

Business Standard Terms. Terms & Conditions.

01st March 2021



Reading documents

- It is important that you (and each of you if there is more than one of you) reads and understands each of the documents which form part of this contract, called the 'Facility Agreement'.
- We strongly recommend and in some instances may require that each person who is to sign the contract seeks independent legal and financial advice.

Banking Code of Practice

- The Banking Code of Practice ('the Code') is a code of conduct which sets standards of good banking practice for us to follow when dealing with you. It only applies to the Facility Agreement if you are an individual who is not treated as a 'business' under the Code or if you are a 'small business' (within the meaning of the Code). See under the heading 'Obtaining more information' below on how to obtain a copy. The Banking Code of Practice requires us to draw your attention to the availability of general descriptive information concerning our banking services and cheques. This includes information about:
 - account opening procedures,
 - our obligations regarding the confidentiality of your information,
 - complaint handling procedures,
 - bank cheques,
 - the advisability of you informing us promptly when you are in financial difficulty, and
 - the advisability of you reading the terms and conditions applying to this banking service.
- We will give you information about our banking services on request. Some of this information is contained in this document and some is set out in the Delphi Bank Savings & Investment Accounts Terms & Conditions Part A: General Information booklet. See under the heading 'Obtaining more information' below on how to obtain a copy.

Obtaining more information

- You can get a copy of the Business Fees and Charges and information about:
 - interest rates under a Facility,
 - our complaint handling procedures,
 - confidentiality of your information,
 - account opening procedures, and
 - bank chequesby visiting any of our branches, contacting your relationship manager, telephoning 1300 660 550, or visiting our website www.delphibank.com.au.
- Product Disclosure Statements are available on our website www.delphibank.com.au, or made available to you on request at one of our branches or by telephoning 1300 660 550.

If you are in financial difficulty

- You should tell us as soon as possible if you are experiencing financial difficulty.

If you have a complaint

- We consider Internal Dispute Resolution (IDR) to be an important and necessary first step in the complaint handling process as it gives us an opportunity to hear when we do not meet our customers' expectations and address them genuinely, efficiently and effectively.
- You can raise your complaint with us by;
 - (a) speaking to a member of our branch staff directly;
 - (b) telephoning the Customer Feedback Team on 1300 361 911 8.30am – 5.00pm (AEST / AEDT), Monday to Friday;
 - (c) Faxing us on (03) 8627 2777;
 - (d) Emailing service@delphibank.com.au
 - (e) completing the Customer Feedback form "Talk to us we're listening" available from your nearest branch or online at www.delphibank.com.au, or
 - (f) write to the Customer Feedback Team, Bendigo and Adelaide Bank Ltd, Reply Paid 480, Bendigo 3552
- If you are not satisfied with the response provided by our Customer Feedback Team, you have the option of referring the matter to the Customer Advocate who will impartially assess your complaint, keep you informed of the progress and provide you with a response:
 - (a) telephone 1300 139 527 (+61 3 5485 7919) 8.30am – 5.00pm (AEST / AEDT) Monday to Friday;
 - (b) email – customeradvocate@bendigoadelaide.com.au
 - (c) post/letter – write to Customer Advocate PO Box 480, Bendigo, Vic, 3552
- Alternatively (or following consideration by the Customer Advocate) You may refer Your complaint directly to the appropriate External Resolution scheme.

Australian Financial Complaints Authority

We are a member of the Australian Financial Complaints Authority (**AFCA**). You can contact AFCA at:

GPO Box 3
Melbourne VIC 3001
Phone: 1800 931 678
Email; info@afca.org.au
Website: www.afca.org.au

Small Business Customers

Some of the terms in these Business Standard Terms will apply only if the Facility Agreement is a Small Business Contract or a Banking Code Contract (within the meaning given to those expressions in clause 17 (Dictionary) at the end of this document).

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1 The Facility Agreement

1.1 Some terms have special meanings

Unless otherwise specified, expressions used in this document have the meanings given in the Dictionary, which you can find at the back of this document. The Dictionary also has information to help you interpret the Facility Details.

If a word has a special meaning, we use a capital letter to indicate that. The only exceptions are:

- you/your (which, as the context allows, includes each Borrower and their respective, executors, assigns, administrators (together and separately if there are more than one of any of them)), and
- we/us/our (which means Delphi Bank – A division of Bendigo and Adelaide Bank Limited ABN 11 068 049 178 Australian Credit Licence 237879, and any successor or assign of it),

because these terms are used so often, but please be aware that they do have these special meanings.

1.2 About the Facility Agreement

The terms and conditions of the Facilities are set out in these Business Standard Terms and in the Letter of Offer (including Facility Details forming part of it). Together these documents and those listed in clause 1.3 (Other documents that form part of the Facility Agreement) form the Facility Agreement between us.

These Business Standard Terms have four sections:

- Section A: Terms and conditions that apply to all Facilities,
- Section B: Additional terms and conditions that apply if you are a trust or partnership,
- Section C: Additional terms and conditions that apply to particular Facilities. These terms and conditions apply if the Facility Details include a relevant Facility, and
- Section D: Dictionary. This applies to these Business Standard Terms and the Letter of Offer.

We recommend that you read the terms and conditions of the Facility Agreement and any other document that forms part of the contract between you and us.

1.3 Other documents that form part of the Facility Agreement

There are a number of other documents that set out terms and conditions that may be relevant to your Facilities, which you should also read. For example:

- Delphi Bank Savings & Investment Accounts and Facilities Terms & Conditions Part A: General Information booklet,
- Delphi Bank Savings & Investment Accounts Terms & Conditions Part B: Account and Service Charges booklet,, and
- any other document described in the Letter of Offer.

Section A: Standard terms and conditions for all Facilities

2 How the Facility works

2.1 Facility Limits

For each Facility, the Outstanding Money in respect of that Facility must at no time exceed the Facility Limit for that Facility.

You must immediately pay to us the amount by which a Facility Limit (as varied from time to time) is exceeded.

We may reduce a Facility Limit without your consent – see clauses 3.7 (We may cancel your Facility), 3.8 (We may reduce your Facility) and 3.9 (We may terminate your Facility due to Circumstances Beyond Our Control)).

Without limiting our other rights, we may increase or reduce a Facility Limit at your request or with your written consent, subject to any conditions we impose.

2.2 Statements

We will give you a statement of account for each Facility at least every six months, but we might not do so if:

- Australian law or the Banking Code of Practice does not require us to do so,
- we agree to another frequency of reporting with you, or
- a Default Event has occurred and we have commenced enforcement or proceedings against you.

You may ask for statements of account to be provided more frequently than every six months or to change the frequency of any statements. Fees may apply.

You can request a copy of a statement of account at any time. Fees may apply.

You should carefully check the entries on each statement we give you, and you agree to promptly report to us any error or unauthorised transaction you find.

By using Delphi Bank Online Banking you may be able to opt for electronic and/or paper statements.

2.3 Drawing Advances

To ask for an Advance, you must give us a completed and signed Drawdown Notice in written form as we require (except in the case of an overdraft Facility, an investment Facility or any other Facility where the Facility Details indicate that a written Drawdown Notice is not required), at least three Business Days before you require the Advance. Each Drawdown Notice:

- must specify the amount requested, the proposed Drawdown Date (which must be a Business Day), payment instructions, and the applicable currency (if the Advance is to be in a foreign currency),
- must be such that the expiry, maturity or time for complete repayment of the relevant Facility does not extend beyond the Termination Date for that Facility,
- will be irrevocable once given,
- must contain a representation and warranty that all representations and warranties given by you under the Facility Agreement are correct and not misleading on both the date of the relevant Drawdown Notice and the Drawdown Date, and
- must contain any other information, representation or other thing that we require.

We need not advance more than the Undrawn Amount in respect of any Facility.

Generally we will not agree to provide an Advance if any Default Event or Potential Default Event exists.

2.4 Redraws

If we agree, you can redraw on a term loan Facility where the Facility Details indicate that redraws are permitted. Usually we will agree to you redrawing on such a Facility at a time you request if your actual repayments under it have exceeded your Required Payments at that time (i.e. the principal outstanding on your Facility Account is less than the Maximum Permissible Outstanding Principal at that time).

Generally we will not agree to a redraw:

- during a Fixed Rate Period,
- during an interest in advance period,
- during the term of an interest rate cap agreement, or
- if any Default Event or Potential Default Event exists at that time.

The minimum redraw amount for a relevant Facility is specified in the Facility Details.

The maximum redraw amount at any time is the total of all repayments made by you in respect of the Facility at

that time, less the sum of:

- all amounts required to be paid by that time under the terms of the Facility Agreement,
- the next scheduled repayment,
- the redraw fee, and
- any amounts previously redrawn.

A redraw fee is payable and will be debited from your account at the time of redraw.

2.5 What you must pay us

You must make all payments required under the Facility Agreement in the manner stated in the Facility Details (or elsewhere in the Facility Agreement), or if nothing is expressly stated, as we direct.

You must in any event pay to us all amounts that are necessary to fully repay each Facility and all Outstanding Money relating to each Facility by the Termination Date for that Facility.

2.6 When you must pay us

For a Term Loan Facility, you must pay each amount due on a date, before 4pm (Victorian time) on that date. For each other type of Facility offered to you, you must pay each amount due on a date, before 3pm (Victorian time) on that date.

Any amount received by us on a non-Business Day or after that time on a Business Day may be treated by us as if it were received on the next Business Day.

If we ask you to, you must immediately pay to us all amounts outstanding under any Facility which is repayable on demand, or which has no Termination Date specified.

2.7 Amounts we may debit to your accounts without notifying you

We may debit the following amounts to any of your Facility Accounts (or any of your other accounts you hold with us) without notifying you:

- interest that accrues under the Facility Agreement and is to be debited at the end of a month or Interest Period, or otherwise, as provided in the Facility Details;
- amounts referred to in clause 5 (Fees and costs) and clause 8.3 (Encumbrances) when they are due; and
- any other amount you must pay in connection with a Transaction Document on the date it becomes due.

We may do so:

- on or after the respective dates above; and
- in the case of a cost incurred by or loss to us or the hourly cost of our employees, whenever we decide to do so.

You must immediately pay us any amount that has been debited to an account of yours, if we ask you.

You still also have to keep on making your usual repayments, even if we have debited an amount to an account, and whether or not we notified you of that debit.

2.8 How we apply payments

We have the right to apply a payment from you or anyone on your behalf in any order we choose (subject to any overriding law).

We may place any money we receive in excess of the Outstanding Money relating to a Facility in a non-interest bearing suspense account and apply it against the Outstanding Money relating to any Facility as it becomes payable. Any money in this type of suspense account belongs to us. We will return any excess funds to you if we are satisfied there is and will be no further Outstanding Money relating to any Facility.

2.9 Termination Date

- On the Termination Date for each Facility offered under the Letter of Offer, you must pay to us all the Outstanding Money relating to that Facility at that time.
- No Advance is available under a Facility after the Termination Date for that Facility.

2.10 Cash cover for contingent liabilities at end of Facilities

If, when you are required (or elect) to pay us all Outstanding Money or to reduce the Outstanding Money to nil – for example, on a Termination Date, at the end of a Facility, after demand by us following a Default Event or otherwise – there is an amount that is owed contingently or prospectively by you in respect of a relevant Facility (for example, because a bank guarantee or letter of credit is still outstanding and you have indemnified or may be required to

indemnify us in respect of it), you must pay us the full amount of that contingent or prospective liability. We are entitled to hold that amount in a suspense account (which will not bear interest) until such time as the contingency or prospective event occurs (in which case we will apply it to meet the subject debt) or, alternatively, until we reasonably consider that the contingency or prospective event will never occur (after which time we will refund it to you). (See also clause 2.8 (How we apply payments), which applies generally to amounts received by us before they are required to be applied to meet Outstanding Money when it falls due.)

2.11 Joint Borrowers

Where there is more than one Borrower:

- Each of you is liable to us, together and separately, for the whole of any Outstanding Money.
- If one of you wants to end your liability to us for future Advances:
 - you can make a request to us in writing,
 - the consent of the other Borrower(s) is required, and
 - we need not accept your request to the extent that it relates to any Undrawn Amount or other amount needed to complete building or other work or a specific transaction in respect of which we approved the Facility,however we may elect to terminate the Facility without making future Advances.
- You cannot limit your joint liability for money already owing or contingently owing.
- Communications from you to us must be in writing and signed by each of you (for example, if there are two Borrowers, you must both sign).

3 Changes to Facilities

3.1 You may prepay a Facility

You may prepay:

- any Facility which is repayable on demand at any time, or
- any other Facility if we agree in writing and provided there is no outstanding interest or outstanding fees or charges under the Facility Agreement.

Early repayment of certain Facilities (whether voluntary or compulsory – for example, because a Default Event has occurred) may incur a Break Cost Administration Fee and Break Costs (see clause 5.3 (Break Costs)).

If you prepay an amount:

- the Maximum Permissible Outstanding Principal is permanently reduced by the amount you prepay unless we agree that you may redraw any prepaid amount,
- you are not entitled to any refund of interest or fees already paid or payable,
- you irrevocably and unconditionally waive any Claim to or in respect of any refund of any fees or interest (if applicable) that might otherwise arise from the prepayment, and
- if you prepay only part of the Outstanding Money, you must continue to pay the originally scheduled repayments required by the Facility Agreement until the Outstanding Money is reduced to nil

References to *prepayment* in this clause mean a payment made before it is otherwise due, but do not include reductions in the normal course of an overdraft or any other "come and go" facility, except for the purpose needed to comply with a reduction of the Facility Limit.

3.2 You may cancel a Facility

You may cancel or reduce all or part of a Facility before you draw it, by giving us at least three Business Days' notice in writing. Any such cancellation or reduction is permanent.

3.3 We may vary any term of your Facility

Acting reasonably and to the extent reasonably necessary to protect our legitimate business interests, we may change any term or condition of the Facility Agreement in accordance with the table below or as otherwise expressly permitted by another clause of the Facility Agreement. This includes changes to fees and charges, interest rates and terms and conditions. We will not change a Fixed Annual Percentage Rate during a Fixed Rate Period under a Facility. If any law or code (such as the Banking Code of Practice) regulates the change, we will only make the changes to the extent permitted by and subject to the requirements of that law or code.

We may notify you of changes to the Facility Agreement made under this clause 3.3 as set out below and those changes will take effect in accordance with the notice requirements set out below.

Type of change	Minimum notice period*	Notification method**
Interest Rate changes, such as changes to Reference Rates or Customer Margin (other than an interest rate change referred to below)	<p>If the Facility Agreement is a Small Business Contract and we haven't made the same change to other customers' interest rates, 30 days in advance.</p> <p>Otherwise, no later than the date of the change.</p>	<p>In writing, if we are not making an equivalent change to other customers' Facility Agreements</p> <p>By newspaper advertisement or on our website, in any other case</p>
A change to an Interest Rate linked to money markets or other external rates (through a change to Base Rate or otherwise)	As soon as reasonably practicable after the change (we cannot give advance notice of these changes)	In writing, by newspaper advertisement or on our website
<p>A change to the:</p> <ul style="list-style-type: none"> • method by which interest is calculated or applied, or • frequency with which interest is debited or credited 	30 days in advance, or shorter if the change is not adverse to you	In writing
Introducing or changing fees and charges, or changing the method of calculation, frequency or time of payment of any fee other than those below (however, we will not change how the Break Costs are calculated, in a way which may have the effect of increasing it, during a Fixed Rate Period)	30 days in advance, or shorter if the change is not adverse to you	In writing, by newspaper advertisement or on our website
Introducing or changing any government charge or Tax (Note: we will only notify you if not publicised by the government separately)	30 days in advance, or shorter as required by law or if the change is not adverse to you	In writing, by newspaper advertisement or on our website
A change to the amount of, frequency, or time for repayments, the period over which they are to be paid, the manner in which they are to be paid or the method of calculation of repayments	30 days in advance, or shorter if the change is not adverse to you	In writing
<p>Changes:</p> <ul style="list-style-type: none"> • of an administrative nature or which we make in order to fix an error, inconsistency or omission • to replace a base rate or index with a different base rate or index • to comply with regulatory changes • to make the Facility Agreement consistent with our internal processes, including technology improvements 	30 days in advance, or shorter as required by law or if the change is not adverse to you	<p>In writing, if we are not making an equivalent change to other customers' Facility Agreements</p> <p>By newspaper advertisement or on our website, in any other case</p>

<p>Any other change which we reasonably consider will not be adverse to you (for example, because it has the effect of reducing your obligations or giving you further time to comply with a requirement)</p>	<p>No later than the date the change takes effect</p>	<p>In writing, if we are not making an equivalent change to other customers' Facility Agreements By newspaper advertisement or on our website, in any other case.</p>
<p>Any change other than those listed above (provided that the Facility Agreement is not a Small Business Contract)</p>	<p>30 days in advance</p>	<p>In writing, if we are not making an equivalent change to other customers' Facility Agreements By newspaper advertisement or on our website, in any other case</p>

*We may not give you advance notice if an immediate change is required to restore or maintain the security of our systems or an individual facility/site. This may include changes to prevent criminal activity including fraud.

**In addition to the methods described in the table, we may also notify you by any other method permitted by law. Where we give you notice in writing, we may do so electronically only if you have agreed to us doing so.

Other than interest rate changes linked to money markets or other external rates, any variation will take effect from the date specified in the notice. If any law (including the National Credit Code) or code applies to the Facility and requires us to give you a minimum period of prior notice of a variation taking effect, we will give at least that minimum period of notice.

If the Facility Agreement is a Small Business Contract and you choose to terminate the Facility Agreement due to a change made by us under this clause 3.3, you may do so within 60 days of being given notice of the change by repaying any Outstanding Money in full, and we will not charge you any discharge fees (but where a fixed interest rate applies, we may still charge Break Costs and a Break Cost Administration Fee in accordance with clause 5.3 (Break Costs payable by you)).

3.4 We may review your Facility

We may review your Facility or Facilities at the intervals specified in the Facility Details or, if no intervals are specified, every six or twelve months (as we decide).

We may also review the Facility at any time if:

- an event occurs which the Facility Details or another document forming part of your Facility Agreement expressly states will entitle us to undertake a review of the Facility; or
- the Facility Agreement is a Small Business Contract and:
 - you do not pay someone an amount you owe them as and when it is due;
 - you or a Security Provider breaches or otherwise fails to comply with an obligation under a Transaction Document which is not a Default Event (however described) under that document and either the breach or failure cannot be remedied, or, if it can be remedied, you or the Security Provider do not remedy that breach or failure within 30 days of us asking you to do so in writing; or
 - someone makes a demand under a Guarantee which was issued by us at your request or on your behalf; or
 - a Default Event occurs, or we reasonably suspect that a Default Event has occurred or is likely to occur.

3.5 Information for a Facility review

You must, at your own expense, promptly provide, or arrange to be provided, to us all the information and documents we reasonably request to enable us to conduct our review.

3.6 We may impose new terms following a Facility review

If the Facility Agreement is a Small Business Contract, we will only exercise our rights under this clause 3.6 in a

manner which is proportional to the event or circumstance giving rise to a review of the Facility.

If, after a review, we determine that there has been a deterioration in your credit worthiness, our security position or our ability to recover all amounts which are or may become owing under a Transaction Document, we may notify you that:

- we are only prepared to continue to provide each Facility to you (or one or more of them) on new terms (“**New Terms**”), which may, for instance, include different rates or ongoing fees, a reduction to the Facility Limit, a requirement to repay some or all of the Outstanding Money early, or a requirement to give us additional Security; and/or
- (only where the Facility Agreement is not a Small Business Contract), we are only prepared to continue to provide you with the Facilities (or any one or more of them) on the New Terms and that if such New Terms are not accepted by the date in the notice (which date will not be less than 30 days from the date of the notice), the Facility will immediately terminate. Alternatively, if we consider that we would not provide the Facilities to you at all (if you were to apply for the Facility at that time), we may terminate the Facility by giving you not less than 30 days’ notice. In either case, the Outstanding Money becomes due and payable in full immediately upon termination of the Facility.

If:

- the Facility Agreement is a Small Business Contract:
 - we will consult with you for a period of 30 days following such notification of the New Terms with the aim of agreeing with you on an appropriate variation to the Facility Agreement to accommodate the New Terms;
 - if you and we are unable to agree in writing on the New Terms by the end of the consultation period, or you do not comply with the New Terms we have agreed on by the time you are required to do so, then we may immediately by written notice to you:
 - vary an interest rate (or a component of an interest rate, including a Customer Margin) applying to the Facility;
 - change or replace a base rate or reference rate applying to the Facility;
 - cancel any undrawn portion of your Facility Limit.

If you choose to terminate the facility due to a change made under this clause 3.6, you may do so by repaying to us the Outstanding Money in full within 60 days of being given notice of the change, and we will not charge you any discharge fees (but where a fixed interest rate applies, we may still charge Break Costs and a Break Cost Administration Fee in accordance with clause 5.3 (Break Costs payable by you)), and you may upon receiving that notice, without penalty, terminate the Facility by repaying to us the Outstanding Money in full; or

- the Facility Agreement is not a Small Business Contract and we have proposed New Terms, you may accept the New Terms by giving us a written notice during the time period referred to in the notice. Any variation of terms under this clause takes effect from the time you agree that variation with us (or, if earlier, the date we notified as the date we would terminate the Facility if you did not agree to the New Terms). If you do not accept the New Terms by the time provided in the notice, we may immediately terminate the Facility by written notice to you and all of the Outstanding Money becomes immediately due and payable upon the giving of such notice.

3.7 We may cancel your Facility

We may cancel a Facility if that Facility has not been used within 90 days of the date of the Facility Agreement. We can do this by giving you not less than 30 days’ prior written notice if your Facility is not a Small Business Contract. If your Facility is a Small Business Contract, we must give you not less than 90 days’ prior written notice. We may give less than 30 days’ or 90 days’ notice (as applicable) or no notice if, based on our reasonable opinion, it is necessary for us to act to manage an immediate risk. If the Facility is cancelled, you are no longer entitled to request any Advance under that Facility.

If we cancel the Facility for any reason:

- you have no further rights to obtain Advances under that Facility,
- you may have to pay us an amount under clause 11.1 (General) of the Business Standard Terms for our consequential loss if we cannot immediately lend the Facility Limit to another borrower on terms no less favourable to us, and
- we may require, at our discretion, for you to either:
 - make immediate full payment of the Outstanding Money, or
 - continue to satisfy your obligations under the Facility Agreement on terms otherwise unchanged (if the Facility has been part or fully drawn).

3.8 We may reduce your Facility

We may, at our discretion and by giving you not less than 30 days' prior written notice, reduce a Facility Limit by any Undrawn Amount:

- if the Undrawn Amount has not been used for 90 days (subject to clause 9 (Construction Loans)), or
- at any time if the Facility is repayable on demand or has no Termination Date specified.

We may give less than 30 days' notice or no notice if, based on our reasonable opinion, it is necessary for us to act to manage an immediate risk. If we reduce your Facility, we may at our discretion (but are not obliged to), amend the amount of your scheduled repayments so that the Facility Term remains constant.

3.9 We may terminate your Facility due to Circumstances Beyond Our Control

We are not liable to you for any loss or damage caused to you arising from or in connection with our actions following Circumstances Beyond our Control except, where the Facility Agreement is a Small Business Contract, to the extent caused by our (or our officers', agents', contractors', or employees' or receivers') mistake, fraud, negligence or wilful misconduct.

If the Facility Agreement is a Small Business Contract, we may terminate your Facility for Circumstances Beyond our Control if we reasonably consider that the continued provision of the Facility on the existing terms will prevent us from complying with a law, code or prudential standard or would cause us to incur significant additional costs, liabilities or losses which we could not have reasonably anticipated at the time of making the Facility available to you.

If the Facility Agreement is not a Small Business Contract, we will notify you promptly if we decide that it is no longer possible or commercially prudent or appropriate to continue providing you with a Facility on the existing terms due to Circumstances Beyond Our Control.

Unless we make you an offer and you accept it, or we negotiate an alternative basis of funding, (each as contemplated below) you must pay us all Outstanding Money in respect of the Facility when we ask. If this Facility Agreement is a Small Business Contract, we will give you not less than 30 days' notice if we require you to pay Outstanding Money under this clause.

If we think that it may be possible to continue providing the Facility to you on different terms, we will offer you those new terms, and you must respond to that offer in the same way as an offer pursuant to clause 3.6 (We may impose new terms following a Facility review).

Within 14 days of us notifying you that it is no longer possible or commercially prudent or appropriate to continue providing you with a Facility on the existing terms, and if we do not offer you different terms, you may request to enter into negotiations with us in good faith with a view to agreeing on an alternative basis for determining how we can provide the relevant Facility to you. Any alternative basis that we agree on in writing takes effect in accordance with its terms.

From the time we determine pursuant to this clause 3.9 that a Facility cannot be continued until it is paid in full or an alternative basis of funding is agreed in writing, the Outstanding Money relating to the relevant Facility will bear interest at the rate per annum equal to the Customer Margin and the cost of funds of funding that Outstanding Money in respect of the Facility, by whatever means we reasonably determine in good faith to be most appropriate.

3.10 Consequences of cancelling, terminating or reducing your Facility under this clause 3

If a Facility is cancelled or reduced under this clause 3:

- your obligations and liabilities under the Facility Agreement continue until the total Outstanding Money relating to each Facility is paid and you have no more outstanding obligations to us, and
- you are not entitled to any refund of interest or fees already paid or payable.

3.11 Exercise of rights

Any action we take under any provision of clause 3 (Changes to Facilities) does not limit our other rights including our right to terminate at any time and our rights under clause 3.4 (We may review your Facility), clause 3.7 (We may cancel your Facility), or clause 10 (Default and insolvency).

3.12 We may agree to extend the Facility Term

On your application, we may at our discretion, extend the Facility Term on a selected Facility or for all of your Facilities for such period of time necessary to arrange replacement or alternative Facilities.

4 Interest

4.1 Interest payable

You must pay interest on the Outstanding Money in respect of each Facility in the manner stated in the Facility Details or elsewhere in the Facility Agreement.

4.2 Default Rate and late payment fees

Where and when indicated in the Facility Details, interest accrues in respect of any overdue amount at the Default Rate in accordance with the relevant Facility Details.

We may, instead of charging interest on any overdue amount at the Default Rate, charge a late payment fee on any overdue amount (in the manner set out in the Facility Details).

To the extent that, after an amount becomes overdue, a subsequent payment by you does not reduce the Outstanding Money at the time to the Maximum Permissible Outstanding Principal, we may allocate that subsequent payment so that it is applied first to reduce (as much as the payment allows) any amount then due, and then to reduce any overdue amount.

Your obligations to pay on time are not cancelled upon being charged Default Rate interest or a late payment fee under this clause 4.2 (Default Rate and late payment fees).

If an account is overdrawn or if you exceed the Facility Limit for any Facility, you must pay interest to us at the Default Rate on the amount overdrawn or to the extent that you exceed the Facility Limit for any Facility, as documented in the Facility Details.

Interest accrues at the Default Rate on the amount overdrawn from the date on which the account was overdrawn or the Facility Limit was exceeded until the date we receive payment of the amount by which the Facility Limit is exceeded.

Unless the Facility Details otherwise provide, we may compound interest at intervals we think fit.

If you are a Farmer and we have provided you a Facility for the purposes of a Farming Operation, we will not charge a Default Rate or late payment fee on any overdue amount during any period that the land you use for the Farming Operation is in drought or subject to another natural disaster. You may need to tell us about the circumstances of the drought or other natural disaster before we determine that a Default Rate or late payment fee should not apply.

We will refund any Default Rate interest or late payment fees charged during the period the relevant land was in drought or subject to another natural disaster. We will consider land to be in drought or subject to another natural disaster when an Australian State or Territory government makes a declaration to that effect, or (if no such declaration is made) when we are satisfied on other grounds that the relevant land is in drought or subject to another natural disaster.

4.3 Indicative quotation of Interest Rate

Any interest rate we quote to you during negotiations or in your Facility Details prior to a Drawdown Date is an indicative quote and:

- is quoted in good faith,
- is not binding on us and may be different from the actual Interest Rate or Default Rate which applies to a relevant period, and
- does not constitute a representation or warranty by us to you in relation to future interest rates or the rate of interest applicable to a specific period.

We do not have any liability to you for a variation between an indicative quote and the actual rate of interest charged in accordance with the same basis used to determine the indicative rate.

5 Fees and costs

5.1 When fees must be paid

You must pay us the fees specified in the Letter of Offer, Facility Details or elsewhere in the Facility Agreement, and any changed or new fee we notify you about. You must pay us these fees at the times specified in the Facility Details or as we subsequently notify to you.

You must also pay to us any fees applicable to a Facility specified elsewhere in the Delphi Bank Savings & Investment Accounts Terms & Conditions Part B: Account and Service Charges booklet at the times specified in it (or subsequently notified to you) or, if no times are specified, when we request you pay. To the extent that you do

not pay fees at the times specified, we may debit those fees to your account in accordance with clause 2.7 (Amounts we may debit to your accounts without notifying you). You must immediately pay us those amounts debited by us to your account.

All fees expressed as a rate are calculated on a daily basis for a year of 365 days. Fees payable for a specific period are calculated from the first day of that period to the last day of that period, inclusive. Fees incurred in respect of a portion of a period are calculated proportionately unless they relate to a term loan facility, in which case you will be charged the fee in respect of each entire relevant period.

5.2 Costs payable by you

You must pay your own costs in connection with the Transaction Documents, including complying with them.

To the extent the Facility Agreement is a Small Business Contract, you will not be responsible for the costs referred to below in this clause 5.2 if we incur those costs due to our (or our officers', employees', agents', contractors' or receivers') mistake, fraud, negligence or wilful misconduct. Subject to this proviso, you must pay us on request any reasonable costs we incur relating to:

- the Transaction Documents, including getting legal advice about a Transaction Document or enforcing our rights under it,
- arranging the Facility,
- your banking business with us, or
- getting advice from any of our advisors in relation to your business or financial condition.

This includes:

- our legal costs on a full indemnity basis,
- the reasonable hourly cost of our employees, as determined by us,
- any Taxes imposed on us,
- any government or statutory fees and charges imposed on us, and
- the cost of any variations made to documentation requested by you.

5.3 Break Costs payable by you

You must pay us Break Costs, and a Break Cost Administration Fee, if:

- you prepay all or part of a Facility before the end of a Fixed Rate Period under it, even if you do this with our consent or as the result of a demand we are entitled to make,
- you change all or part of a fixed rate of interest to a floating or variable rate of interest or to another fixed rate of interest before the end of the relevant Fixed Rate Period, even if you do this with our consent,
- unless otherwise specified in the relevant Facility Details, you prepay all or part of a Facility during an Interest Period in respect of which interest is calculated on the basis of BBSW, even if you do this with our consent or as the result of a demand we are entitled to make, or
- the Outstanding Money includes accommodation which becomes immediately payable under clause 3.3 (We may vary any term of your Facility), clause 3.6 (We may impose new terms following a Facility review), clause 3.7 (We may cancel your Facility), clause 3.8 (We may reduce your Facility), clause 3.9 (We may terminate your Facility due to Circumstances Beyond Our Control), clause 6 (Promises, representations and warranties), clause 10.3 (Consequences of a Default Event), clause 11 (Indemnity) and any other provision of the Facility Agreement or a Transaction Document during a period when the interest rate is fixed,

each a "**Break Event**" in respect of an amount of Outstanding Money ("**Break Amount**").

The formula for calculating Break Costs is complex and is available upon request.

Break Costs may be incurred following a Break Event if the Wholesale Swap Rate falls between the Fixed Rate Commencement Date of the Facility and the date of the Break Event ("**Break Date**").

Break Costs represent the present value of notional additional interest cost that may be incurred by us in re-lending the Break Amount to another customer on the Break Date using money that we arranged to fund your Facility at the earlier Fixed Rate Commencement Date. The additional interest cost is estimated by reference to the difference between the Fixed Rate Commencement Date Wholesale Swap Rate and the Break Date Wholesale Swap Rate.

Break costs are calculated in 5 steps:

- Calculate in respect of the Break Amount the present value of each notional wholesale interest cost to us (interest calculated at the Fixed Rate Commencement Date Wholesale Swap Rate) ("**Step 1**").

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This involves calculating as at the Break Date the present value of each notional wholesale interest cost to us (using the Break Date Wholesale Swap Rate as the discount factor to obtain present values as at the Break Date), in respect of each future Interest Period and Required Payment payable by you from the Break Date and for the remainder of the Fixed Rate Period.

This represents the present value of the notional wholesale interest amounts payable by us for the remainder of the Fixed Rate Period (as if the Break Event had not occurred). The amounts are calculated using the following:

- the current Facility Account balance;
 - the timing and dollar amounts of your Required Payments;
 - any unpaid interest you owe;
 - the Fixed Rate Commencement Date Wholesale Swap Rate (available on request); and
 - the Break Date Wholesale Swap Rate (available on request).
- Calculate in respect of the Break Amount the present value of each notional wholesale interest cost to us (interest calculated at the Break Date Wholesale Swap Rate) ("**Step 2**").

This involves calculating as at the Break Date the present value of each notional wholesale interest cost to us (using the Break Date Wholesale Swap Rate as the discount factor to obtain present values as at the Break Date), in respect of each future Interest Period and Required Payment payable by you from the Break Date and for the remainder of the Fixed Rate Period.

This represents the present value of the notional wholesale interest amounts payable by us for the remainder of the Fixed Rate Period (as if the Break Amount was notionally lent by us to another customer on the Break Date). The amounts are calculated using the following:

- the current Facility Account balance;
 - the timing and dollar amounts of your Required Payments;
 - any unpaid interest you owe; and
 - the Break Date Wholesale Swap Rate (available on request).
- Aggregate the present values of all notional interest payments calculated at Step 1 ("**Step 3**").

This involves aggregating the present values of all notional interest payments determined in Step 1 above as at the Break Date.

- Aggregate the present values of all notional interest payments calculated at Step 2 ("**Step 4**").

Aggregate the present values of all notional interest payments determined in Step 2 above, as at the Break Date.

- Calculation of Break Costs ("**Step 5**").

The Break Costs is the amount determined in Step 3 above less the amount determined in Step 4 above, subject to a minimum of zero. A simplified version of the Break Costs formula is:

Aggregate of present values of our interest payments calculated at the Fixed Rate Commencement Date Wholesale Swap Rate
(Step 3)
LESS
Aggregate of present values of our interest payments calculated at the Break Date Wholesale Swap Rate
(Step 4)
EQUALS
Break Costs (Step 5)

There is uncertainty and risks associated with Break Costs. Break Costs may be substantial if the Break Date

Wholesale Swap Rate is substantially less than the Fixed Rate Commencement Date Wholesale Swap Rate. It is not possible to accurately predict whether the Wholesale Swap Rate will go up or down, by how much and when. However, we can provide you with an estimate of the likely Break Costs if you are seeking to prepay all or part of a Facility before the end of a Fixed Rate Period.

A fixed rate loan may not be suitable for you if you plan to terminate a Facility during the Fixed Rate Period.

The Break Administration Fee is an amount to compensate us for administrative expenses arising out of a prepayment.

5.4 GST

If we are liable to pay GST or any similar Tax on a supply (within the meaning of any relevant legislation) under the Facility Agreement, you must pay us an additional amount equal to the GST in respect of that supply.

6 Promises, representations and warranties

You, and each Guarantor and Security Provider (each referred to as "you" in this clause), each promise to us, represent to us and give us your warranty (and, to the extent a Guarantor or Security Provider has not agreed with us to be bound by these Business Standard Terms, you each promise, represent and warrant about them and on their behalf) that:

- each Transaction Document is enforceable against you,
- you have told us about all Default Events or Potential Default Events,
- you are not aware of any potential or actual dispute threatened against you, your assets, revenues, business, or any Secured Property,
- all information you have given us is accurate, complete, up-to-date and not misleading,
- you have not relied upon any representation or statement made by us or made on our behalf other than as set out in the Facility Agreement (provided however that this paragraph does not apply if the Facility Agreement is a Small Business Contract),
- you have signed all Transaction Documents to which you are a party voluntarily,
- you benefit by entering into and performing your obligations under the Transaction Documents,
- no Encumbrance exists over any of your assets, revenues or business other than Permitted Security Interests,
- you have complied with all applicable laws and all applicable requirements of Government Agencies relevant to the Facility or breach of which may impact on the value of the Secured Property or your ability to repay any Facility,
- you have told us in writing about all trusts for which you are a trustee,
- for artificial entities such as corporations and trusts, you have satisfied all formal or internal requirements for entering into the Facility Agreement and each other Transaction Document to which you are a party, for example if you are a company you have complied with the requirements of the company's constitution,
- if you are a company, you have disclosed to us all your Associated Entities, and
- you have disclosed in writing to us all information which may be material to our decision to enter into or continue with the Transaction Documents.

Each promise, representation and warranty you have made or given us in the Facility Agreement is taken to be repeated and made on the date of each Drawdown Notice, each Drawdown Date and each day while any of the Outstanding Money in respect of any Facility remains outstanding, with reference to the facts and circumstances then existing.

You acknowledge that we have entered the Facility Agreement and all other Transaction Documents relying on the promises, representations and warranties contained in the Facility Agreement.

The promises, representations and warranties in these Business Standard Terms are additional to any other promises, representations and warranties in any other Transaction Document.

You must immediately tell us in writing if any of the promises, representations and warranties you make or give us under this clause ceases to be true.

We can ask you at any time for confirmation that the promises, representations and warranties you make or give us under this clause are true, and you must respond promptly, fully, and in a way which is truthful and not misleading.

7 Things you must and must not do

7.1 General - what you must do

You, and each Guarantor and Security Provider (each referred to as "you" in this clause) must each (and, to the extent a Guarantor or Security Provider has not agreed with us to be bound by these Business Standard Terms, you each must ensure that each Guarantor and Security Provider will):

- comply with all applicable laws and all requirements of Government Agencies,
- do anything we reasonably request to give effect to or transfer the Facility Agreement or any Security including signing documents,
- pay any costs associated with any action taken under this clause,
- keep all insurances specified in the Facility Details and the Transaction Documents current and where applicable noting the Security Interest(s) of Bendigo and Adelaide Bank Limited,
- ensure that your obligations under the Transaction Documents at all times rank at least equally with all of your unsecured and unsubordinated obligations (other than those which must be preferred by law),
- if a body corporate, ensure that your corporate existence is maintained and all necessary filings made with ASIC, and
- if we request, do anything which we consider reasonably necessary or desirable to:
 - give full effect to a Transaction Document,
 - more fully secure our rights, remedies and powers under a Transaction Document (including complying with any requisitions or notices from a Government Agency in respect to registration of any Security), or
 - perfect or complete any transfer or assignment and the benefit of any Security in relation to any transfer or assignment, including signing and delivering documents.

7.2 Financial requirements - what you must do

You must ensure that at all times you (and, to the extent a Guarantor or Security Provider has not agreed with us to be bound by these Business Standard Terms, you must ensure that each Guarantor and Security Provider will, to the extent applicable) comply with any financial requirements set out in the Facility Details.

Each calculation under this clause and the financial requirements set out in the Facility Details is to be determined in accordance with the Australian Accounting Standards Board's accounting standards by reference to the most recent annual, semi-annual or management balance sheets and your accounts as prepared in accordance with the Australian Accounting Standards Board's accounting standards.

7.3 Information - what you must do

You must (and, to the extent a Security Provider has not agreed with us to be bound by these Business Standard Terms, you must ensure that each Security Provider will) comply with the following requirements:

- If you or a Security Provider are a corporate entity, you and each such Security Provider must give us copies of your respective consolidated and unconsolidated balance sheet and your respective profit and loss accounts as soon as available (but in any case within 90 days) after the end of each financial year.
- If you or a Security Provider are a natural person, you and each such Security Provider must give us copies of your respective current statement of position and personal tax returns.
- You must ensure these documents are prepared by an accountant acceptable to us and all directors must sign the documents as accurate, complete and up-to-date.
- You and each Security Provider must give us any other information we ask for in relation to your (or the Security Provider's) accounts or your (or the Security Provider's) business within any reasonable time required by us (including in relation to an Associated Entity).
- You and each Security Provider must give us copies of any notification from a Government Agency relating to or alleging an offence within one Business Day of you becoming aware of the notification.
- If you or a Security Provider are a corporate entity, you and each such Security Provider must also give us copies of all documents that you or such Security Provider issue to your (or its) shareholders, a Government Agency or the Australian Stock Exchange Limited, within five Business Days of issuing those documents.

7.4 Inspections - what you must do

You and each Guarantor and Security Provider (each also included in the term "you" in this clause) must (and, to the extent a Guarantor or Security Provider has not agreed with us to be bound by these Business Standard Terms, you each must ensure that each Guarantor and Security Provider will):

- allow us to inspect and take copies of your books and records and documents at reasonable times we

determine,

- if we require, employ Independent Experts nominated by us to inquire into and report to us about the business, financial condition and prospects of you or your Associated Entities, and we may require you to pay the reasonable related costs of doing so,
- cooperate fully during an inspection including giving full access to your premises and employees, and
- answer any questions that we or the consultants ask.

Any inspection report we obtain is for our benefit, not for your benefit. We may choose whether we make it available to you. You must not rely on it. We do not accept any liability for the contents or accuracy of an inspection report.

7.5 Your business practices - what you must do

You and each Guarantor and Security Provider (each also included in the term "you" in this clause) must (and, to the extent a Guarantor or Security Provider has not agreed with us to be bound by these Business Standard Terms, you each must ensure that each Guarantor and Security Provider will):

- keep proper books of account which are accurate, complete, up-to-date and not misleading,
- pay all Taxes and expenses when due or, if contesting them in good faith, set aside sufficient reserves for them. You must give us evidence that you have done this if we request it,
- at all times have access to your key business data. If any third party has control of, holds or otherwise has access to your key business data (either in hard copy or electronic form), you must ensure that:
 - at all times you have access to your key business data (including for a minimum of three months after any Insolvency Event),
 - your key business data is returned to you immediately on termination of the third party services, and
 - you actively and adequately mitigate the risks involved with a third party holding, controlling or accessing your key business data.

7.6 Your business practices - what you must not do

Unless we agree otherwise in writing to a request by you or a Guarantor or Security Provider (also included in the term "you" in this clause) to undertake any of the following (such agreement not to be unfairly withheld in situations where your net assets are unlikely to be adversely affected following implementation of such requested action), neither you nor any Guarantor or Security Provider may (and, to the extent a Guarantor or Security Provider has not agreed with us to be bound by these Business Standard Terms, you each must ensure that each Guarantor and Security Provider does not) do any of the following:

- change the nature of your business,
- purchase, start or otherwise acquire a business after the date of the Facility Agreement (or promote a company or trust to do any of those things),
- deal with any person except at arm's length, in the ordinary course of business for valuable commercial consideration,
- incorporate or acquire any subsidiary,
- merge or consolidate with another entity,
- dispose of any subsidiary,
- do any act, matter or thing which requires shareholder approval or consent,
- if applicable, vary the terms of your constitution (or adopt a constitution where you previously had none),
- dispose of any interest in a book debt or permit a set off or combination of accounts in respect of a book debt, other than by operation of law,
- incur or permit to remain outstanding any Debt other than any Permitted Debt,
- repay or otherwise satisfy any Debt you have to a Related Body Corporate,
- make loans to any person or permit the accumulation of Debt owed to you by any person except in the ordinary course of your ordinary business,
- release or waive any Debt owed to you by any person,
- give any financial assistance under section 260A(1)(a) of the Corporations Act (this section relates to a company giving financial assistance to a person for the purpose of acquiring shares in that company or its holding company),
- pay any dividend or make any distribution other than in the ordinary course of your ordinary business,
- purchase or redeem your issued shares or otherwise reduce your share capital,
- issue shares or agree to issue shares or grant options or warrants to subscribe for shares in your capital to any person other than an existing shareholder and for cash or by way of bonus issue, or
- grant any Guarantee (other than a Permitted Guarantee).

7.7 Dealings with property - what you must not do

Neither you nor any Guarantor or Security Provider (each also included in the term "you" in this clause) may (and, to the extent a Guarantor or Security Provider has not agreed with us to be bound by these Business Standard Terms, you each must ensure that each Guarantor and Security Provider does not):

- dispose of or deal with any of your property other than the disposal of Inventory in the ordinary course of your ordinary business and for fair market value. Inventory includes both goods and intangible property held for sale or lease, as raw material or work in progress, used as materials or which is to be provided under a contract for services,
- acquire assets from a Related Body Corporate or dispose of assets to a Related Body Corporate, other than for a fair market value,
- create any Security Interest (other than a Permitted Security Interest) on the whole or any part of your property,
- purchase or lease assets or otherwise acquire the use of assets except in the ordinary course of your ordinary business (or promote a company or trust to do any of those things), or
- transfer any property to any person other than in the ordinary course of your ordinary business.

8 Securities and Security Interests

8.1 Securities secure Outstanding Money

You and each Guarantor and Security Provider agree (and you will procure) that each Security you and/or any Guarantor or Security Provider has granted and are to grant secures all Outstanding Money relating to the respective Facilities (unless there are express limitations in a relevant Transaction Document).

8.2 Further Security which we may require

If you or any Security Provider (each also included in the term "you" in this clause) have given or agreed to give us a Security Interest over Secured Property, we may require you to (and you will procure that each Security Provider will) give us a further Security Interest over that property, to improve the Security you agreed to give us, that we consider is reasonably necessary to manage a material risk. We will give you a reasonable period to review any additional requirements under this clause 8.2. If your Facility Agreement is a Small Business Contract, we will give you at least 30 days' notice before you are required to give any further Security Interest.

If your Facility is a Small Business Contract and you or any security provider have not provided the further security interest within the 30 days, we may terminate the Facility and require you to pay the Outstanding Money within 90 days of the date of termination. Any further Security Interest must be documented in the form we require and it must be signed, delivered to us, stamped and registered as soon as possible (subject to a reasonable period to review) after we have requested it.

Our right to request a further Security Interest survives even if we assign the original Security Interest.

You consent (and will procure each Security Provider's consent) to us lodging a caveat or similar encumbrance in respect of our rights and interests over any Secured Property.

We may ask you or a Security Provider to take any actions we consider reasonably needed or helpful for us to ensure that Security or Security Interests are enforceable and with the highest possible priority ranking at all times. We may ask you to (or ask you to procure a Security Provider to) obtain consents, complete, sign or produce documents, supply information, take other actions or do your best to ensure others do any of these things. If we ask you to do any of these things, you must do them (and procure that any relevant Security Provider does them) at your cost.

8.3 Encumbrances

We may pay any money which we think is reasonably necessary to discharge or have withdrawn any Encumbrance on any Secured Property. We may debit that amount to any of your accounts on or after the date we pay it or the date it becomes due and payable by us or you (whichever is earlier).

8.4 Personal Property Securities Act

If Chapter 4 of the PPSA would otherwise apply to the enforcement of a Security Interest arising under any Transaction Document, you and each Guarantor and Security Provider agree that the following provisions of the PPSA will not apply to the enforcement of the Security Interest:

- section 95 (notice of removal of accession), to the extent that it requires us to give a notice to you;
- section 96 (when a person with an interest in the whole may retain an accession);
- section 125 (obligation to dispose of or retain collateral);

- section 130 (notice of disposal), to the extent that it requires us to give a notice to you;
- paragraph 132(3)(d) (contents of statement of account after disposal);
- subsection 132(4) (statement of account if no disposal);
- section 142 (redemption of collateral) and;
- section 143 (reinstatement of security agreement).

Despite the provisions of clause 13.10 (Notices and communications), notices or documents required or permitted to be given to us for the purposes of the PPSA must be given in accordance with the PPSA.

You consent (and will obtain each relevant Security Provider's consent) to us registering on the PPSR (in any manner we consider appropriate) any Security Interest arising under or in connection with or contemplated by a Transaction Document and you agree to provide (and will procure that each Security Provider will provide) all assistance reasonably required to facilitate this.

In connection with any Transaction Document (and any Security Interest contemplated by it) you waive the right to receive any notice under the PPSA (including notice of a verification statement) unless the notice is required by the PPSA and cannot be excluded.

8.5 Requests for Information under PPSA

For the purposes of section 275(1) of the PPSA you agree that the terms of any Security Interest provided for under clause 2.7 (Amounts we may debit to your accounts without notifying you) and clause 13.1 (Combination and set-off) are wholly contained in those respective clauses.

9 Construction Loans

The following provisions of this clause 9 only apply if the Facility Details indicate that you have a Construction Loan Facility.

We lend you amounts under the Construction Loan Facility progressively by:

- paying any credit fees and charges and insurance premiums anticipated to be paid;
- paying progress payments for the building after you have expended the minimum amount that we require you to spend; and
- to the extent the Construction Loan Facility has been pre-approved to be utilised to repay an existing construction loan facility, making such repayment direct to your financier.

We only have to lend a progress payment if:

- for each progress payment (including the first and last):
 - we have received an authority from you to pay the builder which is satisfactory to us;
 - our Independent Expert recommends that we make the progress payment (our Independent Expert will normally need to value the building work and the cost to complete to do this); and
- before the first progress payment, we have received all of the following and they are satisfactory to us;
 - copy of stamped local council approved plans and specifications;
 - copy of building contract between you and your builder;
 - any other certificates or authorities from local councils or other authorities necessary to conduct the building works;
 - a report by our Independent Expert;
 - evidence of any insurance we require; and
- before the last progress payment, we have received all of the following:
 - confirmation that the building works are finished (including a signed certificate from you of satisfactory completion of the building works);
 - evidence of any insurance we require;
 - any other certificates or authorities from local councils or other authorities in relation to the completion of the building works, which are satisfactory to us.

These provisions are in addition to any others which must also be satisfied under the Facility Agreement.

You must request in writing an Advance of the first progress payment under a Construction Loan Facility within 90 days (or such longer time as we agree) of the date of the Facility Agreement. If we agree to a longer period, the period of 90 days in clause 3.7 (We may cancel your Facility) will be taken to be extended by a corresponding additional period in respect of the first Advance.

You must request in writing each subsequent Advance (including the last progress payment) under a Construction Loan Facility no later than twelve months (or such longer time as we agree) of the date of the first progress payment, and the period of 90 days in clause 3.8 (We may reduce your facility) will be taken to be extended accordingly in respect of each such Advance.

10 Default and insolvency

10.1 Default Event

Default Events under all Facility Agreements

It is a Default Event under each Transaction Document if:

- **(payment default)** you, a Guarantor or Security Provider do not pay money to us when it is due and in the manner provided in any Transaction Document (after allowing for any applicable grace period in the relevant Transaction Document);
- **(exceed limit)** you exceed your Facility Limit;
- **(unlawful activity)** we reasonably believe that you, a Guarantor, a Security Provider or a signatory or agent for a party to a Transaction Document (other than us):
 - has acted fraudulently in connection with a Transaction Document;
 - is a Proscribed Person; or
 - has not complied with the law or any requirement of a statutory authority or it becomes unlawful for you or us to continue with the Facility;
- **(Insolvency Event)** you, a Guarantor or a Security Provider suffer an Insolvency Event or go into another insolvency process or arrangement or no longer have legal capacity;
- **(misuse of funds)** you use a Facility for a purpose other than the purpose specified in the Facility Details;
- **(misrepresentation)** information, a promise, representation or warranty, answer to a requisition, or statutory declaration given to us by or for you, or by or in respect of a Guarantor or a Security Provider, is or becomes incorrect or misleading or omits information which makes it misleading and we consider that this materially increases our risk in relation to a Facility or our ability to recover all amounts owed or which may become owing to us under any Transaction Document;
- **(change in control, management or business)** we reasonably determine that there has been an unacceptable material change in the legal or beneficial ownership legal status, capacity, composition, or management or Control of you, a Guarantor or Security Provider or your or their business changes without our consent and, in respect of a change of management, we consider that this materially increases our risk in relation to a Facility or our ability to recover all amounts owed or which may become owing to us under any Transaction Document;
- **(improper dealing with asset)** your assets or a Guarantor's or Security Provider's assets are dealt with or attempted to be dealt with in breach of this Facility Agreement or any Security or other agreement with us without our consent, and we consider that such dealing materially increases our risk in relation to a Facility or our ability to recover all amounts owed or which may become owing to us under any Transaction Document;
- **(material enforcement action)** another creditor takes enforcement action against you or a Guarantor or a Security Provider or all or any part of the Security Property and we consider that this materially increases our risk in relation to a Facility or our ability to recover all amounts owed or which may become owing to us under any Transaction Document;
- **(early repayment or default based action on separate facility)** early repayment is required under a separate financing arrangement you or a Guarantor or Security Provider has with us, or default based action is taken against you or a Guarantor or Security Provider by us in respect of that separate facility, due to an event which is described in this part of clause 10.1;
- **(failure to give financial information)** you, a Guarantor or Security Provider do not provide financial information to us as and when required under this Facility Agreement or another Transaction Document;
- **(failure to maintain insurance)** you, a Guarantor or a Security Provider no longer have the required insurance for the Security;
- **(loss of material authorisation)** you, a Guarantor or a Security Provider no longer have a material consent, licence, permit, approval or authorisation of a Government Agency to operate your (or their) business;

- **(financial covenant breach)** in respect of any Facility which is a property development loan, foreign currency loan, margin loan, invoice discounting, tailored cash flow loan or loan to a self-managed superannuation fund, you or a Guarantor or Security Provider breach any financial covenant or special covenant detailed in the Facility Details.

Additional Default Events

If the Facility Agreement is not a Small Business Contract or a Banking Code Contract, it will also be a Default Event under each Transaction Document if:

General

- you fail to pay any Debt (whether or not under a Transaction Document) to us when due or upon the expiration of any applicable grace period,
- you breach:
 - the Facility Agreement or we reasonably consider that circumstances exist that mean you will breach the Facility Agreement, or
 - any obligation in another Transaction Document,
- a promise, representation or warranty, answer to a requisition, or statutory declaration given by or for you to us is or becomes incorrect or misleading or omits information which makes it misleading,
- an event of default, however described, occurs under any Transaction Document or under any other finance document, with us or any other financier,
- you use a Facility for a purpose other than the purpose specified in the Facility Details,

Financial

- any other debt of yours becomes due and payable to us or to any other person or becomes capable of being declared due and payable before its stated maturity other than as a result of an optional right of prepayment in the absence of default,
- we reasonably think that your financial position or your ability to perform an obligation under a Transaction Document is materially impaired,
- you breach any financial covenant detailed in the Facility Details;

Business

- you cease to carry on business, or threaten to do so,
- you are a proprietary company and without our consent:
 - there is a change in control (within the meaning of the Corporations Act), or
 - there is a change in your directors,
- you are a trustee of a trust, and without our consent, you retire or are replaced as a trustee of that trust, even if against your will or without your involvement,
- a consent, licence, approval or authorisation of a Government Agency or of ours which is necessary for the performance of your obligations under a Transaction Document or otherwise given by us in relation to a Transaction Document:
 - is not complied with by a Transaction Party, or
 - is revoked, cancelled, terminated or withheld and is not replaced or reinstated within fourteen days,

Other

- anything having a substantially similar effect to a Default Event occurs in relation to you under laws outside Australia,
- all or part of a Transaction Document is terminated or is capable of being terminated or becomes void or voidable or ineffective or loses priority,
- any event occurs or a circumstance arises which may have a Material Adverse Effect,
- a person is appointed under any law to investigate any part of your affairs,
- an undertaking, given to us by or for you is not wholly performed within any period specified in the undertaking (or if no period is specified, within seven days after the date of the undertaking),
- in our opinion, the value of any Secured Property or the title to any Secured Property is not satisfactory, any material part (or the whole of) the Secured Property is stolen, sold, lost or damaged beyond repair,
- a Security Interest given by you or over your assets in favour of any person is enforced or becomes enforceable,
- a Government Agency takes any step affecting an asset whereby an amount owing to the Government Agency may rank ahead of our Security Interest (for example the issue of an attachment notice),

- any person levies or attempts to levy distress or execution against any of your assets,
- a judgment is obtained against you and is not satisfied or stayed within seven days,
- if you default under any facility agreement or related security agreement relating to financial accommodation provided to you by us or any other person or entity, or
- any event or circumstances referred to in this clause 10.1 occurs in relation to a Guarantor or Security Provider and its affairs.

10.2 Insolvency Event

An Insolvency Event occurs if:

- for any person that is a body corporate, any one or more of the following events occurs in relation to it:
 - except for the purpose of a solvent reconstruction or amalgamation which has our prior written consent:
 - process is filed in a court seeking an order that it be wound up or that a Controller be appointed to it or any of its assets, unless the application is withdrawn, struck out or dismissed within seven days of it being filed,
 - an order is made that it be wound up or that a Controller be appointed to it or any of its assets, or
 - a resolution that it be wound up is passed or proposed,
 - a liquidator, provisional liquidator, Controller or any similar official is appointed to, or takes possession or control of, all or any of its assets or undertaking,
 - an administrator is appointed to it, a resolution that an administrator be appointed to it is passed or proposed, or any other steps are taken to appoint an administrator to it,
 - it enters into, or resolves to enter into, an arrangement, compromise or composition with any of, or any class of, its creditors or members, or an assignment for the benefit of any of, or any class of, its creditors, or process is filed in a court seeking approval of any such arrangement, compromise or composition,
 - a reorganisation, moratorium, deed of company arrangement or other administration involving one or more of its creditors is proposed or effected,
 - any action is taken by the Australian Securities and Investments Commission with a view to its deregistration or its dissolution, or an application is made to the Australian Securities and Investments Commission that any such action be taken,
 - it is insolvent within the meaning of section 95A of the Corporations Act, as disclosed in its accounts or otherwise,
 - it is unable to pay any of its debts as they are due or is presumed to be insolvent under any applicable law,
 - it stops or suspends or threatens to stop or suspend:
 - the payment of all or a class of its debts, or
 - the conduct of all or a substantial part of its business,
 - any event or circumstance set out in section 461 (General grounds on which company may be wound up by Court) of the Corporations Act occurs in relation to it,
 - as a result of the operation of section 459F(1) (When company taken to fail to comply with statutory demand) of the Corporations Act, it is taken to have failed to comply with a statutory demand,
 - anything having a substantially similar effect to any of the events specified above happens to it under the law of any jurisdiction, or
- for any person who is an individual, any one or more of the following events occur in relation to that person:
 - the person has a bankruptcy notice issued against the person,
 - a receiver or a trustee for creditors or in bankruptcy is appointed to any of the person's property,
 - a garnishee notice is given concerning any money that the person is said to be owed,
 - the person proposes or enters into an arrangement or composition with, or an assignment for the benefit of, any of the person's creditors,
 - the person proposes or effects a moratorium involving any of the person's creditors,
 - the person stops or suspends, or threatens to stop or suspend:
 - the payment of all or a class of its debts, or
 - the conduct of all or a substantial part of the person's business,
 - the person is unable to pay any of the person's debts as they fall due or is presumed to be insolvent under any applicable law,

- the person dies, is imprisoned or becomes incapable of managing the person's affairs, or
- anything having a substantially similar effect to any of the events specified in paragraphs above happens to the person under the law of any jurisdiction.

10.3 Consequences of a Default Event

Defaults under Small Business Contracts and Banking Code Contracts

If a Default Event occurs under a Facility Agreement which is a Small Business Contract or a Banking Code Contract:

- we will notify you of the Default Event;
- if the Default Event is non-monetary (i.e. it does not relate to failing to pay money or exceeding your Facility Limit):
 - we will give you a notice specifying the grounds on which we consider there is a non-monetary Default Event;
 - unless we reasonably consider that it is necessary for us to act in order to manage a material and immediate risk, we will allow you a reasonable period of time to fix the Default Event (if it is capable of being fixed) and tell you what this time period is; and
 - we will only act on the Default Event if it is by its nature material or we reasonably consider that the Default Event has had, or is likely to have, a material impact on:
 - your or any Guarantor's or Security Provider's ability to meet financial obligations owed to us (or our ability to assess this);
 - our security risk (or our ability to assess this);
 - our legal or reputational risk (but only if the Default Event is one of the events specified in clause 10.1 (Default Event) under the sub-clauses called '(unlawful activity)', '(misrepresentation)' or '(misuse of funds)';
- subject to complying with the above, we may terminate your Facility (i.e. require repayment of all Outstanding Money) and/or take any enforcement action under clause 10.4 (Enforcement action) by giving you 30 days' notice. We may give you a shorter notice (or no advance notice) if:
 - the Default Event is unable to be remedied;
 - based on our reasonable opinion, it is necessary for us to act to manage a material and immediate risk relating to the nature of the relevant Default Event, your particular circumstances, or the value of any real property or other property or assets secured by a Security;
 - we have already given you a reasonable period of time to fix the Default Event, but you did not fix it during this time;
- if you fix the Default Event during the 30 day (or shorter) notice period referred to above, and no other Default Event of the same type has occurred during that period, we will not terminate your Facility or take any enforcement action under clause 10.4 (Enforcement action) in respect of that Default Event; and
- if the Facility Agreement is an overdraft or on-demand Facility, we will notify you promptly of our decision to terminate your Facility and give you a reasonable period to repay all Outstanding Money (although we may not give you any advance notice before we require repayment if, based on our reasonable opinion, it is necessary for us to require immediate payment in order to manage an immediate risk). If a failure to repay that overdraft or on-demand Facility on demand also constitutes a Default Event under another loan with us, we will comply with this clause 10.3 if we enforce that other loan based on that Default Event.

Default under any other type of Facility Agreement

If a Default Event occurs in any other case, we may terminate the Facility Agreement by notifying you and take any one or more of the enforcement actions referred to in clause 10.4 (Enforcement action). If we do that, you must immediately pay to us all Outstanding Money in respect of all Facilities.

This clause 10.3 does not limit our other rights in connection with a Default Event (including to charge interest at the Default Rate or exercise other rights under Transaction Documents).

10.4 Enforcement action

In taking enforcement action in respect of this Facility Agreement, we may:

- cancel, or suspend access to, any of your Facilities,
- stop or reverse any transaction,
- require your immediate payment of the Outstanding Money in respect of all Facilities,
- enter into any transaction and make any payment to extinguish any actual or contingent liability incurred by us (whether incurred at or with your express or implied consent or request),

- convert (directly or indirectly) the currency of any of your obligations that are not A\$ to another currency,
- open or close any of your accounts and transfer any credit balance to any new or other account,
- pay out any person holding a Security Interest ranking ahead of, or equally with, any Security (with or without a transfer of its Security Interest),
- enforce or otherwise exercise rights under any Security against you and/or any Security Provider;
- terminate the Facility Agreement and any other agreement you have with us, and
- commence legal action against you.

10.5 Our Right to require Valuation

We may at any time following a Default Event or Potential Default Event and at any other time specified in the Facility Details, obtain a Valuation of all real property or other property or assets secured by a Security. You must pay to us on demand the amount of all costs incurred by us in connection with the Valuation and we may debit your account for all those costs incurred.

Any Valuation report we obtain is for our benefit, not for your benefit.

A valuation obtained by us:

- may not be based on a detailed inspection of the relevant property; and
- is not to be taken:
 - as implying that there are no defects other than those mentioned in the valuation; or
 - where relating to building works, that the works have been completed to a particular standard.
- is not a representation by us as to the value of the subject property, even if we use it for our own purposes.

We do not accept any liability for the contents or accuracy of a Valuation report, (except to the extent of our mistake, fraud, negligence or wilful misconduct (or that of our officers, agents, contractors, employees or any receiver appointed by us)), nor do we do we represent that you can rely on it for any purpose.

11 Indemnity

11.1 General

You irrevocably and unconditionally indemnify us against any actual, contingent or prospective liability on our part in respect of a Claim arising from:

- a Default Event or the exercise or attempted exercise of any of our rights or powers following a Default Event,
- a sum not paid when due under any Transaction Document,
- an Advance requested but not drawn,
- the non-exercise, attempted exercise, exercise or delay in the exercise of any power, right, authority or discretion of ours under a Transaction Document,
- the failure to utilise any Advance for any reason, or
- the termination, variation, payment or cancellation of a Facility before the end of a relevant Interest Period or Termination Date due to a Default Event or following a review or for any other reason contemplated in the Facility Agreement.

You must immediately pay us any amount we demand under this clause.

You irrevocably and unconditionally waive any Claim or counter Claim you may have against us.

11.2 Indemnity includes indemnity against consequential loss etc

Without limiting the indemnity under clause 11.1 (General), you agree to indemnify us:

- against any loss, cost, penalty or expense incurred or payable by us including in:
 - liquidating or redeploying funds acquired from third parties, or
 - terminating, reversing or varying arrangements to fund your Facility or any part of it or any interest rate or currency hedge, related trading position or other derivatives arrangement implemented by us in respect of any Facility or any part of it, (even if such arrangements are entered into as part of wider transactions and do not specifically reference any loan to you)
- for the amount of consequential loss that we may determine by reference to a pool of funds and averaging techniques rather than by reference to a specific borrowing or a specific contract made to fund the Facilities or any part of it, and
- for our legal costs and other expenses on a full indemnity basis.

However, your indemnities in clause 11.1 (General) and this clause 11.2 do not relate to liabilities to the extent incurred by our own or our employees', contractors', agents', receivers', or Controllers' mistake, fraud, negligence or wilful misconduct.

11.3 Currency indemnity

If an amount payable by you under the Transaction Documents is received or recovered by us or a Controller in a currency other than A\$ (whether under a judgment, in the winding up of the Transaction Party or otherwise) your obligations are discharged only to the extent that we or the Controller may purchase A\$ with that other currency in accordance with our usual procedures on receipt of that amount.

If the amount in A\$ which may be purchased under this clause is, after deducting any costs of exchange and any other related costs, less than the relevant sum payable under the Transaction Documents, you indemnify us and the Controller in respect of, and must immediately pay to us or to the Controller, the amount of the shortfall.

11.4 Enforcing a right of indemnity

It is not necessary for us to incur any expense or make any payment before enforcing a right of indemnity under any Transaction Document.

11.5 Survival

Each indemnity in the Facility Agreement:

- is a continuing obligation,
- constitutes a separate and independent obligation of the party giving the indemnity, and
- survives the termination of the Facility Agreement or any Transaction Document.

11.6 Credit for additional payments made

To the extent that you have paid any Break Costs or other expressly required additional amount as a consequence of any of the circumstances referred to above, that payment will be taken into account as part of and in determining your liability under the indemnities in this clause 11.

11.7 Excluded matters

Notwithstanding any other provision of these Business Standard Terms, if the Facility Agreement is a Small Business Contract, nothing in these Business Standard Terms requires you to indemnify us against, or pay to or reimburse us for, any losses, costs or expenses we incur as a result of our (or any of our officers', employees', contractors', agents' or receivers') mistake, fraud, negligence or wilful misconduct.

12 Confidentiality

12.1 Terms and conditions are confidential

The terms and conditions set out in the Transaction Documents and any related documents and information are confidential, subject to clause 12.2 (You consent to disclosure).

12.2 You consent to disclosure

Without limiting the Banking Code of Practice (to the extent it applies), you consent to us disclosing your confidential information:

- in enforcing a Transaction Document or in a proceeding in connection with a Transaction Document,
- if required under an order of a Government Agency or any procedure for discovery or disclosure in proceedings,
- if required under a law or an administrative guideline, directive, standard, request or policy which has the force of law or which responsible bankers observe,
- as required or permitted by a Transaction Document,
- to any of our Associated Entities, as is necessary for it to assess your total liabilities to us and it,
- to our legal advisers and other consultants,
- to any Guarantor or other Security Provider in relation to the Facility Agreement, including confidential information about you or any Facility you have or have had with us, and
- where we consider disclosure desirable to help us assign our rights, under the Facility Agreement.

12.3 Survival

This clause 12 survives the termination of the Facility Agreement.

13 General matters

13.1 Combination and set-off

Subject to any right you may have under the Banking Code of Practice or other law, which cannot be excluded:

- We may appropriate any money paid on your account to any of your accounts with us or combine or consolidate any or all of your accounts with us whether they are in debit or credit to the extent we deem reasonably necessary to manage our risk. If accounts are combined their balances are combined.
- You must pay all amounts due under the Facility Agreement in full without setting off amounts you believe we owe and without counterclaiming amounts from us.
- Without limiting our rights under clause 2.1 (Facility Limits), if a Facility Limit is exceeded by any amount, we may reduce any other Facility Limit by the amount of the excess. If there are more than two other Facilities, we may apportion the reduction amongst the other Facilities in any amount we see fit.
- We may apply any credit balance (whether or not matured) in your accounts in or towards satisfaction of any amount due to us under the Transaction Documents. We may undertake any currency exchange necessary to implement this.
- We may take any of these steps without notifying you.
- Our rights under this clause are in addition to any general or banker's lien, right of set-off, right to combine accounts or other right to which we may be entitled.

13.2 Attorney

You irrevocably, by way of security, appoint us and each of our Authorised Officers severally as your attorney. If a Default Event has occurred, your attorney may do anything which ought to be done by you or may be done by us or a Controller under the Transaction Documents. You ratify and confirm all acts lawfully done by your attorney under this clause.

13.3 Remedies

Our rights under the Facility Agreement are cumulative. The exercise of one right under the Facility Agreement does not exclude the exercise of another right under the Facility Agreement or a right under another instrument or at law or otherwise.

Our rights may be exercised by any of our Authorised Officers, or any other person we authorise.

Subject to clause 11.7 (Excluded matters), we are not liable for loss caused by the due exercise, or any attempted exercise, failure to exercise, or delay in exercising, a right.

13.4 No merger

Each of our rights under a Transaction Document is in addition to and is not prejudiced by or merged with any of our other rights.

13.5 No waiver

Failure to exercise or delay in exercising, any right, power or remedy does not impair or waive any right, power or remedy. No single or partial exercise of any right, power or remedy precludes its further exercise or the exercise of any other rights, powers or remedies. Any waiver is effective only to the extent that it is in writing.

13.6 No moratorium

A law that lessens your obligations or postpones or prevents us exercising our rights is excluded from the Transaction Documents, to the extent that the law allows.

13.7 Reliance on Authorised Officers

In addition to any other reliance we can place or other assumptions we can make, we are entitled to rely on the instructions, requests, authorisations and other things done by your Authorised Officer until we are notified of a termination of that appointment.

13.8 Consents

We may give or withhold consent or agree to a request you make in our discretion, with or without conditions. We agree to act reasonably in deciding whether or not to withhold consent.

Our consent is valid only if in writing and signed by one of our Authorised Officers.

We may engage consultants or advisers in relation to any request for consent. If we do, you must pay the costs of those consultants or advisers (whether or not we notify you that we intend to engage consultants or advisers).

You acknowledge that we do not assume a duty of care to you in issuing any consent (for example, if we consent

to building plans, accounts or financial information we are not representing that they are adequate or appropriate).

13.9 Assignment

You must not assign, declare a trust over, create or allow to exist any Security Interest over, or otherwise deal with any of your rights under a Transaction Document unless we agree in writing.

We may assign, dispose of or otherwise deal with any or all of our rights under the Facility Agreement or any other Transaction Document. We may disclose any information or document we consider desirable to help us exercise this right.

13.10 Notices and communications

Communications between us and you must be made as follows (or as expressly provided elsewhere in a Transaction Document):

	Our communication to you	Your communication to us
How communications may be given	<ul style="list-style-type: none"> delivered to you personally leaving it at your residential or business address last known to us leaving it at your registered office, if you are a body corporate leaving it at any address specified by you (which you can change or cancel by later notice to us received before we give a relevant communication) sent by prepaid post or fax to any of these places sending it by email to an email address you give us any other means permitted by law sending it by short message service (SMS) to a mobile phone number you give us 	<ul style="list-style-type: none"> personally giving it to one of our employees <p>at:</p> <ul style="list-style-type: none"> any of our branches, or our registered office at such other places or addresses as we advise you sending it by prepaid post to any of those places sending it by email to an email address we give you for notices by any other means permitted by law, <p>in each case clearly identifying who you are and your Facility details, so we can readily identify you and your Facility. (Leaving out these details may make your communication ineffective)</p>
Who must sign a communication	<ul style="list-style-type: none"> any of our Authorised Officers a lawyer we engage in connection with a Transaction Document 	<p>Each of you, noting that:</p> <ul style="list-style-type: none"> if you are a company with a sole director, that sole director must sign the communication if you are a company with more than one director, communications must be signed by a director and another Authorised Officer

You must notify us promptly of any change to your residential address, business address, email address or mobile phone number.

If you are a body corporate, you must advise of any change to your business address, registered address, email address or mobile phone number.

If you are two or more persons, a communication to any one of those persons is taken to be notice to all of them (but you must all sign notices to us).

We are authorised to act upon any:

- fax message sent to the fax number we nominate,
- email message sent to the email address we nominate, or
- telephone instruction we receive,

which in our opinion appears to have been sent by an Authorised Officer or person authorised to operate an account or Facility at the time the message or instruction is received.

We may serve any document in a court action on you by leaving it at your:

- residential or business address last known to us; or
- business or registered address last known to us, if you are a body corporate.

This does not prevent any other method of service.

A communication is taken to be given:

- where delivered personally, upon actual delivery (or on any later day that it is dated),
- where sent by post, on the 6th Business Day after posting, (or the 7th Business Day after posting, if sent to or from a place outside Australia),
- where sent by fax, at the time and date shown in the transmission report as the time that the whole fax was sent,
- where sent by email, or SMS, at the time section 14(A) of the Electronic Transactions Act 1999 provides as the time of receipt of an electronic communication, or the time and date it bears or the date on which the system from which the transmission was sent indicates that the communication was sent to the recipient's system, whichever is the later,
- where given by newspaper advertisement, on the date it is first published.

13.11 Blanks and corrections

You agree that we may fill in any blanks in any Transaction Document (such as an acknowledgement), where the details completed or corrected are of no material consequence (for example a date, partially omitted title detail and such-like).

13.12 Inconsistencies

If there is any inconsistency between the documents forming the Facility Agreement, and any related documents, to the extent of that inconsistency:

- the Facility Details prevail over these Business Standard Terms,
- the Facility Agreement prevails over any Security or other Transaction Document, and
- an agreement between us relating to interest rates prevails over any other Transaction Document.

13.13 Severance

A provision in a Transaction Document must be read down to the extent necessary to not be invalid. If it cannot be read down to that extent, it must be severed. If a provision is invalid only in a particular jurisdiction, it must be read down or severed only in that jurisdiction.

13.14 Counterparts

The Facility Agreement or any part of it may be signed in any number of counterparts (copies).

Together all counterparts make up one document.

13.15 Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF)

To comply with requirements of anti-money laundering and counter-terrorism financing laws we may:

- require you to provide to us, or otherwise obtain, any additional documentation or other information,
- suspend, block or delay transactions on your account, or refuse to provide services to you, and
- report any, or any proposed, transaction or activity to anybody authorised to accept such reports relating to anti-money laundering and counter-terrorism financing or any other law,

and in so doing we will not be liable to you, nor need we give you any notice.

13.16 Proscribed Persons

If we reasonably believe you to be a Proscribed Person or entity then we may immediately:

- cancel your Facilities:
- refuse to extend any further credit to you or process any of your transactions,
- suspend the provision of a product or service to you,

- refuse to allow or to facilitate any assets of yours held by us to be used or dealt with,
- and we will be under no liability if we do any or all of these things in good faith and in compliance or purported compliance with any legal requirement in relation to a Proscribed Person. Our rights under this clause are in addition to and override all other rights or obligations we may have under these Business Standard Terms.

13.17 Time of the essence

If you (or a Guarantor or Security Provider) do not carry out an obligation under a Transaction Document on time, that will be a Default Event, even if that obligation is subsequently carried out.

13.18 Jurisdiction

The Facility Agreement is governed by the law of the State or Territory from the office where we issue the Facility Details. Each of us irrevocably submits to the non-exclusive jurisdiction of the courts in that place.

13.19 Calculations

Where an amount needs to be calculated under the Facility Agreement, we determine the method of calculation.

Section B: Additional Terms and conditions for Trusts and Partnerships

14 Trusts

14.1 Does this clause 14 apply?

This clause 14 applies if any of you, a Guarantor or Security Provider (each "you" for the purposes of this clause) is a trustee (Trustee) of a trust (Trust), even if you did not disclose that fact to us or the Trust is not named in the Facility Agreement or other Transaction Document.

14.2 Capacity

Each Transaction Document to which you are a party binds the Trustee, any succeeding trustee and any additional trustee personally and as Trustee of the Trust.

14.3 Promises representations and warranties

You promise, represent to us and give us your warranty that, except where you have disclosed the contrary to us in writing and the consent of this disclosure is approved by us:

- the Trust was validly created and is in existence,
- you have given us true copies of all the documents constituting the Trust (Trust Deed),
- you have power under the Trust Deed to enter into and perform your obligations under the Transaction Documents,
- you have an unrestricted right of indemnity out of the Trust's assets,
- you have not delegated any power of trustee or exercised any power of appointment,
- the Trust is not the subject of any action for termination,
- the execution of the Transaction Documents and performance of your obligations under them is for the:
 - proper purposes, and
 - commercial benefit,

of the Trust and its beneficiaries,

- you are the legal owner of all the assets of the Trust,
- you are empowered by the Trust Deed to carry on business as now conducted or contemplated and to own the Trust's property and assets in your capacity as Trustee of the Trust and there is no restriction, limitation or condition upon such activity,
- you are validly appointed as Trustee and you are the sole trustee of the Trust,
- the Trustee is not in breach of its obligations as trustee of the Trust,
- no circumstances exist which may cause you to be removed as Trustee of the Trust,
- there has been no capital distribution from the Trust's assets,
- you have not blended or mixed the Trust's assets,
- no part of the Trust's assets has been re-settled or set aside,
- you are not in default under the relevant Trust Deed, and
- no vesting date of the Trust has been determined (other than one expressly provided for in the Trust Deed in accordance with the rule against perpetuities).

14.4 Survival and repeat

Promises, representations and warranties in this clause 14 survive the termination of the Facility Agreement and are taken to be repeated on the date of each Drawdown Notice, on each Drawdown Date and on each day there is Outstanding Money relating to the respective Facilities.

14.5 Things the Trustee must do

You must:

- give us a true and up-to-date copy of the Trust Deed when we ask,
- ensure a new trustee of the Trust signs any documents we require,
- ensure that each Transaction Document binds that new trustee, and
- at our request, give us full financial and other details of the Trust.

14.6 Things the Trustee must not do

You must not without our written approval:

- default under the relevant Trust Deed,
- blend or mix the Trust's assets,
- other than in the ordinary course of business:

- part with possession of any of the Trust's assets, or
 - allow any Claim by us relating to the Trust's assets to be compromised,
- allow the Trust to be determined or a vesting date to be determined,
- allow any:
 - capital distribution under the Trust,
 - exercise of any power of determination, revocation, appropriation or advancement, or
 - settlement, setting aside, abandonment or transfer to other person or trust of any of the Trust's assets, except the distribution of Trust income in terms of the relevant Trust Deed and so as not to infringe any law against perpetuities or relating to accumulation,
- allow the relevant Trust Deed to be varied,
- permit the appointment of another trustee, delegate any powers of the Trustee, or
- retire or be replaced as a trustee of the Trust, even if against your will or without your involvement.

14.7 Trustee's right of indemnity or subrogation in respect of the Trust

Other than as provided under this clause 14.7, you must not allow your right of indemnity or subrogation to be restricted or otherwise compromised.

If we require it, you must exercise your rights of indemnity and subrogation against the Trust's assets and your rights against the beneficiaries.

Without limiting any other right we may have, you assign to us your right of indemnity against the Trust assets in respect of the payment of money owing at any time under any Transaction Document.

14.8 Access to Trust fund

You irrevocably and unconditionally grant us direct access to the Trust fund to recover any money not paid when payable under any Transaction Document. This right is independent of any of our other rights.

15 Partnerships

This clause 15 applies to you if you, a Guarantor or Security Provider (each "you" for the purposes of this clause) are a partnership even if you did not disclose that fact to us.

If you are a partnership, each partner has an obligation as partner and also a personal obligation to us.

All amounts due under the Facility Agreement remain due, whether or not we may recover any sum from the partnership assets.

If the partnership is dissolved:

- you must immediately notify us of that fact, and
- each partner must act in relation to the administration of the partnership assets in the manner (if any) directed by us.

Neither a retiring partner nor a continuing partner is discharged from liability to us under any Transaction Document by reason of that retirement or as a result of any other agreement between partners, retiring or continuing.

You must ensure that any new partner joins in the Facility Agreement as a joint debtor and provides any Security we may require (at our discretion). The addition of a partner does not release any continuing partner from liability on the basis that there is a new partnership.

You must ensure that each partner complies with their reasonable partnership obligations, all legal obligations, and you must diligently prosecute for the full damages available, any failure to comply with any partnership or legal obligation.

Section C: Additional Terms and conditions for specific product types

16 Obligations to third parties, including bank guarantees and performance guarantees

16.1 Does this clause 16 apply?

This clause 16 applies if we have offered you any of the following facilities in the Facility Details:

- bank guarantee/performance guarantee, or
- any other financial obligation we assume to a third party at your express or implied request,

(each an “**Obligation to a Third Party**”).

Prior to entering each facility under this clause 16 with us, you must provide to us a fully completed and executed application for the facility in a form determined by us.

16.2 Payment

You irrevocably and unconditionally authorise us to pay on demand or maturity, as applicable, and accept or otherwise deal with, all requests for payment in relation to an Obligation to a Third Party.

We may do this:

- without asking or notifying you, and
- even if there is a dispute or claim relating to the Obligation to a Third Party.

You acknowledge that we may rely upon this authorisation in making a payment or incurring a liability under an Obligation to a Third Party and that all payments we make and liabilities we incur are for your benefit.

You must immediately pay us enough money to meet all payments we make in connection with an Obligation to a Third Party.

16.3 There must be sufficient funds available

You must ensure that there are sufficient clear funds available to us to cover when due any payments we have to make in relation to an Obligation to a Third Party.

16.4 Interest

If we make a payment in relation to an Obligation to a Third Party and there are insufficient funds in your account from which we require payment by you, interest will accrue at the relevant Default Rate on the amount of that payment from the date we made the payment until the date we are reimbursed.

16.5 Reducing liability if the Facility Limit is exceeded

If the sum of outstanding Advances and the aggregate of our liabilities (including contingent liabilities) under our Obligations to Third Parties exceeds your Facility Limit, there is no implied increase in that Facility Limit and you must:

- without demand, immediately pay the excess to us, or
- lodge with us cash or security acceptable to us as we may require. If cash is required it cannot be withdrawn, transferred or dealt with until all our liabilities (including contingent liabilities) to third parties and your liabilities related to them have been satisfied in full.

This clause applies until all our liabilities (including any contingent liabilities) have been extinguished even though the Facility may have been terminated.

Without affecting any of our other rights, if we demand, you must give us an amount in cash equal to any outstanding Obligation to a Third Party. We will repay any excess amounts only when we are satisfied that there are and will be no amounts outstanding in relation to any of those third parties.

16.6 Fees

For so long as we have any liability under Obligations to a Third Party, you must pay fees to us as specified in the Facility Details even though the Facility may have been terminated.

16.7 Additional terms and conditions for bank guarantees

Without prejudice to any of our other rights, if a Default Event occurs, you must on our demand provide us with sufficient cash to cover our contingent liability under all bank guarantees or performance guarantees. We will apply any cash cover paid to us against the Outstanding Money and once we are satisfied that there are no outstanding bank guarantees or performance guarantees we will repay to you any amounts which have not been required by us to apply against the Outstanding Money.

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You irrevocably and unconditionally authorise us to pay on demand all requests for payment purporting to be made under a bank guarantee or a performance bond:

- without reference to you, and
- irrespective of any dispute between the beneficiary of the bank guarantee or performance bond and you, any claim by you against that beneficiary or any claim by you or any other person that the bank guarantee or performance bond is void, unenforceable or that payment under it is not due.

You acknowledge that we will rely upon this authorisation in making any payment to any person or incurring any liability under any bank guarantee or performance bond and that all such payments made and liabilities incurred are for your account.

You must immediately upon being requested by us to do so, pay to us sufficient funds to meet all payments made by us, our correspondents or agents and all charges, commissions and interest incurred in connection with any bank guarantee or performance bond.

We may retain, and, without prior notice to you, exercise a right to make any voluntary payment necessary to end our liability under a bank guarantee or performance bond.

You irrevocably and unconditionally:

- waive any claim, action or demand against us in relation to your refusal in good faith to pay any amount claimed from you under a bank guarantee or performance bond where there are discrepancies in the relevant documents or procedures, and
- indemnify us on demand against all claims, actions, demands, losses, damages, liabilities, costs, charges or expenses of any nature suffered or incurred at any time actually or contingently by us arising directly or indirectly:
 - from your refusal in good faith to pay any amount claimed from you under a bank guarantee or performance bond,
 - from your transfer of the whole or part of the credit under a bank guarantee or performance bond,
 - in connection with any goods in relation to which any bank guarantee or performance bond is issued including in connection with our rights in respect of those goods, or
 - because we meet any demand under or make any payment pursuant to a bank guarantee or performance bond with or without your notice
 - if there are discrepancies in the relevant documents or procedures and we refuse in good faith to make a payment to a third party.

If we are not immediately reimbursed for, or provided with sufficient funds to meet a payment required to be made by us under a bank guarantee or performance bond, interest will accrue at the rate stated in the Facility Details on the amount of that payment from the date that payment was made by us up until the date we are reimbursed in full.

If the aggregate of our liabilities (including contingent liabilities) under bank guarantees or performance guarantees exceeds the Facility Limit, there is no implied increase in that Facility Limit and you must:

- without demand, immediately pay the excess to us, or
- lodge with us such cash cover or security acceptable to us as we may require.

This clause applies until the contingent liability has been extinguished notwithstanding the Facility may have been terminated.

Section D: Dictionary

17 Dictionary

17.1 Definitions

The following terms have the following special meanings.

Advance means an advance of money (including a redraw, if relevant) or other financial accommodation we make to you at your request in respect of a Facility (or if the context requires, the outstanding balance of that advance).

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

Associated Entity has the same meaning as in the Corporations Act. *The test for whether an entity is an Associated Entity includes control of an entity and investments in an entity.

ASX means ASX Limited (ABN 98 008 624 691) or the securities market operated by it, as the context requires.

Authorised Officer means:

- for you, a person whom you nominate as your authorised officer by notice to us and in addition, if you are a body corporate, any director or secretary. The notice must include a certified copy of the signatures of your authorised officers. In addition, we may rely on any of the statutory assumptions set out in *Part 2B.2 of the Corporations Act (*Note: Part 2B.2 of the Corporations Act describes a series of assumptions people dealing with companies are entitled to make).
- for us, any of our employees whose title includes the word "Manager", "Head" "Executive" and any solicitor acting for us in relation to a Transaction Document.

A\$ means the lawful currency of Australia.

Banking Code Contract means the Facility Agreement if:

- at the time the Facility Agreement is entered into, you are a 'small business' (as that term is defined in the Banking Code of Practice); or
- the Facility Details state that the Facility Agreement is a 'Banking Code Contract'.

Banking Code of Practice means the Banking Code of Practice published by the Australian Banking Association, from time to time.

Base Rate means, on an Interest Rate Calculation Date:

- a) the sum of:
 - (i) the bid rate for the Australian Bank Bill Swap Reference Rate (Floating Rates 30 – 180 days BBSW) administered by ASX Benchmark Pty Limited (or any entity which takes over the administration of that rate) for a relevant period, as displayed on the BBSW page of the Refinitiv information system (or any replacement page which displays that rate) for that date, as of 10:30am Victorian time. If such page or service ceases to be available, we may specify another page or service displaying the relevant rate; or
 - if and as applicable in the context, the wholesale swap rate for 1 to 10 year Fixed Rates as displayed in the "Australia, Financial Markets, Overview" page of the Refinitiv information system (or any replacement page which displays that rate for that date, as determined by the Bank at its discretion), at 10:30am Victorian time; plus
 - (ii) an additional component determined by us to reflect both market risk and where our cost of funds exceeds the relevant BBSW; or,
- b) if neither of the rates described in sub-paragraph (a)(i) above are available, the sum of:
 - (i) the average mid rate for the Australian Bank Bill Swap Reference Rate (BBSW) administered by ASX Benchmark Pty Limited (or any other entity which takes over administration of this rate) for a relevant period, as displayed on the BBSW page of the Refinitiv information system (or any replacement page which displays that rate) for that date as of 10:30am Victorian time. If such page or service ceases to be available, we may specify another page or service displaying the relevant rate;
 - (ii) 0.05% per annum; and
 - (iii) an additional component determined by us to reflect both market risk and where our cost of funds exceeds the relevant BBSW; or
- c) if neither of the rates described in sub-paragraphs (a)(i) and (b)(i) above are available, or if they are displayed but there is an obvious error in those rates, then the Base Rate will be the rate determined by us in good faith on that date, having regard, to the extent possible, to the rates which have a term of one month; and
- Despite the preceding sub-paragraphs, if the rate determined in accordance with sub-paragraphs (a), (b) or (c) above is less than zero, the Base Rate shall be deemed to be zero.

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- Rates will be expressed as a yield percent per annum to maturity, and if necessary will be rounded up to the nearest fourth decimal place.

Borrower means the person or persons described as the Borrower in the Facility Details.

Break Cost Administration Fee has the meaning given to it in clause 5.3 (Break Costs payable by you) and is set out in the Business Fees and Charges.

Break Costs has the meaning given to it in clause 5.3 (Break Costs payable by you).

Break Date has the meaning given to it in clause 5.3 (Break Costs payable by you).

Break Date Wholesale Swap Rate means the Wholesale Swap Rate at the time at which Break Costs are calculated on to the date of the Break Event for a period equal to remaining duration of the Fixed Rate Period.

Break Event has the meaning given to it in clause 5.3 (Break Costs payable by you).

Business Day means each day which is not a Saturday, Sunday or public or bank holiday in Victoria, Australia.

Business Fees and Charges means the fees and charges listed in the Letter of Offer.

Business Standard Terms means this document.

Cash Advance means credit provided in the form of cash, either directly from us or from another financial institution, and credit provided through any of the following services that we offer:

- a Delphi Bank Online Banking Transaction to access and transact on your Card Account using a computer and accessing our website at www.delphibank.com.au, and
- a cheque withdrawal.

Circumstances Beyond our Control includes any circumstance beyond our control, including a change of law which adversely affects:

- our risk assessment of continuing to finance the Facility or own the Secured Property,
- the cost to us in providing the Facility (including the costs associated with regulatory change), or
- the transactions contemplated by the Transaction Documents and any other relevant documents.

Claim means any claim, cost, damages, debt, expense, Tax, liability, loss, allegation, suit, action, demand, cause of action or proceeding of any kind, whether actual or contingent and no matter how or when it arises.

Commercial Overdraft Rate means the rate we use at the relevant time as the base rate for our formal overdraft facilities (and to which a relevant customer margin may be added for customers in respect of their commercial overdraft facilities).

Construction Loan means a facility to be used for the construction of a building (whether or not for also for other purpose specified in the Facility Details).

Control has the meaning set out in the Corporations Act.

Controller has the meaning given in the Corporations Act and, in the case of a corporation or an individual, includes any person appointed as a receiver, or receiver and manager, under a Transaction Document.

Corporations Act means the Corporations Act 2001 (Cth).

Customer Margin (where relevant) has the meaning set out in the Facility Details.

Debt means any debt or other monetary obligation of a person, whether actual or contingent, under any arrangement for financial accommodation, including:

- moneys borrowed or raised,
- under a Guarantee,
- under any debenture, bond, note, share, stock or similar instrument or bill of exchange, negotiable or other financial instrument,
- the par value, premium and accrued dividend of a redeemable preference share issued by that person,
- under any letter of credit, acceptance, endorsement or bill discounting or note purchase facility,
- under a lease, licence or hire arrangement if, under the Australian Accounting Standards Board's accounting standards, that lease, licence or hire arrangement should be capitalised on the balance sheet of that person (in which case the amount of the debt is the amount that does or should appear on that balance sheet for the lease, licence or hire arrangement),
- under any hire purchase arrangement or the deferred purchase price of any asset or service, except trade debts which arise in the ordinary course of business and which are payable within 90 days,
- under any put option, buy-back or discounting arrangement,

- under a derivatives transaction (in which case the amount of the debt is the amount reasonably determined by us as the liquidation or termination value of the relevant derivatives transaction based on market practices then prevalent), or
- any other transaction having the commercial effect of borrowing.

Default Event means any event or circumstance referred to in clause 10.1 (Default Event) and any other event of default however described or defined under any Transaction Document.

Default Rate means interest calculated under clause 4.2 (Default Rate and late payment fees) or otherwise as described in the Facility Details in relation to each Facility.

Delphi Bank Online Banking means the service we offer from time to time by which you can access and transact on a nominated account by using a computer and accessing our website at: www.delphibank.com.au

Delphi Bank Savings & Investment Accounts Terms & Conditions Part A: General Information booklet means the document titled "Delphi Bank Savings and Investment Accounts Terms & Conditions Part A – General Information", as amended from time to time.

Delphi Bank Savings & Investment Accounts Terms & Conditions Part B: Account and Service Charges booklet means the document titled "Delphi Bank Savings and Investment Accounts Terms & Conditions Part A – Account and Service Charges", as amended from time to time.

Drawdown Date means the Business Day on which any financial accommodation is made available under a Facility.

Drawdown Notice means a drawdown notice in written form as we require from time to time.

Encumbrance means a Security Interest or other impediment to or restriction on clear and full beneficial title to an asset.

Facility means any one or more of the Facilities or any other financial accommodation, listed in the Facility Details.

Facility Account means an account relating to a Facility, to record transactions on that Facility.

Facility Agreement means any Letter of Offer, the Facility Details, these Business Standard Terms and the documents outlined in clause 1.3 (Other documents that form part of the Facility Agreement) or are otherwise incorporated by reference in relation to a Facility.

Facility Details means the section of a Letter of Offer titled "Facility Details", including relevant 'Key Features' of a Facility and any other relevant part of a Letter of Offer to which these Business Standard Terms relate, in respect of a Facility.

Facility Limit means the amount specified in the Facility Details as the Facility Limit for a relevant Facility.

Facility Term means the term of a relevant Facility as specified in the Facility Details.

Farmer means a 'farmer' as defined in section 4 of the Farm Debt Mediation Act 1994 (NSW) (meaning a person (whether an individual person or a corporation) who is solely or principally engaged in a Farming Operation and includes a person who owns land cultivated under a sharefarming agreement and the personal representatives of a deceased farmer).

Farming Operation means a 'farming operation' as defined in section 4AB of the Farm Debt Mediation Act 1994 (NSW) as meaning a business undertaking that primarily involves one or more of the following activities:

- agriculture (for example, crop growing and livestock or grain farming);
- aquaculture;
- the cultivation or harvesting of timber or native vegetation; or
- any activity involving primary production carried out in connection with an activity referred to in the above bullet points.

Fixed Annual Percentage Rate means any fixed rate so described in the Facility Details under "Interest Rate", and any subsequent fixed rate of interest on the Outstanding Money for a period of time.

Fixed Rate Commencement Date means the date on which your Fixed Rate Period commences.

Fixed Rate Commencement Date Wholesale Swap Rate means the Wholesale Swap Rate at the Fixed Rate Commencement Date (as updated on that date) for a period equal to the duration of the Fixed Rate Period.

Fixed Rate Period means an Interest Period during which the Fixed Annual Percentage Rate for a Facility is fixed.

Floating Rate Period means an Interest Period during which the interest rate for a Facility is floating and calculated by reference to the Base Rate or a Reference Rate.

Government Agency means:

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- a government, whether foreign, federal, state, territorial or local,
- a department, office or minister of a government acting in that capacity, or
- a commission, delegate, instrumentality, agency, board, or other government, semi- government, judicial, administrative, monetary or fiscal authority, whether statutory or not.

GST has the same meaning as in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Guarantee means a guarantee, indemnity, letter of credit, performance bond, letter of comfort or other assurance or any other obligation or irrevocable offer (however it is described) given by any person that incurs a liability in respect of another person.

Guarantor means any person who has granted a Guarantee in our favour in respect of the liabilities and obligations of the Borrower.

Independent Expert means an independent expert (including a valuer, accountant, lawyer, quantity surveyor or planner) selected and engaged by us.

Insolvency Event means any of the events described in clause 10.2 (Insolvency Event).

Interest Period means the period of time nominated as such in the Facility Details, or a period of time that we agree with you, or the period of time we set in relation to the determination of interest rates from time to time if no period of time is stated in the Facility Details or agreed with you.

Interest Rate has a separate meaning given in the Facility Details relating to each Facility.

Interest Debit Date means the date on which interest is debited to your account for a Facility, as specified in the Facility Details.

Interest Rate Calculation Date has the meaning given to it in the Facility Details.

Inventory has the same meaning as in the PPSA.

Letter of Offer means a letter of offer or any other document, agreement or arrangement relating to the provision by us of financial accommodation under which we have offered you one or more Facilities, and which incorporates these Business Standard Terms.

Material Adverse Effect means in our opinion a material and adverse change in the:

- financial position of a Transaction Party, or
- value of any Security or the ability to sell any Secured Property, or
- priority, validity or enforceability of any Transaction Document or the ability of any Transaction Party to perform any of its obligations under the Transaction Documents.

Maximum Permissible Outstanding Principal means, on any day, the principal amount of a Facility that would be outstanding if you had made every Required Payment and payment to us on the due date and no other amounts had been received or applied to reduce your Outstanding Money in respect of that Facility.

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

Outstanding Money at any time in respect of a Facility, means all amounts debited to that Facility Account up to that time (including Advances, interest and fees and charges) less all amounts received in clear (or subsequently cleared) funds and applied in reduction of the Facility Account up to that time (excluding any amount that we may have received but subsequently repaid).

In the context of the amount payable by you on (and after) the Termination Date of a Facility, or on (and after) acceleration of your obligation to repay a Facility (for example after a Default Event occurs or the cancellation of a Facility for any other reason), or if you elect to terminate or otherwise pay out a Facility, "Outstanding Money" also includes, in respect of that Facility:

- interest, fees, costs, expenses, liabilities and other amounts accrued but not yet debited to the Facility Account; and
- all contingent and prospective liabilities of yours relating to the Facility (for example, in relation to any bank guarantee, letter of credit or other liability we have incurred or may incur at your request, and in respect of which you indemnify or may have to indemnify us),

although, for clarification, no provision of the Facility Agreement will be interpreted as charging interest on an amount that only remains contingently or prospectively owing by you or on any accrued interest, fees, costs or liabilities which have not yet been debited to a Facility Account.

An amount is part of the Outstanding Money regardless of:

- the capacity in which it is owed by you or to us (whether as principal, agent, trustee, beneficiary, partner or otherwise),
- whether as principal debtor or as surety,
- whether you or a Security Provider is liable alone or with others,
- whether it is owed to us following any form of transfer with or without the Transaction Party's consent, or
- whether the money, obligation or liability is owed or secured before or after the date of this Facility Agreement or any assignment of the Facility Agreement or any other Transaction Document.

Password means the word or numbers and/or letters nominated by you that may be required for identification purposes in order to access your account.

Payment Due Date has a separate meaning given in the Facility Details in relation to each Facility.

Permitted Debt means any debt:

- incurred under any Transaction Document, or
- due to a Related Body Corporate, or
- to which we have consented.

Permitted Guarantee means a Guarantee either arising under a Transaction Document or otherwise in our favour, or a Guarantee in favour of any other person to which we have consented.

Permitted Security Interest means:

- a Security Interest either arising under a Transaction Document or otherwise in our favour, or a Security Interest in favour of any other person to which we have consented,
- a lien or charge arising by operation of law in the ordinary course of business, other than one securing an obligation not discharged when due, or
- a Purchase Money Security Interest arising in connection with an acquisition of Inventory in the ordinary course of business so long as the obligations secured by that Purchase Money Security Interest are satisfied as and when they are due.

PIN means any Personal Identification Number used in relation to operation of a Facility.

Potential Default Event means an event likely to become a Default Event with the giving of notice, the passage of time or the fulfilment of any other condition.

PPSA means the Personal Property Securities Act 2009 (Cth) and any regulations made in relation to it.

PPSR means the register established under the PPSA.

Proscribed Person means any person or entity:

- that has been listed under the Charter of the United Nations Act 1945 (Commonwealth),
- who is in breach of the laws of any jurisdiction relating to money laundering or counter- terrorism,
- who appears in a list of persons with whom dealings are proscribed by the government or a regulatory authority of any jurisdiction, or
- who acts on behalf of, or for the benefit of, a person or entity listed above.

Purchase Money Security Interest has the same meaning as in the PPSA.

Reference Rate means the rate for a relevant Facility that we publish monthly in a national newspaper.

Related Body Corporate or Related Bodies Corporate has the same meaning as in the Corporations Act.

Reporting Period means the annual period over which you report to the Australian Taxation Office for taxation purposes in Australia.

Required Payment means a payment or repayment nominated, or the calculation of which is described, in the Facility Details, and required to be paid under the Facility Agreement.

Secured Property means any property which is the subject of a Security granted to us.

Security means any Guarantee, Security Interest or other document entered into by any person to support or secure any of your obligations or liabilities under a Transaction Document, or otherwise securing an obligation or liability under the Facility Agreement (with or without other amounts) including any described in the Facility Details.

Security Documents means the documents listed under the heading 'Security and Guarantors' in the Facility Details

Security Interest means a right, interest, power or arrangement in relation to an asset which provides security for, or protects against default by a person for, the payment or satisfaction of a debt, obligation or liability, and includes a mortgage, charge, bill of sale, pledge, deposit, lien, encumbrance, hypothecation, any arrangement for the

retention of title, any arrangement under which money or claims to, or the benefit of, a bank or other account may be applied, set-off or made subject to a combination of accounts. It also includes any security interest as defined in and to which the PPSA applies.

Security Provider means any Transaction Party who grants or is required to grant a Security to us.

Small Business Contract means the Facility Agreement if:

- the Facility Agreement is a 'small business contract' (as defined in section 12BF(4) of the ASIC Act) to which Subdivision BA, Division 2 of Part 2 of the ASIC Act applies; or
- the Facility Details describe the Facility Agreement as a 'small business contract'.

Tax means a tax, levy, charge, impost, deduction, withholding or duty of any nature (including without limitation stamp duty, transaction duty and GST) at any time:

- imposed or levied by any Government Agency, or
- required to be remitted to, or collected, withheld or assessed by, any Government Agency,

and any related interest, expense, fine, penalty or other charge but does not include a tax imposed on our overall net income.

Term Loan Facility means a term loan facility, including a Delphi Bank Term Loan Facility and Bendigo Business Solutions Term Loan.

Termination Date for a Facility means the termination date specified in the Facility Details for that Facility, or if no termination date is specified, the last day of the Facility Term for that Facility. If not such date is specified, it means a date determined by us.

Trading Day means a trading day within the meaning of the ASX Listing Rules as amended from time to time.

Transaction Document means each of the following and any documents amending or novating them:

- the Facility Agreement,
- each Security granted to us,
- each document which you are required to provide to us or arrange for another person to provide to us under the Facility Details, and
- each document which we agree in writing is a Transaction Document for the purposes of the Facility Agreement,

and when used in relation to you, means any of those documents to which you are a party.

Transaction Party means any Borrower, Guarantor or Security Provider.

Undrawn Amount means any amount of a Facility Limit which is available for you to utilise.

Valuation means a written valuation from a registered Independent Expert approved by us.

we/us/our means Bendigo and Adelaide Bank Limited ABN 11 068 049 178.

Wholesale Swap Rate means the applicable wholesale swap rate utilised by us by us at the relevant time, being a rate which is updated by us at least once on each ASX Trading Day, to reflect the wholesale market swap rate available to us.

you/your means the person to whom the Letter of Offer is addressed, as a borrower (and has an extended meaning in some clauses of these Business Standard Terms). If there is more than one person comprised in such a party, *you/your* means each of them together and separately.

17.2 Interpretation

In the Facility Agreement, unless the context otherwise requires:

- a reference to the Facility Agreement, this document, this agreement or any similar expression is a reference to either the agreement set out in the documents forming the Facility Agreement or the documents themselves, as the context requires,
- a reference to this document or any other document is a reference to this document or that other document as varied, novated or replaced in any way,
- headings do not affect interpretation,
- a reference to a clause is a reference to a clause in this document,
- the word "including" or "includes" means "including but not limited to" or "includes without limitation",
- the singular includes the plural and vice versa,
- where a word or expression is defined, their other grammatical forms take the same defined meaning,
- a reference to doing something includes an omission, statement or undertaking to do something,

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- a reference to a gender includes a reference to each gender,
- a person includes an individual, a firm, a partnership, a body corporate, an unincorporated association, joint venture or an authority,
- a person includes that person's executors, administrators, successors and permitted assigns,
- references to two or more persons as a party means any two or more of those persons jointly and each of them severally,
- a group of persons includes any one or more of them,
- any instrument includes a reference to that instrument as varied from time to time,
- any legislation includes all amendments to it and any legislation enacted in substitution for it and all statutory instruments issued under it and in force,
- law means common law, principles of equity, and laws made by parliament (and laws made by parliament include regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of them),
- where a period of time is specified and dates from a given day or the day of an act or event, that period must be calculated with that day excluded from the calculation. (For example the day seven days after a Monday is the following Monday),
- a reference to time is to the time in the place where a thing is to be done, unless specified otherwise,
- unless a clause in the Facility Agreement specifies otherwise, where something is done or received after 4pm (Victorian time) on any day it is taken to have been done on the following Business Day, and
- a Transaction Document may not be interpreted adversely to us because of the fact that we were responsible for preparing it.