility is granted.
- 15.5 The Letter of Offer or Acceptance Document details any specific insurance requirements of the Bank (in addition to general requirements under the mortgage over the security). Insurance of any Security Property must be arranged for the full replacement value of the asset and assigned to the Bank as mortgagee. Policy(ies) is/are to be issued by an insurer acceptable to the Bank and a copy of each delivered to the Bank if requested.
- 15.6 Prior to the Bank making a BetterBusiness Loan – Fixed Rate, a Flexi Fixed Rate Sub-Account or a Bill Facility available to the Borrower, the Borrower undertakes to open, in the Borrower's name and at the branch where:
- (a) the Loan Account will be held for the Borrower's BetterBusiness Loan – Fixed Rate or Flexi Fixed Rate Sub-Account; and
 - (b) the Borrower's Bill Facility will be domiciled, an account (other than a loan or credit card account) for which a statement issues. In the Contract this account is referred to as the Nominated Account. The Borrower must at all times ensure that the balance of the Nominated Account is sufficiently in credit or is sufficiently within the overdraft limit on the Nominated Account so as to permit the Bank in accordance with the Contract to debit all the amounts set out in clause 15.7 below.
- 15.7 The Borrower authorises the Bank to debit to the Nominated Account:
- (a) all instalments of principal payable under the Contract in relation to the Borrower's BetterBusiness Loan – Fixed Rate;
 - (b) all interest accrued on the Borrower's BetterBusiness Loan – Fixed Rate or Flexi Fixed Rate Sub-Account;
 - (c) any Shortfall on the replacement of a maturing Bill;
 - (d) any reduction to the face value of Bills required under the Contract; and
 - (e) all fees and charges and all costs and expenses and all other amounts payable under the Contract in relation to the Borrower's BetterBusiness Loan – Fixed Rate or Bill Facility or Flexi Fixed Rate Sub-Account.
- For all matters relating to the Direct Debit arrangement including requests for deferment of debits, alteration of debit arrangements or stopping or cancelling the Borrower's Direct Debit request simply call 13 1998 or contact the Borrower's Relationship Manager.*
- 15.8 The Borrower may revoke the authority given in clause 15.7 only with the Bank's written consent and only if all amounts payable under the Contract have been paid.
- 15.9 The Borrower must maintain the Nominated Account for the term of the Contract at the branch of the Bank at which the account is held at the date of the Contract or at any other branch of the Bank agreed to by the Bank.
- 15.10 The Borrower will notify the Bank in writing as soon as practicable and in any event within 10 days of becoming aware of:
- (a) any material change or an intention to effect a material change in any legal or beneficial ownership of itself or any Related Party or a material change in Control of the Borrower or any Related Party; and
 - (b) an Entity becoming a Related Party of the Borrower. A notice under this sub-clause (b) must also state whether, at that time, the Bank provides and/or is committed to provide financial accommodation to that Entity.
- 15.11 The Borrower must comply with all other requirements or conditions set out in the Letter of Offer, Terms Schedule or Acceptance Document. If a condition or requirement set out in the Letter of Offer, Terms Schedule or Acceptance Document is inconsistent with any of these Terms and Conditions both the Terms and Conditions and the Letter of Offer, Terms Schedule or Acceptance Document operate, but to the extent that they are inconsistent, the condition or requirement in the Letter of Offer, Terms Schedule or Acceptance Document prevails.
- 15.12 The Borrower undertakes to provide the Bank with information and documents which may reasonably be required by the Bank for it to comply with any applicable laws relating to sanctions, anti-money laundering or counter-terrorism financing, including (without limitation) any laws imposing "know your customer" or other identification requirements. The obligation to provide such information and documents:

- (a) extends only to material which is in the Borrower's possession, or otherwise readily available to the Borrower; and
 - (b) is subject to any requirement of law to the contrary.
- 15.13 The Borrower acknowledges that the name of individual persons given to the Bank are true and correct and that the law prohibits the use of false names, as well as the giving, use or production of false and misleading information or documents in connection with the provision of financial services and the making, possession or use of a false document in connection with an identification procedures.

16. Representations and warranties made by the Borrower

- 16.1 On the Borrower's behalf and on behalf of any Security Provider, the Borrower makes the representations and warranties in this clause 16.1 and in clause 16.2 to the Bank and the Bank relies on them on each occasion that the Borrower uses a Facility. The Borrower repeats the representations and warranties in this clause 16.1 and in clause 16.2 on each occasion that it executes a replacement Letter of Offer or Acceptance Document. References to the Borrower in (a)-(e) immediately following and in clause 16.2 are taken to include any Security Provider and, in so far as references to the Borrower are taken to be references to the Security Provider, references to the Contract or to the Security in (a)-(e) are references to the Security given by the Security Provider:
- (a) where the Borrower is an individual, that the Borrower is not an undischarged bankrupt and has not assigned its estate or entered into any arrangement or composition for the benefit of its creditors;
 - (b) where the Borrower is an individual, that the Borrower is not less than eighteen years of age;
 - (c) where the Borrower is a trustee, that:
 - (i) the Borrower has full power and is legally entitled to enter into and perform its obligations under the Contract and the Security;
 - (ii) the Borrower has taken every necessary action to authorise its entry into the Contract and the Security, to authorise it to execute any Letter of Offer or Acceptance Document or replacement Letter of Offer or Acceptance Document and to authorise it to perform its

obligations under the Contract and the Security; and

- (iii) the execution by the Borrower and the delivery of the Letter of Offer or Acceptance Document or any replacement Letter of Offer or Acceptance Document and of the Security to the Bank does not involve any breach of trust by the Borrower;
 - (d) that the Borrower is not in any default that is material to the Contract or the Security under any agreement, undertaking or instrument to which the Borrower is a party or by which it is bound. Also, no event has occurred which, with the giving of notice or lapse of time or both, would constitute a default (which is material to the Contract or the Security) under any agreement, undertaking or instrument; and
 - (e) that there is no current, pending or threatened litigation, arbitration or administrative proceedings against or concerning the Borrower which, if successful, would render the Borrower substantially less likely to be able to perform its obligations under the Contract or the Security or both.
- 16.2 In this clause 16.2 where the Borrower is not a company, 'Accounts' refers to the Accounts of the Borrower's business. The Borrower further represents that:
- (a) the last available Accounts of the Borrower were prepared in accordance with generally accepted Australian accounting practices and principles;
 - (b) those Accounts represent the financial position of the Borrower as at the date to which they relate and also the results of the operations for the accounting period ended on that date; and
 - (c) since that date there has been no materially adverse change in the financial position of the Borrower which renders it substantially less likely to be able to perform its obligations under the Contract or the Security or both.
- 16.3 If required by the Conditions prior to Funding, the Borrower undertakes (in addition to all other undertakings) as follows:
- (a) The Borrower warrants that:
 - (i) The Borrower is aware of and complies with the requirements of all Environmental Laws and standards applying to the Borrower's property and to the conduct of the Borrower's business.
 - (ii) The Borrower and its officers exercise due diligence and take all necessary

precautions to detect and prevent the commission of an offence under any Environmental Law resulting in pollution of or harm to the environment or to any person or property, including the Borrower's property.

- (iii) At the date hereof such due diligence has not revealed any contamination of or emanating from any of the Borrower's property.
 - (iv) The Borrower's occupation and use of its property and the conduct of its business on its property does not breach any Environmental Law or standard.
 - (v) There have been no notices or complaints from any environmental authority pursuant to any Environmental Law that have not been answered to the satisfaction of the complainant, alleging that the Borrower's activities on, in or in relation to its property are polluting the environment and that the carrying on of the Borrower's business causes any public or private nuisance.
 - (vi) There is no proposal to revoke, suspend, modify or not renew any authorisation or approval under any Environmental Law relating to any of the Borrower's property or the conduct of its business.
 - (vii) No proceedings or suits have been commenced, no Court orders have been issued and no penalty has been imposed, in each case in relation to an offence by the Borrower or its officers under any Environmental Law.
- (b) The Borrower agrees to:
- (i) Comply with all reasonable requirements of the Bank concerning the application of all Environmental Laws and/or standards to or in relation to the Borrower's property or any part thereof and, without limiting the foregoing, at the Borrower's cost will at such intervals nominated at any time and from time to time by the Bank, or when otherwise requested to do so by the Bank:
 - (aa) cause such environmental assessments and audits (the terms of reference for which being prescribed or approved by the Bank) to be carried out in respect of the Borrower's property, or any part or parts thereof nominated by the Bank, by such expert or experts as shall be approved in writing by the Bank; and
 - (bb) procure any such expert to provide the Bank, within a reasonable time

after the commencement of the assessment and/or audit to be carried out by such expert, a signed written report setting out the results of such assessment and/or audit, together with a report signed by such expert specifying any non-compliance by the Borrower at the date of such assessment and/or audit with any relevant Environmental Law or standards and noting any contamination that exists or may exist on or in relation to any part of the Borrower's property.

- (ii) Inform the Bank promptly of:
 - (aa) the existence of any contamination of or emanating from the Borrower's property contrary to any Environmental Law or standard;
 - (bb) the receipt of any penalty notices or directions to "clean up" the Borrower's property issued under any Environmental Law;
 - (cc) the receipt of any notice or complaint referred to in (a)(v) above;
 - (dd) any revocation, suspension, modification or refusal or failure to renew referred to in (a)(vi) above; and
 - (ee) the commencement of any proceeding or suit, the issue of any order or the imposition of any penalty referred to in (a)(vii) above.

In this clause 'Environmental Law' means 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, the clearance of land within the boundaries of catchment areas and water reserves and the protection and management of natural vegetation.

17. Financial Undertakings and Covenants

17.1 If required by the Conditions after Funding, the Borrower undertakes (in addition to all other undertakings) as follows:

- (a) **(accounts information):** the Borrower will provide or cause to be provided to the Bank,

- a Compliance Certificate signed by at least two of the Borrower's directors or, where the Borrower is not incorporated, the Borrower's proprietors (or the sole director/proprietor when appropriate), within 35 days of the end of each Reporting Period; with the first Compliance Certificate to be provided within 35 days of the end of the Reporting Period in which the Bank receives a Letter of Offer or Acceptance Document signed or executed by the Borrower;
- (b) **(preparation of accounts):** the Borrower will, and will ensure that each Related Party will:
- (i) maintain proper books of record and accounts in which full and correct entries are made of all dealings or transactions relating to its business;
 - (ii) prepare its accounts by application of generally accepted Australian accounting practices and principles consistently applied;
 - (iii) ensure its accounts give a true and fair view of the state of its affairs and the results of its operations, for the period for which the accounts are prepared;
- (c) **(maintenance of business):** the Borrower will not, and will ensure each Related Party will not, materially change the form or nature of its business undertaking which includes, but is not limited to, divestment from its current business or the acquisition or substantial investment in other businesses;
- (d) **(inspection of books):** the Borrower will, and will cause each Related Party to, permit the Bank or its agents to inspect any of its accounts and to examine the minute books, books of account and other records reasonably requested by the Bank or its agents and to make copies or take extracts and discuss its affairs, finances and accounts with its officers and the auditor of the Borrower during normal business hours and at any other reasonable times and as often as the Bank may reasonably request;
- (e) **(change in ownership):** the Borrower will notify the Bank in writing within 10 days of the Borrower becoming aware of any material change in the legal or beneficial ownership of itself or any Related Party or a material change in the Control of the Borrower or any Related Party;
- (f) **(change in management):** the Borrower will notify the Bank in writing within 10 days of the Borrower becoming aware of any material change in the management of itself or any Related Party;
- (g) **(capital goods expenditure):** the Borrower will limit its expenditure on capital goods to the sum per annum as set out in the Conditions after Funding and to no greater than the sum per capital good as set out in the Conditions after Funding;
- (h) **(outstanding amount of directors', shareholders', beneficiaries' and Related Party loans):** at all times the minimum net sum (outstanding amount of loans to the Borrower from, after deducting outstanding amount of loans by the Borrower to, directors, shareholders, beneficiaries and Related Parties) of directors', shareholders', beneficiaries' and Related Party loans to the Borrower will not be less than the sum set out as set out in the Conditions after Funding;
- (i) **(new Related Party):** the Borrower will notify the Bank of an Entity becoming a Related Party of the Borrower as soon as practicable and in the first Compliance Certificate submitted by the Borrower to the Bank after the event; and
- (j) **(other borrowings):** the Borrower will not borrow or raise money (other than to repay the Facilities in full) without the Bank's prior written consent.
- 17.2 The Borrower gives the further undertakings (if any) set out in the Conditions after Funding.
- ### Financial Covenants
- 17.3 To the extent required by the Conditions after Funding, the Borrower undertakes (in addition to all other undertakings) as follows:
- (a) the Interest Coverage Ratio for each specified period will be not less than the amount specified;
 - (b) at any time Net Worth will be not less than the amount specified;
 - (c) Net Profit Before Tax for each specified period in any of the Borrower's financial years will be not less than the specified amount. The Borrower is deemed to have complied with this covenant for a particular period if the cumulative Net Profit Before Tax up to the end of that period is equal to or greater than the amount of cumulative Net Profit Before Tax specified in the Letter of Offer or Acceptance Document for that period;
 - (d) Earnings Before Interest, Tax, Depreciation and Amortisation for each specified period in any of the Borrower's financial years will be not less than the amount specified. The Borrower is deemed to have complied with this covenant for a particular period if

cumulative Earnings Before Interest, Tax, Depreciation and Amortisation up to the end of that period is equal to or greater than the amount of cumulative Earnings Before Interest, Tax, Depreciation and Amortisation specified in the Letter of Offer or Acceptance Document for that period;

- (e) Earnings Before Interest and Tax for each specified period in any of the Borrower's financial years will be not less than the amount specified. The Borrower is deemed to have complied with this covenant for a particular period if cumulative Earnings Before Interest and Tax up to the end of that period is equal to or greater than the amount of cumulative Earnings Before Interest and Tax specified in the Letter of Offer or Acceptance Document for that period;
- (f) at any time, the Current Ratio will be not less than the amount specified in the Letter of Offer or Acceptance Document;
- (g) at any time, the Quick Asset Ratio will be not less than the amount specified in the Letter of Offer or Acceptance Document;
- (h) at any time, the Liquidity Ratio will be not less than the amount specified in the Letter of Offer or Acceptance Document;
- (i) at any time, the Business Asset Ratio will be not less than the amount specified in the Letter of Offer or Acceptance Document;
- (j) at any time, the ratio of Net Worth to Total Tangible Assets will be not less than the amount specified in the Letter of Offer or Acceptance Document; and
- (k) at any time, the ratio of Total Interest Bearing Debt to Net Worth will be not less than the amount specified in the Letter of Offer or Acceptance Document.

References to values, amounts or descriptions are references to values, amounts or descriptions in the latest financial information provided to the Bank under clause 15.2.

- 17.4 The Borrower will comply with any other covenants specified in the Letter of Offer or Acceptance Document.
- 17.5 Where an amount is specified in the Letter of Offer or Acceptance Document as the Borrower's Credit Exposure the facilities are intended to provide funds to meet the Borrower's working capital needs and/or the refinancing of external liabilities. In recognition of these fluctuating requirements, the Bank sets a Credit Exposure limit on the amount of facilities that the Bank is willing to make available to the Borrower at a particular time during the term of the

Borrower's facilities.

The Bank sets an overall limit on the amount of the Borrower's Credit Exposure as described below during the term of these facilities. The Bank refers to this limit as the "Aggregate Facility Limit". The Aggregate Facility Limit as at the date this approval was prepared is set out in the Letter of Offer or Acceptance Document. The Aggregate Facility Limit decreases by the reductions in the principal amount/s of the Borrower's facilities required under the Contract.

The Credit Exposure Limit fluctuates in line with increases and decreases in the value of the Borrower's Qualifying Current Assets. Fluctuations in the Borrower's Credit Exposure may occur always provided that:

- (a) the Credit Exposure Limit cannot increase by more than the percentage set out in the Letter of Offer or Acceptance Document of any increase in the value of the Borrower's Qualifying Current Assets. The Letter of Offer or Acceptance Document sets out the deemed value of the Borrower's Qualifying Current Assets as at the date of that letter;
- (b) if the value of the Borrower's Qualifying Current Assets reduces below the amount set out in the Letter of Offer or Acceptance Document (the VQCA floor), the Credit Exposure reduces by the percentage set out in the Letter of Offer or Acceptance Document of the amount by which the Value of the Qualifying Current Assets reduces below the VQCA floor;
- (c) the Borrower must repay immediately, without any demand by the Bank, the excess of the aggregate amount outstanding (actually or contingently) at any time on the Borrower's facilities over the Credit Exposure at that time; and
- (d) at any time the Credit Exposure must not exceed the aggregate amount of the facilities ("the Aggregate Facility Limit").

The Aggregate Facility Limit reduces from time to time by the sum of all reductions of the Borrower's facilities required by the Letter of Offer or Acceptance Document and under the terms and conditions applying to the facilities.

PART VI – GENERAL

18. General

Exercise of rights

- 18.1 The Bank may exercise any right, remedy or power in any way the Bank considers appropriate in its sole and absolute discretion. If the Bank

does not exercise a right, remedy or power fully or at a given time, it can still exercise it later.

Payments under the Contract

- 18.2 Unless the Borrower directs the Bank otherwise, after the payment of unpaid fees and charges and interest, the Bank may apply the money it receives under the Contract towards payment of any of the amounts then due and payable by the Borrower, as the Bank determines.

Termination by the Borrower before attempting to obtain credit

- 18.3 If the Borrower terminates the Contract before obtaining or attempting to obtain any credit or use any Facility under the Contract, the Bank may retain or require payment of the fees and charges the Bank incurs before the termination and which would have been payable under the Contract.

Disclaimers

- 18.4 If any of the Bank's officers, or any person engaged by the Bank, carries out any inspection or valuation of the property offered or taken as security, they do so for the Bank's purposes only and not on the Borrower's or the Security Provider's behalf. This is the case even if the Contract requires the Borrower to pay the Bank a valuation fee. Any reports made as a result of inspection or valuation are the Bank's exclusive property. When the Bank inspects or values a property, or does anything as a result of the inspection or valuation, or pays any loan drawing under the Contract, the Bank is not responsible for and makes no representation to the Borrower or the Security Provider about the condition of the land, the construction of any building or the standard or value of any building on the property or the uses to which the property may be put.
- 18.5 The Bank takes no responsibility for any decision the Borrower makes:
- (a) to enter into the Contract;
 - (b) to obtain any Facility; or
 - (c) about the kind of interest rate (for example, fixed or variable interest rate) or Bill Rate or CBA Bill Rate the Borrower wants under the Contract. The Bank's officers and agents do not have the Bank's authority to:
 - (aa) make any predictions about what might happen to interest rates or Bill Rates or CBA Bill Rate;
 - (bb) advise the Borrower what kind of interest rate or Bill Rate or CBA Bill Rate would best suit the Borrower; or
 - (cc) make any other representation,

prediction or statement of opinion about any other matter or thing affecting the Contract or the Security.

If the Borrower has any doubt at all about any of these matters, the Borrower should seek help from a financial counsellor or obtain legal advice or both.

However, further information on rates and market conditions is available from the Bank's Treasury Services dealing centres. The Bank will provide the Borrower with a contact name and telephone number if required.

Continuance of rights where payment is not made

- 18.6 If there is insufficient available credit on the Nominated Account to accommodate the debiting of the Nominated Account but the Bank nevertheless permits the debiting of the Nominated Account, that concession cannot:
- (a) constitute a waiver; or
 - (b) prejudice the Bank's right to require compliance with and to enforce the Contract.
- 18.7 The Borrower must make payments in immediately available funds on the due date. Proceeds of cheques are subject to clearance. If the Borrower pays by cheque and the cheque is not honoured then the Bank treats the payment as if it had never been made.

Giving of notices

- 18.8 Notices, including certificates, consents and demands given or made under the Contract must be in writing.
- 18.9 Notices may be:
- (a) given personally. In the case of notices given to the Bank personally, they may be given to one of the Bank's officers at the branch or office where the Borrower arranges the Contract or at any other branch or office the Bank specifies to the Borrower;
 - (b) left at the address last notified;
 - (c) sent by prepaid post to the address last notified;
 - (d) sent by facsimile transmission to the facsimile number last notified; or
 - (e) given in any other way permitted by law.
- 18.10 Notices take effect from the time they are received unless a later time is specified in them.
- 18.11 If notices are sent by post, they are taken to be received on the day they would be received in the ordinary course of post.

- 18.12 If notices are sent by a facsimile machine which produces a transmission report, they are taken to be received at the time shown in a transmission report which indicates that the whole facsimile transmission was sent.

Change of address

- 18.13 The Borrower must tell the Bank as soon as possible of a change of name or address.

Other payments

- 18.14 If there is no specific provision in the Contract for payment of an amount owing under the Contract, the Borrower must pay that amount on demand.

Assignment by the Bank

- 18.15 The Bank may assign or otherwise deal with the Bank's rights under the Contract in any way the Bank considers appropriate. Any such assignment or other dealing will be free from any equities, set-off or cross claim which, but for this provision, the Borrower would be entitled to set up against the Bank.

Right of clawback

- 18.16 Under law, a trustee in bankruptcy or a liquidator or administrator may demand the refund of a payment the Bank has received in relation to a Facility. To the extent the Bank is obliged to do so or the Bank agrees to make a refund, the Bank may treat the original payment as if it had not been made. The Bank is then entitled to its rights against the Borrower under the Contract as if the payment had never been made.

Statement of account

- 18.17 The Bank sends to the Borrower a statement of the Loan Account for the BetterBusiness Loan, Capital Equity, Business Line of Credit, AgriBusiness Line of Credit and the Overdraft facility and for each Sub-Account every three months (beginning from the date the Loan or Sub-Account is funded) or sooner if the page is full or on request by the Borrower. Account information may be obtained at any other time by contacting the Bank.

Commission

- 18.18 The Bank may pay or receive a fee or commission to or from a third party where the Borrower is introduced to the Bank or by the Bank.

General

- 18.19 Loan funds will not be released until security documentation has been completed.
- If the Borrower believes that any representation(s), relevant to the acceptance of the offer in the Letter of Offer or Acceptance

Document and supporting documentation has been made to them that is not contained in the Letter of Offer or Acceptance Document and Terms and Conditions, they should provide the Bank with written details in order that the matter may be clarified.

Code of Banking Practice

- 18.20 If the Borrower is an individual or small business, relevant provisions of the Code of Banking Practice will apply to these facilities. A copy of the code is available from the Bank upon request.

Lease finance, hire purchase, Equipment Loan and Commonwealth Bank Business Card

- 18.21 If the Bank makes lease finance, hire purchase, or business card facilities or an "Equipment Loan" facility available to the Borrower in conjunction with any Facility under this Contract, the Bank will provide the Borrower with separate documentation applying to the lease finance, hire purchase, business card or "Equipment Loan" facility as the case may be.

19. Withdrawal of approval

- 19.1 The Bank may withdraw its approval of a facility:
- (a) **for a Variable Rate Facility, or BetterBusiness Loan – Fixed Rate Residentially Secured**, if the Bank does not receive a copy of the Letter of Offer or Acceptance Document which has been signed or executed by the Borrower within one calendar month of the date of the Letter of Offer or letter of approval which enclosed the Acceptance Document; or
 - (b) **for a fixed rate facility (other than a BetterBusiness Loan – Fixed Rate Residentially Secured) or for a Flexi Loan**, if:
 - (i) the Bank does not receive a copy of the Letter of Offer or Acceptance Document including the completed Authority to Act as Agent which has been signed or executed by the Borrower within one calendar month of the date of the Letter of Offer or letter of approval which enclosed the Acceptance Document; or
 - (ii) the Borrower's Agent does not agree with the Bank the date of funding, Fixed Rate Period and fixed interest rate within one calendar month of the date the Bank receives a copy of the Letter of Offer or Acceptance Document which has been signed or executed by the Borrower; or
 - (c) **for a Flexi Loan**, if the Bank does not receive a copy of the Letter of Offer including

the completed Authority to Act as Agent which has been signed or executed by the Borrower within one calendar month of the date of the Letter of Offer.

19.2 Although under no obligation to do so, the Bank may decide not to withdraw its approval subject to:

- (a) **BetterBusiness Loan – Variable Rate or BetterBusiness Loan – Variable Rate Capped:** the Letter of Offer or Acceptance Document and attached documents being signed or executed and returned to the Bank and the Borrower paying a monthly Commitment fee, in accordance with the Fees and Charges Schedule.
- (b) **Overdraft:** the Letter of Offer or Acceptance Document and attached documents being signed or executed and returned to the Bank and the Borrower paying a monthly Commitment fee, in accordance with the Fees and Charges Schedule.
- (c) **Business Line of Credit:** the Letter of Offer or Acceptance Document and attached documents being signed by the Borrower and returned to the Bank and the Borrower paying a monthly Commitment fee in accordance with the Fees and Charges Schedule.
- (d) **AgriBusiness Line of Credit:** the Letter of Offer or Acceptance Document and attached documents being signed by the Borrower and returned to the Bank and the Borrower paying a monthly Commitment fee in accordance with the Fees and Charges Schedule.
- (e) **BetterBusiness Loan – Fixed Rate:** the Letter of Offer or Acceptance Document and ancillary documents, including the Authority to Act as Agent, being signed or executed and returned to the Bank and payment by the Borrower of a monthly Commitment Fee in accordance with the Fees and Charges Schedule, such amount payable in advance commencing one calendar month after the Bank receives the Letter of Offer signed by the Borrower until the person approved by the Borrower under the Authority to Act as Agent agrees with the Bank the date of first drawdown or funding, first instalment due date, frequency of instalments, fixed rate maturity date and/or Fixed Rate Period or term, and interest rate or until the Borrower indicates that the loan funds are no longer required by the Borrower.
- (f) **BetterBusiness Bill Facility – Variable Rate:** the Letter of Offer or Acceptance Document and ancillary documents being signed or

executed and returned to the Bank and the Borrower paying a line fee as set out in the Letter of Offer.

- (g) **BetterBusiness Bill Facility – Fixed Rate:** the Letter of Offer or Acceptance Document and ancillary documents, including the Authority to Act as Agent, being signed or executed and returned to the Bank and payment by the Borrower of a line fee as set out in the Letter of Offer – calculated on the approved Limit and payable monthly in advance commencing one calendar month after the Bank receives the Authority to Act as Agent signed or executed by the Borrower.
- (h) **Flexi Loan:** the Letter of Offer and ancillary documents, including the Authority to Act as Agent, being signed or executed and returned to the Bank and payment by the Borrower of a monthly unused limit fee in accordance with the Letter of Offer. Such amount is payable monthly in arrears, calculated daily on the total unused Facility Limit, commencing one calendar month after the Bank receives the Letter of Offer signed by the Borrower until the Borrower's Agent agrees with the Bank the date of first drawdown or funding of a Sub-Account and the matters referred to in clause 10.10 or until the Borrower indicates that the loan funds are no longer required by the Borrower.

19.3 If the Borrower is a company, the documents have been prepared for execution under hand. No seal is required.

PART VII – FEES & CHARGES

20. Fees and charges

20.1 The Borrower must pay to the Bank the fees and charges referred to in the Letter of Offer or Acceptance Document and Fees and Charges Schedule as soon as they are due and payable. If applicable, the Borrower must also pay to the Bank debits tax and any other government tax or duty relating to:

- (a) any transaction on a Loan Account;
- (b) anything done under the Contract; or
- (c) the Security.

20.2 In addition to any other moneys payable by the Borrower to the Bank under the Contract, the Borrower must pay to the Bank all amounts which the Bank:

- (a) is charged;
- (b) charges;
- (c) pays; or

(d) incurs,

in connection with the establishment and continuance of any Facility or any transaction contemplated by the Contract and the exercise or enforcement of any right, power, claim or remedy of any kind arising out of the Contract or the Security.

20.3 The Bank's fees and charges and all other amounts payable by the Borrower under clauses 20.1 and 20.2 include:

(a) establishment fees, government duties, fines, taxes, charges, the Administrative Fee, loan service fees, account-keeping fees, line fees, facility fees, endorsement fees, overdraft line fees, usage fees and charges (however described); and

(b) legal costs (both solicitor and client and party and party).

20.4 The Bank may debit a Loan Account or, in the case of a BetterBusiness Loan – Fixed Rate or a Bill Facility or a Flexi Loan Sub-Account, the Nominated Account, with all unpaid fees and charges the Borrower must pay to the Bank under the Contract including any new or any increased Government charge or duties payable (whether by the Bank or the Borrower) under, or in respect of the Agreement, the Nominated Account, the Loan Account, a Facility or the Security, as and when they become payable. Any amounts the Bank receives from the Borrower for crediting to a Loan Account are applied to pay unpaid fees and charges on that Loan Account first.

20.5 The Borrower must pay the amount to which any fee or charge payable under the Contract has changed.

Details of the Bank's current Fees and Charges are annexed to the Letter of Offer or Acceptance Document and any replacement Letter of Offer or Acceptance Document. To obtain a further copy at any time simply call 13 1998 or contact your Relationship Manager.

Other fees

20.6 Please refer to the Letter of Offer or Acceptance Document and the Fees and Charges Schedule for details of Bank fees and non Bank fees applicable. The Bank is entitled to vary the amount of any fee and to impose any new fee. If the Loan Account is operating as a Business Cheque Account the Borrower must also pay

the Bank's usual transaction fees and charges debited to the Loan Account.

20.7 All amounts payable by the Borrower under the Contract will be paid without any deduction or withholding of any tax, duty or other impost of any kind ("Taxes"). However, should the Borrower be required by law to deduct or withhold Taxes from any amount payable by the Borrower to the Bank under the Contract, the Borrower must pay:-

(a) to the relevant authority, those Taxes before the date on which penalties attach to them; and

(b) to the Bank, such additional amount as is necessary to ensure that the net amount received by the Bank from the Borrower, in satisfaction of the Borrower's obligations under the Contract, is equal to the full amount the Bank would have received had no such deduction or withholding been made; and

(c) to the Bank, such further amount equal to the amount of any Taxes imposed on or payable by the Bank in respect of any additional amount paid by the Borrower under (b) above, including any Taxes payable by reason of a previous application of this clause.

If the Borrower makes a deduction or withholding from any amount paid by the Borrower to the Bank under the Contract and the Borrower has complied with the requirements of (a), (b) and (c) above, then if the Bank is able to apply for a credit or refund in respect of such deduction or withholding the Bank will use its best endeavours to make such application and, if a credit or refund is obtained, the Bank will pay to the Borrower a sum equal to the amount of any such credit or refund.

PART VIII – BUSINESS SELECT

21. Business Select Terms and Conditions

21.1 The Bank makes credit available to the Borrowers under the Business Select facility up to the Approved Limit through one or more facilities. Such credit is made available subject to the Borrowers entering into a Contract for those Facilities. The Bank is not obliged to provide credit in respect of any Facility until its preconditions in respect of that Facility have been satisfied.

21.2 The Business Select facility is subject to annual

review. At annual review, the Bank may confirm continuation of the Business Select facility for the balance of the Availability Period or where the Availability Period has expired, renew the Business Select facility for a further three year period. In addition, the Bank may cancel or reduce the Approved Limit at any time and from time to time in its absolute discretion.

- 21.3 If the Bank declines to extend the Availability Period, the Availability Period expires or the Bank cancels or reduces the Approved Limit, the Contract governing the outstanding Facilities continues to apply and the Bank may exercise any rights available to it to cancel or reduce any Limit of any Facility under the Contract.
- 21.4 If the Borrowers are not in default, subject to the Bank's agreement, and the Borrowers entering into a variation of the Contract to include any new Facility and to vary or cancel any existing Facility which is to be varied or cancelled in accordance with the terms of the relevant Facility, the Borrowers may:
- (a) add additional Facilities;
 - (b) vary the Limit for one or more Facilities; and/or
 - (c) delete Facilities

provided that the total of the Limits of the Facilities collectively does not exceed the Approved Limit.

- 21.5 The Bank may charge a fee each time the Borrower adds a new Facility or varies the Limit of a Facility as agreed by the Bank.

- 21.6 If any Borrower is in default under any Facility within the Business Select Facility, such default shall be deemed to constitute an Event of Default under clause 12 in respect of each Facility under the Business Select facility, and without affecting its rights under clause 12, the Bank may:

- (a) cancel the Approved Limit; and/or
- (b) terminate the Borrowers' Contract in respect of the Business Select facility;

without further notice to the Borrower. The Bank can do either or both of these things at any time after such default.

- 21.7 If the Borrower, Authorised Representative, a Related Party, Security Provider, Third Party Drawer or a person who has an Authority to Act as Agent is or becomes a Proscribed Person this will be deemed to be an Event of Default under clause 12. If an Event of Default occurs, the Bank reserves the right to take any action set out in clause 12.2.

Notes

This image shows a single page of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page, leaving small margins at the top and bottom. There is no handwriting or printed text on the page.



002-620 130309 (ADB3142)

