

COMMERCIAL SPECIFIC SECURITY AGREEMENT GENERAL CONDITIONS

ABOUT THIS DOCUMENT

This *document* forms part of your Specific Security Agreement with us.

Your Specific Security Agreement is made up of a number of *documents*:

- these *General Conditions*; and
- the *Schedule*.

These *documents* should be read together.

All these *documents* apply as amended from time to time. The most recent versions are available at www.bogspecialist.com.au or may be requested from us.

How to read this document

In this document a reference to 'we', 'us', 'our' or 'BOQ Specialist' is a reference to BOQ Specialist – a division of Bank of Queensland Limited ABN 32 009 656 740 AFSL and Australian Credit Licence No. 244616.

The meaning of words printed *like this* and some other key words are explained in these *General conditions*.

This *document* is divided into several parts.

Part A of the *General Conditions* applies to all grantors.

Part B (Large Business Transactions) of the *General Conditions* sets out additional conditions that apply for a *Large Business Transaction*.

We will tell you in the *Schedule* if Part B applies to you.

Part C of the *General Conditions* sets out additional conditions that apply if the *secured property* includes a *deposit account*.

Part D of the *General Conditions* sets out additional conditions that apply if the *secured property* includes goods and equipment.

Part E of the *General Conditions* sets out additional conditions that apply if the *secured property* includes *shares* in a company.

Part F of the *General Conditions* sets out additional conditions that apply if the *secured property* includes *units* in a *unit trust*.

Part G of the *General Conditions* sets out additional conditions that apply if the *secured property* includes a *partnership interest*.

Part H of the *General Conditions* sets out additional conditions that apply if the *secured property* includes *contractual or other rights*.

The Banking Code of Practice may also apply to your Specific Security Agreement

The Banking Code of Practice applies to banking services provided to customers who are individuals or small businesses, each as defined in it.

We will comply with the Banking Code of Practice where it applies to the banking services we provide to you.

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HOW TO INTERPRET THIS DOCUMENT

1. MEANING OF WORDS

arrangement with us means an arrangement (including an agreement or a *security interest*) under which a *debtor/guarantor* has or could in the future have obligations to us or any of our *related bodies corporate*. It includes any agreement or security interest assigned to us.

ASIC Act means Australian Securities and Investments Commission Act 2001 (Cth).

attorney means each *attorney* appointed by you under clause 38.

business day means a day that is not a Saturday, a Sunday, nor a national public holiday in either New South Wales or Victoria.

controller has the meaning given to it in the Corporations Act.

costs includes charges and expenses. It also includes *costs* charges and expenses in connection with advisers (in the case of legal advisers, on a full indemnity basis or solicitor and own client basis, whichever is higher).

debtor/guarantor means:

- a. you;
- b. any *person* who guarantees payment of any part of the *total amount owing*;
- c. if any part of the *total amount owing* includes obligations you owe under a *guarantee*, the *person* whose obligations you *guarantee* and any other *person* who *guarantees* that other *person's* obligations; and
- d. any other *person* you and we agree is to be a *debtor/guarantor* for the purpose of this *document*.

default means an event specified in clause 16.

document means these *General Conditions* and the *Schedule* which together set out the terms of the specific security agreement between you and us.

encumbrance means any:

- a. security interest;
- b. right of set-off, assignment of income, garnishee order or monetary claim;
- c. notice under section 255 of the Income Tax Assessment Act 1936 (Cth) or under division 260 of *Schedule 1* of the Taxation Administration Act 1953 (Cth) or under any similar provision of any law;
- d. right that a person (other than the registered proprietor) has to remove something from land (known as a *profit à prendre*), easement, public right of way or restrictive or positive covenant or lease, *licence* to use or occupy; or
- e. equity, interest or writ of execution,

or any agreement to create any of them or allow them to exist.

General Conditions means these *General Conditions* that form part of the *document*.

GST has the meaning given to it in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

guarantee includes an indemnity.

insolvent means a *person* who:

- a. is (or state that they are) an *insolvent* under administration or *insolvent* (each as defined in the Corporations Act);
- b. has a *controller* appointed, is in liquidation, in provisional liquidation, under administration or wound up or has had a *receiver* appointed to any part of their property;
- c. is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute, or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by us);
- d. has an application or order made (and in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with them, which is preparatory to or could result in any of the things referred to above;
- e. is taken (under section 459F of the Corporations Act) to have failed to comply with a statutory demand;
- f. in the case of an individual, commits an act of bankruptcy, enters into a composition with its creditors, is declared or becomes bankrupt;
- g. is the subject of an event described in section 459C(2) (b) or section 585 of the Corporations Act (or they make a statement from which we reasonably deduce they are so subject);
- h. is otherwise unable to pay their debts when they fall due; or
- i. has something substantially similar to any of the things referred to above happen to them under the law of any jurisdiction.

Large Business Transaction means where:

- a. your Specific Security Agreement is not subject to the unfair contract terms protections in the *ASIC Act* and is not regulated under the *NCCP Act*, nor under the Banking Code of Practice; and
- b. we tell you in the *Schedule* that your Specific Security Agreement is a Large Business Transaction.

licence means any right, *licence*, permit allocation, entitlement, quota or authorisation necessary to use or deal with the *secured property*.

monetary default means a *default* referred to in clause 16.

NCCP Act means the National Consumer Credit Protection Act 2009 (Cth).

non-monetary default means a *default* other than a *monetary default*.

payable, in relation to an amount, means an amount which is currently payable or will or may be payable in the future.

person includes an individual, a firm, a strata corporation, a body corporate, an unincorporated association and an authority.

PPSA means the Personal Property Securities Act 2009 (Cth).

PPSA law means:

- a. the *PPSA*;
- b. any regulation made pursuant to the *PPSA*; and
- c. any other legislation or regulation made to implement, or contemplated by, any *PPSA* law referred to in paragraph (a) or (b).

PPSA security interest means a "security interest" as defined in the *PPSA*.

PPSA personal property means *secured property* which is "personal property" as defined in the *PPSA*, but excluding interests to which the *PPSA* does not apply.

principal debtor means you or any other *person* whose obligations you have guaranteed.

receiver includes *receiver*, or *receiver* and manager and has the meaning given to it in the Corporations Act.

related bodies corporate has the meaning given to it in the Corporations Act.

related entity has the meaning given to it in the Corporations Act.

sales proceeds means all the proceeds of any sale, disposal or other dealing with any asset comprised in the *secured property*.

Schedule means the *Schedule* that forms part of this *document*.

secured property means the property described in Item 2 of the *Schedule*.

security interest means:

- a. any security for the payment of money or performance of obligations including a mortgage, charge, lien, pledge, trust or power, title retention arrangement or *guarantee*;
- b. a *PPSA* security interest; or
- c. any *document* to grant or create anything referred to in either paragraphs (a) or (b) of this definition and any other thing which gives a creditor priority to any other creditor with respect to any asset or an interest in any asset.

specified account means the account opened by you with us in accordance with clause 9.4.

taxes means *taxes*, levies, imposts, charges and duties (including stamp and transaction duties) imposed by any authority together with any related interest, penalties, fines and expenses in connection with them, except if imposed on our overall net income or if they arise as a result of our mistake, error, fraud, negligence or wilful misconduct or the mistake, error, fraud, negligence or wilful misconduct of our employees, officers, contractors and agents or any *receiver* we appoint.

total amount owing means, at any time, all money which one or more of you owe us, or will or may owe us in the future, including under this *document* or an *arrangement with us*.

A reference to the *total amount owing* also includes any part of it.

These definitions apply:

- a. irrespective of the capacity in which you or we became entitled to the amount concerned;
- b. irrespective of the capacity in which you or we became liable in respect of the amount concerned;
- c. whether you or we are liable as *principal debtor*, as surety, or otherwise;
- d. whether you are liable alone, or together with another *person*;

- e. even if you owe an amount or obligation to us because it was assigned to us, whether or not:
 - i. the assignment was before, at the same time as, or after this *document* is executed;
 - ii. you consented to or were aware of the assignment; or
 - iii. the assigned obligation was secured;
- f. even if this *document* was assigned to us, whether or not:
 - i. you consented to or were aware of the assignment; or
 - ii. any of the *total amount owing* was previously unsecured;
- g. if you are a trustee, whether or not you have a right of indemnity from the trust fund;
- h. whether or not the money is due for payment at that time;
- i. even if the money is owing only on a contingency; and
- j. whether the relevant transaction took place before or after you executed this *document*.

"we", "us" and "our" means Bank of Queensland Limited ABN 32 009 656 740 and its successors and assigns.

"you" and "your" means the *person* or *persons* named in the *Schedule* as grantor. If there are more than one, you means each of them separately and every two or more of them jointly. You includes your successors and assigns. In the description of the *total amount owing* it also refers to you as so defined whether alone or jointly or jointly and separately and whether as the *principal debtor* or as a surety.

2. INTERPRETATION

The following rules apply to the interpretation of the *document*:

Reference to:

- a. a *person* includes the *person's* successors and assigns;
- b. a thing includes all or part of that thing;
- c. a document includes that document as changed or replaced from time to time;
- d. a statute includes a statute as amended, repealed or replaced from time to time;
- e. individuals includes corporations and the other way around;
- f. a gender includes all other genders;
- g. currency is to Australian dollars;
- h. the *document* is a reference to this *document* (as varied from time to time) between you and us;
- i. clauses are references to clauses in this *document*;
- j. the singular includes the plural and the other way around;
- k. the Corporations Act means the Corporations Act 2001 (Cth); and

- I. the Banking Code of Practice is a reference to the 2019 version of the Australian Banking Association Banking Code of Practice including any amendments from time to time which have been published by the Australian Banking Association and formally adopted by us.

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

A day ends at midnight for all purposes under this *document*.

The use of the word “may” about any right or power we have under this *document* indicates that the right or power may be exercised or not exercised, at our discretion acting reasonably.

The use of words “including”, “such as” or “for example” when introducing an example, does not limit the meaning of the words to which the example relates to that example or examples of a similar kind.

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

If two or more people are the grantor, the fact that one *person* is released from their promises does not mean that any of the others are also released.

Unless defined in this *document*, a term or expression which is used in this *document* and which is defined in the *PPSA* has the meaning given to that term or expression in, or in the context of, the *PPSA*.

Unless the context requires otherwise, words or phrases derived from a defined term have a corresponding meaning to the defined term.

To the extent there is any inconsistency between these General Conditions and the *Schedule*, the *Schedule* prevails.

NATURE OF THIS DOCUMENT

3. WHAT YOU UNDERTAKE IN THIS DOCUMENT

3.1 By signing this *document* you undertake certain obligations. You also give us rights concerning you and the *secured property* – for example, if you do not comply with your obligations, we may take possession of the *secured property*, sell or otherwise deal with it, and sue you for any remaining money you owe us.

3.2 You are liable for all of the obligations under this *document* both separately on your own and jointly with any one or more other *persons* named in this *document* as grantor.

3.3 You must ensure that you are not in *default* under this *document*. You must also carry out on time all your obligations to us.

You agree to pay us on demand that part of the *total amount owing* specified in the demand. However, as long as you are not in *default*, this is subject to any contrary agreement in writing between you and us.

These obligations and your other obligations under this *document* (such as under clauses 12, 13, 14 and 15) continue even if we release the *secured property* from this *document*.

3.4 You declare that:

- a. you own the *secured property*;
- b. you have told us about all rights that affect, or are proposed or likely to affect, the *secured property* (such as leases, *security interests*, the rights of a beneficiary under a trust or proposals to compulsorily acquire the *secured property*);
- c. you have the power and authority to enter into this *document*;
- d. all the information you have given us is correct and not misleading to the best of your knowledge and belief;
- e. no consents are required to allow you to own or continue to own the *secured property* or to enter into this *document*;
- f. you are not in *default* (see clause 16);
- g. the information in the *Schedule* is true and correct to the best of your knowledge and belief. This includes the details of all of your motor vehicles, aircraft, watercraft, intellectual property and other goods which have, or are required to have, a serial number that form part of the *secured property*;
- h. except to the extent disclosed by you to us in writing, all of the *secured property* is in your or our possession and is situated in Australia and you will promptly notify us in writing of any *secured property* that becomes located outside Australia or is, or is to be, moved from the jurisdiction in which it was located when the *security interest* created by this *document* attached to it (except in relation to inventory disposed of in the ordinary course of business);
- i. you have not placed any *person* other than us in control, and no *person* other than you or us has control or possession, of any of the *secured property*; and
- j. none of the *secured property* is, nor will be, used predominantly for personal, domestic or household purposes.

3.5 You must tell us whenever anything happens which would mean you could not truthfully repeat all the declarations in clause 3.4.

3.6 If you are an individual, you must promptly tell us if you change your name.

4. SECURITY

4.1 For the purpose of securing to us payment of the *total amount owing*, you grant to us as security for the due and punctual payment of the *total amount owing*:

- a. a *security interest* in all of your present and future rights and interests in the *PPSA* personal property (including the *secured property* described in the *schedule*); and
- b. a mortgage of all your present and future rights and interests in the *secured property* which is not personal property.

4.2 You acknowledge granting this *security interest* and incurring obligations and giving rights under this *document* for valuable consideration received from us (including financial accommodation agreed to be provided under any *arrangement with us*).

4.3 You agree that the *security interest* in clause 4.1 in respect of *secured property* which you do not own at the date of this *document* takes effect immediately as soon as you become the owner, or have a right or interest in, that *secured property*.

4.4 You may request that we release the *secured property* from this *security interest* when there is no *total amount owing*. However, even if the *total amount owing* is repaid, the *secured property* remains subject to a *security interest* in favour of us if we have reasonable grounds for believing that the *document* secures or will secure an obligation owed by a *debtor/guarantor*.

4.5 If we release any *secured property* from a *PPSA security interest* registered on the personal property securities register established under the *PPSA*, we will, if required by the *PPSA*, register a financing change statement in respect of the released property.

HOW THIS DOCUMENT AFFECTS YOU AND THE SECURED PROPERTY

5. LOOKING AFTER THE SECURED PROPERTY

You must:

- a. keep the *secured property* in good working order and condition and correct any defect;
- b. protect the *secured property* from theft, loss or damage;
- c. not do nor allow any *person* to do anything that might lower the value of the *secured property* or affect our rights as secured party or mortgagee;
- d. tell us if the *secured property* is stolen, lost, destroyed, defective or seriously damaged;
- e. give us a copy of any order or notice from any *person* about the *secured property* as soon as you become aware of it;
- f. comply with all laws and requirements of authorities and your other obligations in connection with the *secured property*;
- g. whenever requested by us, take or defend such legal proceedings as we may consider advisable for the protection or recovery of the *secured property*;
- h. if we ask, use your best efforts to obtain permission to use the *secured property* for any purpose we reasonably specify; and
- i. pay on time all amounts for which you are liable as owner of the *secured property* (including rates, rents, taxes, registration fees and licence fees) or relating to the premises where the *secured property* is kept.

6. YOUR BUSINESS

You must do the following as it relates to the *secured property*:

- a. conduct your business in a proper, orderly and efficient manner;
- b. not, without our consent, cease conducting your business and not significantly change the general character of any business you conduct; and
- c. obtain, renew on time and comply with the terms of each authorisation necessary to enter into this *document*, comply with obligations under it and allow it to be enforced.

7. INSURANCE

7.1 You must maintain the following insurance over the *secured property*:

- a. if the *secured property* is a motor vehicle or watercraft — insurance over the *secured property* against fire and other usual risks and compulsory third party insurance; and
- b. in any other case — insurance over the *secured property* against fire, theft, accident and any other usual risks.

7.2 The insurance under clause 7.1 must be for the full insurable value of the *secured property* on a replacement and

reinstatement basis (if the *secured property* is capable of replacement or reinstatement).

7.3 You must maintain insurance against any other risk we reasonably require, in connection with the *secured property*.

7.4 Each policy under clauses 7.1 and 7.3 must:

- a. note our interest as secured party and mortgagee;
- b. be on terms and for an amount satisfactory to us; and
- c. be with an insurer approved by us acting reasonably.

7.5 You must produce evidence satisfactory to us of current insurance cover that complies with this clause 7 whenever we ask for it.

7.6 You must do your best to ensure that:

- a. the insurance cover is not reduced or cancelled and you must notify us if it is or could be; and
- b. nothing happens which is under your control that could permit an insurer to decline a claim and you must notify us if anything would permit an insurer to do this.

8. INSURANCE CLAIMS

8.1 You must do your best to ensure that proceeds from an insurance claim of more than \$5,000 are paid to us. (We must then use them as set out in clause 27).

However, if we direct you to use or hold any insurance proceeds in a particular way, you must use or hold them as we direct.

8.2 You must notify us if you have a right to make an insurance claim, if a claim is made and about the progress of any claim.

8.3 Where we consider it reasonably necessary in order to protect our interest in the *secured property*, we may take over your rights to make, pursue or settle an insurance claim. We will notify you if we choose to do this. We may exercise those rights in any manner we choose acting reasonably.

8.4 You agree that you do not have any right to a claim against us in relation to any insurance claim, the manner in which we deal with an insurance claim or in relation to insurance of the *secured property* generally.

9. DEALING WITH THE SECURED PROPERTY

9.1 Without our consent you may not, and may not agree to, do any of the following:

- a. create or allow to exist another *encumbrance* in connection with the *secured property*;
- b. create any trust, power or lien in connection with the *secured property* or allow one to arise;
- c. give any *person* other than us control or possession of any *secured property*; or
- d. deal in any way with this *document*, or allow any interest in it to arise or be varied.

9.2 Without our consent you may not, and may not agree to, do any of the following in respect of the *secured property*:

- a. sell, transfer or dispose of any of the *secured property*;
- b. lease or license the *secured property*, or allow a surrender or variation of any such lease or *licence*;
- c. part with possession of the *secured property*;
- d. allow a set-off or combination of accounts;
- e. change the nature of the *secured property*;

- f. waive any of your rights or release any *person* from its obligations in connection with the *secured property*;
 - g. deal in any other way with the *secured property* or any interest in it, or allow any interest in it to arise or be varied;
 - h. allow other goods or personal property to become commingled with, or accessions to, the *secured property* or allow the *secured property* to become an accession to any other goods or personal property;
 - i. affix the *secured property* to any land or building other than any land or building you own; or
 - j. allow the *secured property* to be moved from the jurisdiction in which it is situated as at the date of this *document*.
- 9.3 You must give us possession or control of the *secured property* when required by us, by doing such things and executing such *documents* as we require including so as to evidence that we are in possession and control for the purposes of the *PPSA*.
- 9.4 We may at any time require you to open and maintain a *specified account* with us and, if we so require before or at any time after the opening of the *specified account*, on terms that:
- a. officers nominated by us must be signatories to the *specified account*; and
 - b. no withdrawals can be made from the *specified account* without the signature of one of those officers.
- 9.5 You must immediately and until notified otherwise by us deposit in the *specified account*:
- a. any proceeds you receive under any insurance policy in relation to the *secured property*;
 - b. any proceeds of any account or book debt or other debt forming part of the *secured property*;
 - c. all sales proceeds; and
 - d. all other proceeds of the *secured property* in the nature of currency or money.
- 9.6 Clause 9.5a does not apply to proceeds received from any workers' compensation or public liability policy or reinstatement policy to the extent that the proceeds are paid to a *person*:
- a. entitled to be compensated under the workers' compensation or public liability policy; or
 - b. under a contract for the reinstatement of the *secured property*.
- 9.7 So long as no *default* subsists, you may withdraw from the *specified account* an amount equal to all proceeds paid into that *specified account* and deal with such withdrawn amounts as you think fit if, and only if:
- a. the proceeds paid in were not *sales proceeds*;
 - b. clause 9.3 does not apply to the funds standing to the credit of the *specified account* at the time of the withdrawal; and
 - c. no *arrangement with us* provides otherwise.
- 9.8 If a *default* subsists, you must not withdraw any amount from the *specified account* without our prior consent.

10. OTHER SECURITY INTERESTS

- 10.1 If a law entitles you to create another *security interest* in connection with the *secured property* without our consent,

clause 9.1 does not operate to require you to obtain our consent before creating that other *security interest*. However:

- a. if you intend to create another *security interest*, you agree to notify us at least 7 days before you propose to do so; and
- b. if we request an agreement under clause 10.2 and you have not complied with that request by the time the *security interest* is created:
 - i. we need not make funds available under any arrangement with us; and
 - ii. we may exercise any other rights which arise because you do not do so, such as the right to take possession of the *secured property* and sell it.

- 10.2 If we ask, you must enter into an agreement acceptable to us regulating the priority between the *security interest* created under this *document* and any other such *security interest* over or proposed to be created over the *secured property*.

- 10.3 You must ensure that the amount secured under any other such *security interest* over the *secured property* is not increased without our written consent.

- 10.4 You must comply on time with any obligation in connection with any other such *security interest* over the *secured property*.

11. LICENCES

- 11.1 If a *licence* is required to use or otherwise deal with the *secured property*, then you must:

- a. comply with the terms of the *licence*;
- b. comply with all laws and requirements of authorities in connection with the *licence*;
- c. obtain and renew on time the *licence* and each authorisation necessary to carry on the activity for which the *licence* is necessary and oppose any application to restrict or cancel the *licence*;
- d. not, without our written consent:
 - i. remove or apply to remove the *licence* in connection with the *secured property*;
 - ii. surrender or attempt to surrender the *licence*;
 - iii. deal in any way with any interest in the *licence*;
 - iv. amend the *licence*;
 - v. do anything which could cause the *licence* to be forfeited or cancelled; or
 - vi. allow a security interest to arise over the *licence*; and
- e. give us a copy of each notice, order, summons or conviction in connection with the *licence*.

- 11.2 After a *default* has occurred, if we ask, you must do your best to ensure that the *licence* is transferred to us or our nominee.

- 11.3 You acknowledge that, despite the *security interest* created under this *document*:

- a. you remain liable to perform your obligations under the *licence*; and
- b. we have no obligations under the *licence* and no liability under the *licence* if you are in *default* under it.

ADDITIONAL AMOUNTS YOU MUST PAY

12. COSTS

12.1 You must pay us for:

- a. our reasonable *costs*, and any *receiver's* reasonable costs and remuneration, in arranging, administering and terminating this *document* or another arrangement with us (including giving and considering consents, variations, discharges and releases, producing title *documents*, or enforcing, attempting to enforce or taking any other action in connection with our or any *receiver's* rights); and
- b. any *taxes* payable in connection with this *document*, any security or any other arrangement with us.

You must pay us these amounts within 10 business days after we ask for them.

13. GST

You agree to compensate us on demand if we determine that, as a direct or indirect result of the imposition of *GST*, our *costs* in connection with this *document* are increased. If we:

- a. reasonably decide that we are liable to pay *GST* on a supply made in connection with this *document*; and
- b. certify that we have not priced the supply to include *GST*,

then you agree to pay us an additional amount equal to the consideration *payable* for the supply multiplied by the prevailing *GST* rate.

14. INDEMNITY

14.1 You indemnify us against, and must pay us on demand, any liability, direct loss or reasonable *costs* we suffer or incur:

- a. if you *default* under this *document* (in which case you will also be liable for any loss arising because we require repayment of the *total amount owing* earlier than its due date); or
- b. if you do not pay us the *total amount owing*.

Your liability under this indemnity excludes any liability to the extent caused by our mistake, error, fraud, negligence or wilful misconduct or the mistake, error, fraud, negligence or wilful misconduct of our employees, contractors or agents or any *receivers* we appoint in respect of any *secured property*.

You have to pay these amounts within 10 business days after we ask.

15. INTEREST

If a liability under this *document* becomes merged in a court judgment or order, then you, as an independent obligation, must pay interest on the amount of that liability from the date it becomes payable until it is paid, both before and after the judgment or court order, at a rate being the higher of the rate payable under the judgment or court order and the rate payable on the *total amount owing*. You must pay interest under this clause on demand from us.

DEFAULT

16. WHEN YOU ARE IN DEFAULT

You are in *default* if:

Monetary defaults

- a. you do not pay the *total amount owing* when it becomes payable.

Non-monetary defaults

- b. you are, or a *debtor/guarantor* is, in *default* under any *arrangement with us* or an event of *default*, however described, which occurs under an *arrangement with us*;
- c. you give, or a *debtor/guarantor* gives, us materially incorrect or misleading information (including any incorrect declarations under clause 3.4 or clause 40) in connection with this *document* or another *arrangement with us* in any material respect and in circumstances which may materially increase our risk under this *document*;
- d. you are or become, or a *debtor/guarantor* is or becomes, *insolvent* or steps are taken to make you or the *debtor/guarantor* *insolvent*;
- e. you are or become deregistered, or a *debtor/guarantor* is or becomes deregistered, or steps are taken to deregister you or the *debtor/guarantor*;
- f. a *controller* or a *receiver* is appointed to any part of your or a *debtor/guarantor's* property;
- g. legal or beneficial ownership, or management control, of you or a guarantor changes without our consent;
- h. this *document* does not have or loses the priority it is intended to have;
- i. we believe on reasonable grounds that urgent action is necessary to protect any *secured property*, and we have requested you to take such action and you have failed to do so within a reasonable time as specified by us;
- j. the value of the *secured property* materially decreases which may materially increase our risk under this *document*;
- k. a *person* is appointed to investigate or manage your affairs or the affairs of a *debtor/guarantor*;
- l. you do not, or a *debtor/guarantor* does not, meet all your or their monetary obligations (whether present or future) on time or within any applicable grace period or any of these obligations become, or can be rendered, payable early otherwise than at your or the *debtor/guarantor's* election; in circumstances which may materially increase our risk; or
- m. we reasonably believe someone acted fraudulently in connection with this *document* or an *arrangement with us*.

Before taking any action, we will give you notice and allow you a reasonable time (being not less than 30 days) to remedy the *default* if the *default* is able to be remedied.

However, we do not have to allow a reasonable time to remedy the *default* where it is reasonable for us to act quickly to manage a material and immediate risk relating to:

- i. the *default*;
- ii. your particular circumstances; or
- iii. the value of a security.

17. WHAT HAPPENS IF YOU ARE IN DEFAULT

- 17.1 If you are in *default* and we can act on that *default*, we may do one or more of the following in addition to anything else the law allows us to do as a secured party or mortgagee:
 - a. require that you pay the *total amount owing* to us immediately;
 - b. sue you for the *total amount owing*;
 - c. appoint one or more *receivers*;
 - d. do anything that a *receiver* could do under clause 18.5; and
 - e. exercise any other rights we have under this *document* or any *arrangement with us*.
- 17.2 We will give you notice or comply with certain conditions before we require you to immediately pay all amounts you owe us or take enforcement proceedings or other action. For example, if a *default* has occurred, we will give you 30 days' notice before we require you to immediately pay the *total amount owing* or take enforcement proceedings (however, we can give you a shorter notice period or no notice in certain circumstances).

18. RECEIVERS

- 18.1 In addition to our powers under clause 17.1, we may appoint a *receiver* if you or your directors requests us to do so.
- 18.2 In exercising our power to appoint a *receiver* we may:
 - a. appoint any *receiver* to all or any part of the *secured property* or its income; and
 - b. set a *receiver's* remuneration at any figure we determine as appropriate, remove a *receiver* and appoint a new or additional *receiver*.
- 18.3 If we appoint more than one *receiver*, they may act independently unless we specify that they must act together.
- 18.4 The *receiver* is your agent unless we notify you that the *receiver* is to act as our agent. You are solely responsible for anything done, or not done, by a *receiver* and for the *receiver's* remuneration and costs.
- 18.5 Unless the terms of appointment restrict a *receiver's* powers, the *receiver* may do one or more of the following:
 - a. take or give up possession of the *secured property* as often as it chooses;
 - b. sever, remove and sell fixtures and fittings; and
 - c. anything else the law allows an owner or a *receiver* of the *secured property* to do, including improving, selling or leasing it.
- 18.6 The *receiver* may exercise its powers without your consent and without giving you notice.

19. DISPOSAL OF THE SECURED PROPERTY IS FINAL

You agree that if we or a *receiver* sell or otherwise dispose of the *secured property*:

- a. you will not challenge the acquirer's right to acquire the *secured property* (including on the ground that we or the *receiver* were not entitled to dispose of the *secured property* or that you did not receive notice of the intended disposal) and you will not seek to reclaim that property; and

- b. the *person* who acquires the *secured property* need not check whether we or the *receiver* had the right to dispose of the *secured property* or whether we or the *receiver* exercised that right properly.

GENERAL

20. DEALING WITH RIGHTS UNDER THIS DOCUMENT

- 20.1 We may assign or otherwise deal with our rights under this *document* in any way we consider appropriate acting reasonably. If we do this, we do not have to tell you and you may not claim against any assignee (or any other *person* who has an interest in this *document* or the *arrangement with us*) any right of set-off or other rights you have against us, provided that any such assignment or dealing does not in our reasonable opinion materially prejudice your rights or obligations under this *document*.
- 20.2 If we do assign or otherwise deal with our rights under this *document*, you agree that you are still liable for the *total amount owing* under this *document*.
- 20.3 Your rights are personal to you and may not be assigned without our written consent.

21. DISCLOSURE OF INFORMATION

- 21.1 Information you provide to us may be disclosed:
- if you consent (you may not unreasonably withhold your consent);
 - if required by any security exchange or if allowed or required by law;
 - to any *person* in connection with our exercising rights or dealing with rights or obligations (including preparatory steps such as negotiating with any potential assignee of our rights or other *person* who is considering contracting with us or a receiver in connection with this *document*);
 - to our officers, authorised agents and employees, to receivers and to legal advisers, auditors and other advisers;
 - to any of our *related bodies corporate*;
 - where we think it is necessary to protect our position;
 - if the information is generally and publicly available;
 - to any other *debtor/guarantor*; or
 - for the purposes of the securitisation of any *arrangement with us*.
- 21.2 We and you agree not to disclose any information of the kind referred to in section 275(1) of the *PPSA* that is not publicly available. You agree not to authorise the disclosure of any information as contemplated under section 275(7)(c) of the *PPSA*.
- 21.3 Clause 21.2 does not prevent disclosure of any information by us:
- permitted under clause 21.1 or under any *arrangement with us*; or
 - where required under section 275 of the *PPSA* because of the operation of section 275(7) of the *PPSA*.

22. THINGS WE MAY DO AT ANY TIME

- 22.1 We may enter land and buildings owned or occupied by you, any place where the *secured property* is located and your places of business to:
- inspect the *secured property*;
 - find out whether you are complying with this *document*;
 - carry out our rights under this *document*;
 - inspect and copy records relating to you or the *secured property*; or
 - investigate your financial affairs or business or those of any *debtor/guarantor* as they relate to the *secured property*.

You must also obtain for us the right to enter for these purposes land and buildings owned by another *person* or over which another *person* has a security interest.

- 22.2 Unless there is an emergency or we reasonably believe the *secured property* may be moved beyond our control, we must give you reasonable notice before entering under clause 22.1 and we may only enter during normal business hours. You must help us to enter, such as by getting any consent necessary.
- 22.3 We may do anything which you should have done under this *document* but which you have either not done or in our opinion have not done properly. If we do so, you must pay our reasonable *costs* when we ask in accordance with clause 12.
- 22.4 We do not become a mortgagee in possession because we seize or take possession of the *secured property* under clause 22.1 or exercise our rights under clause 22.3.
- 22.5 If we ask, you must ensure that rent and other income from the *secured property* is paid to us. If, despite this, they are paid to you, you must pay them to us. In each case, we must then use the money we receive as set out in clause 27.
- 22.6 If we reasonably believe you are or may be in *default* or we reasonably believe that circumstances exist which could lead to you being in *default*, we may appoint a *person* to investigate whether this belief is accurate. You must co-operate with and comply with every reasonable request made by this *person*. You must pay to us all reasonable *costs* in connection with the investigation.

23. CONSENTS

- 23.1 Whenever a provision of this *document* specifies that our consent or approval is required or that we may direct or require you to do or not do some act or thing, or that we will determine whether an event has occurred or not occurred, we will act reasonably and without unreasonable delay in determining whether or not to give that consent or approval (which will not be unreasonably withheld), determining whether that event has occurred or directing you to take some action or satisfy a requirement of ours.
- 23.2 We may impose reasonable conditions on any consent or approval we give under this *document* in order to protect our legitimate business interests. You must

comply with all conditions and requirements in any consent or approval we give.

- 23.3 Our consent or approval will not be effective unless it is in writing. We may charge a fee for giving our consent or approval.

24. MANAGER

We may appoint a *person* to manage this *document* for us. We will tell you if we do so. Any such manager is authorised to exercise all of our rights under this *document*. Until we tell you otherwise, you must deal with that manager in relation to all matters arising in connection with this *document*.

25. CURRENCY CONVERSIONS

- 25.1 You must make each payment in the currency in which it is due.

- 25.2 If we receive an amount in a currency other than that in which it is due:
- we may convert the amount received into the due currency (to do this it might be necessary to convert through a third currency) on the day and at such rates as we consider appropriate taking into account market exchange rates available to us. We may deduct our usual *costs* in connection with the conversion; and
 - you satisfy your obligation to pay in the due currency only to the extent of the amount of the due currency obtained from the conversion after deducting the *costs* of the conversion.

26. SETTING OFF MONEY

- 26.1 Except to the extent you have a right of set-off granted by law which we cannot exclude by agreement, you must pay us the *total amount owing* in full without setting off amounts you believe we owe you and without counter claiming amounts from us. This does not prevent you making a separate claim against us for amounts you believe we owe you.
- 26.2 We may set off against the *total amount owing* any money we owe you.

27. WHAT HAPPENS TO MONEY WE RECEIVE?

- 27.1 Money, property or proceeds received by or on our behalf from enforcement is to be applied in the following manner and order:
- first, in payment of claims of all *persons* (if any) holding an interest (other than a security interest) ranking in priority to the *security interest* created by this *document*;
 - second, in payment of all *costs* and *taxes* relating to the exercise of our enforcement powers or the *receiver's* powers;
 - third, in payment of claims of all *persons* (if any) holding a security interest ranking in priority to the *security interest* created by this *document*;
 - fourth, in payment to us of the *total amount owing* in such manner and order as we determine, including in accordance with clause 27.4;
 - fifth, in payment of claims of all *persons* (if any) holding an interest or a security interest having a lower priority to the *security interest* created by this *document*; and

- last, in payment of any surplus to you or any other *person* entitled to it.

However, if money received represents proceeds of an insurance claim, we may use it to reinstate or replace the *secured property*.

- 27.2 If, at the time we receive the money, any part of the *total amount owing* is not then due for payment, we may retain an amount equal to that part. We may hold it in an interest bearing account. We may use it (and any net interest after *taxes*, including income tax) to pay the *total amount owing* when it becomes due for payment.

- 27.3 Subject to clause 27.1, we may use any money received under this *document* towards paying any part of the *total amount owing* we choose, such as by:

- paying a later instalment before an earlier instalment. (This applies even if that later instalment falls due after we give a notice of demand); or
- applying the payment to one *arrangement with us* before another.

- 27.4 Subject to clause 27.1, if any part of the *total amount owing* is secured by a purchase money security interest granted by you to us, we must use any money received under this *document* or any *arrangement with us* in the following order:

- first, to pay claims relating to obligations that are secured but which are not secured by a purchase money security interest; and
- second to pay claims relating to obligations that are secured by a purchase money security interest.

- 27.5 Subject to clause 27.1, we must pay any money remaining after the *total amount owing* is paid either to you or to another *person* entitled to it (such as another *person* with a security interest over the *secured property*). In particular, we may pay it to a *person* whom we consider on reasonable grounds has a subsequent registered or unregistered security interest without incurring liability to you. We do not pay you interest on any money remaining after the *total amount owing* is paid.

- 27.6 We will credit payments as soon as practicable after we receive them (including, where we have appointed a *receiver*, as soon as practicable after we receive the payment from the *receiver*).

28. MULTIPLE ACCOUNTS

- 28.1 If there is a *monetary default* we may use any money in any of your accounts held with us to pay any amount that is due and payable but has not been paid.
- We do not have to do so, nor do we have to tell you before we do so. However, we will provide you with details of such amounts if you request.

29. CERTIFICATES

- 29.1 We may rely on certificates provided by any other *person* with a security interest as to the amount that is owed to them, in the absence of a clear error.

30. PROMPT PERFORMANCE

If this *document* specifies when you must perform an obligation, you must perform it by the time specified. You must perform all other obligations promptly.

31. HOW WE MAY EXERCISE OUR RIGHTS

- 31.1 We may exercise a right or remedy in any way we consider appropriate acting reasonably.
- 31.2 We may enforce our rights under this *document* before we enforce other rights or remedies:
- against any other *person*; or
 - under another *document*, such as another *security interest*.

If we have more than one *security interest*, we may enforce them in any order we choose.

- 31.3 If we do not, or a *receiver* does not, exercise a right or remedy fully or at a given time, we or the *receiver* can still exercise it later.
- 31.4 Neither we nor a *receiver* are liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising, a right or remedy except for any loss to the extent caused by our mistake, error, fraud, negligence or wilful misconduct or the mistake, error, fraud, negligence or wilful misconduct of our employees, officers, contractors or agents, or any *receivers* we appoint in respect of any *secured property*.
- 31.5 If we or a *receiver* exercise any right under this *document* or at law to enter or take possession of any *secured property*, we or the *receiver*:
- have complete and unfettered discretion as to how the *secured property* is managed; and
 - are liable to account only for rents and profits actually received by us or the *receiver*.
- 31.6 Our and any *receiver's* rights and remedies under this *document*:
- are in addition to other rights and remedies given by law independently of this *document*; and
 - may be exercised even if this involves a conflict of duty or we, or the *receiver*, have a personal interest in their exercise.
- 31.7 Our rights and remedies under this *document* may be exercised by any of our directors, any of our employees or any other *person* we authorise.
- 31.8 Whenever you fail to comply with any of your obligations under this *document*, we may (without prejudice to any of our other rights, powers and remedies) pay all amounts and do all such other things as we deem reasonably necessary or desirable to remedy that *default* or otherwise protect the *security interest* created by this *document*.

32. ADMINISTRATIVE MATTERS

- 32.1 You must deposit with us any document of title, negotiable instrument, lease chattel paper or any other *document* we request relating to the *secured property*.
- But you need not deposit them with us if another *person* is holding them under another security interest over the *secured property* to which we have consented and which has priority over the *security interests* created under this *document*.
- 32.2 You must do anything we reasonably ask (such as obtaining consents, signing and producing documents, replying to questions, producing receipts and getting documents completed and signed to reflect what is intended or agreed between you and us):
- to provide more effective security over the *secured property* for the payment of the *total amount owing*;

- to enable us to register this *document* with the agreed priority (and, if required, renew its registration);
 - to enable us to exercise our rights in connection with the *secured property*;
 - to ensure that each agreement which is intended to be covered by this *document* becomes an arrangement with us;
 - to enable us to register the power of *attorney* in clause 38 or a similar power;
 - to protect the *secured property* or fix any defect in it;
 - to show whether you are complying with this *document*; or
 - to ensure that this *document* is binding on you.
- 32.3 If we ask, you must supply us with any information or documents we reasonably require about or affecting:
- the *secured property* or any *licence*;
 - any lease, tenancy or other arrangement connected with the *secured property*;
 - this *document*;
 - your financial affairs or business, the financial position of any *debtor/guarantor* or the *secured property*;
 - a valuation or other expert report about the *secured property* from an expert nominated by us; or
- 32.4 You must pay for anything that you must do under this *document*.
- 32.5 You authorise us or any *person* we authorise to make any changes to this *document* so that it can be stamped and registered (but only if the changes do not change its meaning).
- 32.6 You agree that we may fill in any blanks in this *document* or any blanks in any document related to this *document* to complete that document to reflect what is intended or agreed between us.

33. CHANGES

Except where a change to this *document* is administrative or minor or corrects a mistake or omission, a term of this *document*, or right or obligation created under it, may not be waived or varied except in writing signed by the party or parties to be bound.

34. IF ANY PART OF THIS SPECIFIC SECURITY AGREEMENT IS UNENFORCEABLE

If a court decides that any clause or part of a clause of this specific security agreement is illegal, void or unenforceable, then the rest of this Specific Security Agreement is to be interpreted as if that clause or that part of the clause is not part of this Specific Security Agreement.

35. YOUR OBLIGATIONS AND OUR RIGHTS ARE UNAFFECTED

- 35.1 This *document* does not merge with or adversely affect, and is not adversely affected by, any of the following:
- another *security interest* or right or remedy to which we are entitled; or

- b. a judgment or order which we obtain against you in respect of any of the *total amount owing*.

We can still exercise our rights under this *document* as well as under the judgment, order, other *security interest*, right or remedy.

- 35.2 This *document* binds each *person* who signs as grantor even if another *person* who was intended to sign does not sign it or is not bound by it.

36. REINSTATEMENT OF RIGHTS

Under a law relating to insolvency a *person* may claim that a transaction (including a payment) in connection with the *total amount owing* is void or voidable. If a claim is made and upheld, conceded or compromised, then:

- a. we are immediately entitled, as against you, to the rights in respect of the *total amount owing* to which we were entitled immediately before the transaction; and
- b. on request from us, you agree to do anything to restore to us any *encumbrance* we held from you immediately before the transaction.

37. INDEMNITIES

The indemnities in this *document* are continuing obligations, independent of your other obligations under this *document*. They continue even after we have released the *secured property* from this *document*.

38. POWER OF ATTORNEY

- 38.1 You appoint us, each of our directors, each of our employees whose job title includes the word "manager", each of our solicitors, each other *person* we authorise, and each *receiver* under this *document*, separately as your *attorney*. If we ask, you must formally approve anything they do under clause 38.2. You may not revoke these appointments.
- 38.2 If we are entitled to enforce this *document* each *attorney* may:
 - a. do anything which you can lawfully authorise an *attorney* to do in connection with this *document*, a *licence* or the *secured property* and do anything which you can do as owner of the *secured property* or which the *attorney* believes is expedient to give effect to any of our rights or a *receiver's* rights (these things may be done in your or the *attorney's* name and they include signing and delivering *documents* (including deeds), selling, transferring or leasing the *secured property*, selling, transferring or surrendering any lease, lodging or withdrawing caveats, otherwise dealing with the *secured property* and starting, conducting and defending legal proceedings, and dealing with a *licence*);
 - b. delegate their powers (including this power) and revoke a delegation; and
 - c. exercise their powers even if this involves a conflict of duty or they have a personal interest in doing so.
- 38.3 Where permitted by law the *attorney* may exercise its powers in clause 38.2 without your consent and without giving you notice.
- 38.4 You acknowledge that any *person*, including the Registrar of Titles of Western Australia or any other registration authority in Australia or elsewhere dealing

with any *attorney* or a *person* purporting to be an *attorney* under this power, is:

- a. entitled to rely on execution of any *document* by that *person* as conclusive evidence that:
 - i. the *person* holds the office set out in the power;
 - ii. that the power of *attorney* has come into effect;
 - iii. that the power of *attorney* has not been revoked; and
 - iv. that the right or power being exercised or being purported to be exercised is properly exercised and that the circumstances have arisen to authorise the exercise of that right and power; and
- b. not required to make any enquiries in respect of any of the matters set out in paragraph a.

39. PARTNERSHIP

If this *document* is given to secure the *total amount owing* by a firm or partnership or joint venture:

- a. this *document* continues to be in full force and effect despite any changes which may from time to time take place in its members or participants, whether by the death or retirement or the receivership, insolvency, administration or liquidation of any member or participant or the admission of any new member or participant or otherwise, and even though the firm, partnership or joint venture no longer carries on business; and
- b. this *document* is binding on you even though you are not or having once been a member of or participant in the firm, partnership or joint venture are no longer one of its members or participants.

40. TRUSTEE PROVISIONS

- 40.1 You make the following declarations if you enter into this *document*, or own any of the *secured property*, as trustee of any trust or settlement (unless you have advised us in writing, before entering into this *document*, that one or more of the declarations cannot be made and we have agreed to waive the requirement that you make that declaration or declarations):
 - a. this *document* is for the benefit of the trust;
 - b. this *document* does not conflict with the operation or terms of the trust;
 - c. you are the sole trustee of the trust;
 - d. you have the power as trustee of the trust to unconditionally enter into this *document* and perform your obligations under it;
 - e. the trust has not been terminated and no beneficiary is presently entitled to any assets of the trust;
 - f. you have the right to be fully indemnified out of the trust assets for obligations incurred under this *document* and the trust assets are sufficient to satisfy that right of indemnity;
 - g. no action has been taken or proposed to terminate the trust;
 - h. true copies of the trust deed and other *documents* relating to the trust have been provided to us and disclose all the terms of the trust;

- i. you have not delegated any of your powers as trustee or exercised any power of appointment;
- j. no property of the trust has been resettled or set aside or transferred to any other trust;
- k. the trust *documents* comply with all applicable laws;
- l. by entering into this *document* and performing your obligations under it you are properly performing your obligations to the beneficiaries of the trust;
- m. you have taken all steps necessary to allow you to enter into and perform your obligations under this *document*;
- n. no action has been taken to remove you as trustee or to appoint an additional trustee; and
- o. you have not breached your obligations as trustee.

You must tell us whenever anything happens which would mean you could not truthfully repeat all these declarations (unless we consent to that thing happening).

40.2 If you are a trustee unless we have consented in writing, you must not:

- a. do anything in connection with the trust;
- b. deal with any property of the trust; or
- c. otherwise act in connection with the trust,

in any way which adversely affects your ability to pay the *total amount owing*. This includes making any distribution of capital or resigning as trustee.

40.3 If you are a trustee, this *document* binds you in your personal capacity and in your capacity as trustee of the trust.

40.4 If you are a trustee and you are in *default* you:

- a. must not exercise your powers or discretions under the trust unless we have consented in writing; and
- b. must not exercise your right to be paid from the assets of the trust on demand.

41. NOTICES AND OTHER COMMUNICATIONS

41.1 Notices, certificates, consents, approvals and other communications in connection with this *document* must be in writing, unless we agree otherwise.

41.2 Communications from us may be signed by any of our employees or authorised agents.

41.3 Communications to you may be:

- a. given personally to one of your directors;
- b. left at your residential or business address last known to us;
- c. sent by post to your postal or residential or business address last known to us;
- d. sent by email or other electronic communication to your or your approved *person's* email or other electronic address last known to us; or
- e. given in any other way permitted by law.

41.4 Communications for us must be:

- a. given *personally* to one of our employees at our registered office and no other place;

- b. sent by prepaid post to our registered office and no other place; or
- c. given by any other means permitted by law.

41.5 A communication is taken to be given (whether or not you actually receive it):

- a. in the case of a communication given personally - on the date it bears or the date it is received by the *person* to whom it is addressed, whichever is the later;
- b. in the case of a communication sent by post - on the date it bears or the date when it would have been delivered in the ordinary course of post, whichever is the later; or
- c. in the case of a communication sent by email or other electronic form - on the date it bears or, if delivery is outside business hours, 9am on the next *business day*, provided the sender does not receive a non-delivery communication within 2 hours after sending.

41.6 If you change your address, you must promptly tell us in writing.

42. PPSA LAW

42.1 You must promptly upon our request:

- a. do anything (including obtaining consents, giving notices or directions to any *person*, making amendments to this *document* or executing a new *document*) for the purpose of:
 - i. ensuring that, any *PPSA security interest* created under, or provided for by, this *document*:
 - A. attaches to the collateral that is intended to be covered by that *PPSA security interest*; and
 - B. is enforceable, perfected and otherwise effective; and
 - C. has the priority required by us; or
 - ii. enabling us to prepare and register a financing statement or financing change statement; or
 - iii. enabling us to exercise any of our rights or powers in connection with any such *PPSA security interest*; and
- b. provide any information requested by us in connection with this *document* to enable us to exercise any of our rights or powers or perform any of our obligations under the *PPSA law*.

42.2 You acknowledge and agree that:

- a. you must not cause or permit any *person* to take a *PPSA security interest* over, or to register a financing statement in relation to, any of the *secured property* unless the *PPSA security interest* is taken with our prior written consent and you must immediately notify us if you become aware of any *person* taking steps to register, or registering, a financing statement in relation to the *secured property*;
- b. you must take any action necessary to register, perfect, preserve and maintain any *PPSA security interest* which you hold, or have the benefit of, under and in accordance with the *PPSA law*.

42.3 You agree with us that:

- a. the provisions of chapter 4 of the *PPSA* do not apply to a *controller* of the *secured property* under section 116(2) of the *PPSA*;
- b. we are under no obligation to dispose of or retain any *PPSA personal property* we seize within a reasonable time under section 125 of the *PPSA*;
- c. following a *default*, you have no rights to redeem any *PPSA personal property* under section 142 of the *PPSA*; and
- d. you have no rights to reinstate this *document* following a *default* under section 143 of the *PPSA*.

42.4 You waive your rights to receive:

- a. a notice of our proposal to remove *PPSA personal property* which has become an accession under section 95 of the *PPSA*;
- b. a notice of our proposal to exercise our rights in accordance with land law under section 118(1)(b) of the *PPSA*;
- c. a notice of our proposal to enforce our security interest in an account, chattel paper or negotiable instrument under section 121(4) of the *PPSA*;
- d. a notice of our proposal to dispose of any *PPSA personal property* under section 130 of the *PPSA*;
- e. a notice of our proposal to retain *PPSA personal property* under section 135 of the *PPSA*;
- f. details of the amounts paid to other secured parties in a statement of account provided by us under section 132(3)(d) of the *PPSA*;
- g. a statement of account under section 132(4) of the *PPSA*; or
- h. a copy of, or notice of, any verification statement confirming registration of a financing statement or a financing change statement relating to any *PPSA security interest* under, or provided for by, this *document*.

42.5 Anything that you are required by us to do under this clause must be done by you at your own expense. You agree to reimburse on demand our reasonable *costs* in connection with any action taken by us under or in connection with this clause.

43. GOVERNING LAW AND SERVING DOCUMENTS

43.1 This *document* is governed by the laws of the State of Queensland. You and we submit to the non-exclusive jurisdiction of the courts of that place.

43.2 We may serve any *document* in a court action (including a writ of summons, other originating process or third or other party notice) on you by delivering it to, or leaving it at, your address set out in the *Schedule*, the last place known to us where the *secured property* is kept or such other address as you and we agree at any time. This clause does not prevent any other method of service.

44. AGREEMENT

This *document* is an agreement.

PART B – LARGE BUSINESS TRANSACTIONS

The terms in Part B will only apply if we tell you in the *Schedule* the Specific Security Agreement is a *Large Business Transaction*.

1. INDEMNITY

You indemnify us against, and must pay us on demand for, liability, direct loss or reasonable *costs* we suffer or incur:

- a. if you *default* under this *document* (in which case you will also be liable for any loss arising because we require repayment of the *total amount owing* earlier than its due date);
- b. in connection with us or any *person* acting on our behalf or instruction exercising, or not exercising, rights under this *document*;
- c. in connection with the *secured property* or this *document*;
- d. as a result of anything that we agree to under this *document*; or
- e. under any indemnity we give a *controller* or administrator appointed;
- f. in respect of you; or
- g. over any of the *secured property*.

This includes any liability, loss or *costs* of a kind referred to above suffered or incurred by:

- a. any *receiver* or *attorney* appointed under this *document*;
- b. any of our or our related entities' employees, officers and agents; or
- c. any lessee, purchaser or occupier of the *secured property*.

Your liability under this indemnity excludes any liability to the extent caused by our or their mistake, error, fraud, negligence or wilful misconduct.

We don't need to incur an expense or make a payment before enforcing this right of indemnity.

You agree to pay these amounts within 10 *business days* after we ask for them.

2. WHEN YOU ARE DEFAULT

2.1 You are in default if:

- a. you do something you agree not to do under this *document*, or you do not do something you agree to do under this *document* in any material respect and in circumstances which may materially increase our risk;
- b. you do not, or another *person* does not, carry out in full an undertaking given in connection with this *document* or another arrangement with us, within the period specified, or within 7 days if no period is specified;
- c. this *document* is, becomes or is claimed to be void or unenforceable any of the following occur without our consent:
 - i. a change takes place in your directors or company secretary;
 - ii. a transfer of shares in your capital is registered;
 - iii. new shares, convertible notes or options for shares in your capital are issued; or

- iv. your capital is reduced or made capable of being called up only in certain circumstances;
- d. you cease to be a subsidiary of the company which is your holding company at the date of this *document* or a company ceases to be your subsidiary.

3. MORE THAN ONE ACCOUNT

If you have more than one account with us (either alone or with another *person*) we may treat these accounts as one account.

PART C - DEPOSIT ACCOUNT

This Part applies if the *secured property* includes a *deposit account*.

1.1 In this Part C, the following additional terms are defined:

authorised officer means the person appointed by us as an authorised officer for the purposes of this *document*, including to act for us pursuant to clauses 1.2(b) and 1.4.

deposit account means the term deposit or other bank account described in the *schedule* (and any replacement of that account) and includes all your right, title and interest to:

- (a) the repayment of all money credited to the *deposit account*; and
- (b) all interest paid or payable on the money on deposit.

deposit means the monetary sum held in the *deposit account*.

depositee means the bank (as the debtor) with whom the *deposit account* is established to hold the money on deposit.

1.2 You must:

- (a) open the *deposit account* on or before signing this *document*;
- (b) ensure the *deposit account* has two persons named as authorised signatories one of which must be our *authorised officer*; and
- (c) give notice to the *depositee* of our *security interest* in the *deposit account*.

1.3 The notice of *security interest* referred to in clause 1.2 must:

- (a) be in the form that acting reasonably, we consider is necessary; and
- (b) acknowledged in writing by the *depositee* within seven days of receipt of that notice.

1.4 You acknowledge and agree that if an event of *default* occurs, we may provide written notification to the *depositee* of the event and that as a consequence the *deposit account* may only be operated by us acting alone by its *authorised officer* and without any need for confirmation or any authority from you.

1.5 If the *default* subsists, we may do all things necessary, acting reasonably, to obtain the immediate payment to us of all moneys held in the *deposit account* including to require early repayment (even if the *deposit account* is not at call) without being responsible for any resulting loss unless the loss is the result of our mistake, error, fraud, negligence or wilful misconduct or the mistake, error, fraud, negligence or wilful misconduct of our employees, officers, contractors and agents or any *receiver* we appoint.

1.6 If the events in 1.4 and 1.5 occur, the *depositee*:

- (a) need not enquire about any of the facts and circumstances that comprise the event of *default*;
- (b) need not enquire whether we are entitled to act in accordance with this Part; and
- (c) is directed by you to act on our instructions, (acting reasonably) without reference to you.

1.7 You declare that the *deposit account* and the proceeds of the account are not, to the best of your knowledge and belief, subject to:

- (a) any right of set off, netting or combination of accounts;
- (b) any flawed asset arrangement;
- (c) any other claim to the *deposit account* that may be made or attempted by the *depositee*; or
- (d) any mortgage, charge, or other security interest other than as granted under this *document*.

**If the *depositee* is Bank of Queensland Limited
ABN 32 009 656 740**

1.8 If the *deposit account* is held with us:

Clauses 1.2, 1.3, 1.4 and 1.6

- (a) the provisions of clauses 1.2 to 1.4 inclusive and 1.6 do not apply to the *deposit account*.

Flawed asset provisions

- (b) We need not repay any amount in the *deposit account*:
 - (i) until we have received the *total amount owing* under your *arrangement with us*;
 - (ii) until we are satisfied (acting reasonably) that we will not be asked to refund the *deposit* or any part of it to a trustee in bankruptcy, a liquidator or any other person; and
 - (iii) other than in accordance with the terms applying to each *deposit*.
- (c) You agree:
 - (i) not to call for an earlier repayment of any amount held in the *deposit account*; and
 - (ii) it is within our discretion whether we consent to the early repayment of a *deposit*. We will act reasonably and without unreasonable delay in determining whether or not to give that consent (which will not be unreasonably withheld).

Authority to appropriate and set-off

- (d) You authorise us to, and we may:
 - (i) appropriate the *deposit* towards repayment of the *total amount owing*, and you are not entitled to repayment of a *deposit* to the extent it is appropriated for this purpose; and
 - (ii) set-off any amount we owe you in connection with the *deposit* against the *total amount owing*.
- (e) We are permitted to do this at any time there is a subsisting *default* upon giving reasonable notice in accordance with clause 16 of this *document* (including the giving of reasonable time to remedy the *default*).
- (f) Any interest on the amount set-off will only accrue until the date of set-off.

1.9 You declare that undertakings comprised in this Part are given by way of security and accordingly are deemed to be irrevocable.

PART D - GOODS AND EQUIPMENT

This Part applies if the *secured property* includes goods and equipment.

1.1 In this Part D, the following additional terms are defined:

premises means in relation to an item of equipment or goods, the usual location of that item of equipment or goods specified below in item 2 of the *schedule*.

secured property means all your present and future right, title and interest in the goods and equipment described in the *schedule* and any good or equipment acquired by you in substitution for them, and includes all accessions to, and replacement parts for, any such goods or equipment and any reference to *secured property* includes any part of it.

1.2 You declare that:

- (a) to the best of your knowledge and belief, you are lawfully entitled to create a *security interest* in the *secured property* in favour of us;
- (b) you acknowledge that you are responsible for examining each item of *secured property* before accepting it and for satisfying yourself about it, including:
 - (i) its compliance with its description;
 - (ii) its condition, suitability and fitness for your purposes; and
 - (iii) the validity of any manufacturer's, dealer's or supplier's warranties or guarantees;
- (c) you agree to obtain and maintain all consents, approvals and authorisations which at any time are necessary in connection with any item of *secured property*, your ownership or its use or operation; and
- (d) you agree to take all such steps as are reasonably necessary to satisfy yourself that each item of *secured property* and its use and operation by you does not constitute a breach of any licence or intellectual property right of the supplier, manufacturer or any other person.

1.3 You agree that, except to the extent otherwise agreed in writing by us, which will not be unreasonably withheld nor delayed, you must:

- (a) not dispose of, or permit disposal of, any *secured property*;
- (b) comply with all your material obligations (including monetary obligations) under or in relation to the *secured property*;
- (c) keep and maintain each item of *secured property* in a good state of repair and in good working order and condition (fair wear and tear excepted) and protect it from loss or damage and remedy any defects in the repair, order or condition of each item of *secured property*;
- (d) not move any item of *secured property* from the premises to which it relates;
- (e) not place or allow to be placed on any item of *secured property* any plates or marks that are inconsistent with our security interest and if we request, put plates or marks on any item of *secured property* that states we have a security interest over it;
- (f) ensure that each item of *secured property* is used in accordance with the supplier's and

manufacturer's instructions and recommendations, in compliance with all laws that apply to each item of *secured property* or its use and used only by suitably qualified operators;

- (g) ensure that each item of *secured property* is serviced and maintained in accordance with the supplier's specifications and our or any insurer's reasonable requirements;
- (h) do all things reasonably necessary to maintain the supplier's and manufacturer's warranties in respect of each item of *secured property*;
- (i) keep all maintenance records and all other records relating to the inspection, commissioning or alteration of each item of *secured property*, make those records available to us upon request and produce a copy of those records for each item of *secured property* if we request it;
- (j) maintain all log books or other records customarily maintained for each item of *secured property*;
- (k) maintain, keep in force and renew (and comply with) all approvals, consents and authorisations which are reasonably necessary for the ownership, use or operation of the *secured property*;
- (l) if any person seizes or attempts to seize or interfere with any item of the *secured property*:
 - (i) notify that person of our security interest in that item of *secured property*; and
 - (ii) promptly tell us of that seizure, attempted seizure or interference; and
- (m) not do (or omit to do) anything which might adversely affect the security interest created under this document.

PART E - SHARES

This Part applies if the *secured property* includes *shares* in a private company or *shares* in an unlisted public company.

1.1 In this Part E, the following additional terms are defined:

consent means the approval you obtain under the *constituent documents* to the grant under this *document* to us of the *security interest* in the *shares*.

constituent documents includes:

- (a) the constitution of the *issuer*;
- (b) the shareholders agreement made between the shareholders of the *issuer* that governs the relationships, as between the shareholders and the *issuer*, and as between the shareholders themselves.

issuer means the company that has or will issue the *shares*.

new rights means your right, title and interest at any time:

- (a) in all dividends, allotments, offers, benefits, rights, bonuses and distributions; or
- (b) as a result of any conversion, redemption, cancellation, reclassification, forfeiture consolidation or subdivision, arising from or in connection with the *shares*.

shares means your right, title and interest in the *shares* described in the *schedule*, and any additional or replacement shares, and extends to and includes the *new rights*.

1.2 You must:

- (a) procure the *consent* (and provide us a copy of the *consent*) on or before signing this *document*;
- (b) deposit the scrip for the *shares* with us;
- (c) by way of further and better security, execute share transfers as specified by us with the transferee's name, the consideration and the date all left blank (to be held by us in escrow as part of our security).

1.3 If the scrip for the *shares* is issued after this *document* is signed, or after our facility has been made, you must provide an irrevocable direction authorising the *issuer* to deliver the scrip to us.

1.4 You declare that to the best of your knowledge and belief, the *shares* are not subject to:

- (a) any unpaid call made by the *issuer* on the *shares* or interest owing on any call amount that has not been paid;
- (b) any lien by the *issuer* for moneys (whether presently payable or not) called or payable on the *shares*;
- (c) forfeiture by the *issuer* for any reason including for those described in subclauses (a) and (b) above;
- (d) any mortgage, charge, or other security interest other than as granted under this *document*; or
- (e) redemption or any other form of compulsory acquisition by other shareholders under the *constituent documents*.

1.5 You declare that undertakings comprised in this Part are given by way of security and accordingly are deemed to be irrevocable.

PART F - UNITS IN A UNIT TRUST

This Part applies if the *secured property* includes *units* in a *unit trust*.

1.1 In this Part F, the following additional terms are defined:

consent means the approval you obtain under the *constituent documents* to the grant under this *document* to us of the *security interest* in the *units*.

constituent documents includes:

- (a) the deed or agreement that establishes the settlement of the *unit trust*;
- (b) the unitholders agreement made between the unitholders in the *unit trust* that governs the relationships, as between the unitholders and the trustee of the *unit trust*, and as between the unitholders themselves.

units means your right, title and interest in the *units* described in the *schedule* and any additional or replacement *units* in the *unit trust*.

unit trust means the unit trust described in the *schedule* in which the *units* are held.

1.2 You must:

- (a) procure the *consent* (and provide us a copy of the *consent*) on or before signing this *document*;
- (b) deposit the certificate for the *units* with us;
- (c) by way of further and better security, execute unit transfers as specified by us with the transferee's name, the consideration and the date all left blank (to be held by us in escrow as part of our security).

1.3 If the certificate for the *units* is issued after this *document* is signed, or after our facility has been made, you must provide an irrevocable direction authorising the trustee of the *unit trust* to deliver the certificate to us.

1.4 You declare that to the best of your knowledge and belief, the *units* are not subject to:

- (a) any mortgage, charge, or other security interest other than as granted under this *document*;
- (b) redemption or any other form of compulsory acquisition by other unitholders under the *constituent documents*.

1.5 You declare that undertakings comprised in this Part are given by way of security and accordingly are deemed to be irrevocable.

PART G - PARTNERSHIP INTEREST

This Part applies if the *secured property* includes an interest in a partnership.

1.1 In this Part G, the following additional terms are defined:

consent means the approval you obtain under the *constituent documents* to the grant under this *document* to us of the *security interest over your partnership interest*.

constituent documents means the deed or agreement of partnership that governs the relationship between the partners in the *firm*.

firm means the undertaking conducted by the persons and entities that are associated in partnership in the *firm*, described in the *schedule*.

partnership interest means all your right and title to your partnership interest in the *firm*.

1.2 You must procure the *consent* (and provide us a copy of the *consent*) on or before signing this *document*.

1.3 You declare that to the best of your knowledge and belief, the *partnership interest* is not subject to:

- (a) any mortgage, charge or other security interest other than as granted under this *document*;
- (b) redemption or any other form of compulsory acquisition by the *firm* or by other partners under the *constituent documents*.

1.4 You declare that undertakings comprised in this Part are given by way of security and accordingly are deemed to be irrevocable.

PART H - CONTRACTUAL RIGHTS AND LICENSES

This Part applies if the *secured property* includes *contractual or other rights*.

1.1 In this Part H, the following additional terms are defined:

contractual and other rights means at any time your right title and interest in the *secured document*.

secured document means each *licence* and each contract described in the *schedule* including any variation, novation, renewal or replacement of any *licence* or contract.

1.2 You declare to the best of your knowledge and belief, that:

- (a) you have:
 - (i) provided us with a true and complete copy of each *secured document*; and
 - (ii) disclosed to us all terms of each *secured document*;
- (b) each *secured document* is legal, valid, binding and enforceable in accordance with its terms; and
- (c) your rights under each *secured document* are assignable, and you are lawfully entitled to create a *security interest* in the *secured property* in favour of us.

1.3 You agree that, except to the extent otherwise agreed in writing by us (which will not be unreasonably withheld nor delayed), you must take all such steps as are reasonably necessary to:

- (a) in respect of each *secured document*,
 - (i) provide us with true and complete copies of all variations, novations or replacements of the *secured document*;
 - (ii) comply with all requirements (including your obligations) under or in relation to the *secured document*;
 - (iii) not release any other party to the *secured document* from any obligation under or in relation to the *secured document*;
 - (iv) not waive performance by any other party to the *secured document* of any obligation under or in relation to the *secured document*;
 - (v) not allow any right of set off, any counterclaim, or any defence to performance of obligations, to arise in favour of any other party to the *secured document*;
 - (vi) obtain and maintain all consents, approvals and authorisations which at any time are reasonably necessary in connection with the *secured document* to maintain its continuance, validity or performance (including enforcement); and
 - (vii) notify us of any non-compliance with obligations, or any dispute, under a *secured document* on becoming aware of it;

- (b) in respect of each *licence*:
 - (i) apply for a renewal of the *licence* before it expires;
 - (ii) inform us promptly if:
 - (A) the *licence* is revoked, suspended, modified or not renewed; or
 - (B) claims, proceedings or actions are taken or commenced which could affect the *licence* or impose any penalty for an offence in connection with the *licence*;
 - (iii) if you are in *default* and the *default* subsists, transfer the *licence* to us or any person we nominate, acting reasonably;
- (c) if we ask give notice of the *security interest* under this *document* to each other party of each *secured document*.
- (d) not do (or omit to do) anything which might adversely affect the value of any *secured property* or adversely affect the *security interest* created under this *document*.

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