



Real Property Mortgage General Conditions

FEBRUARY 2017

VMA008 02/17





Important Information: Bank of Queensland Limited ABN 32 009 656 740, AFSL and Australian Credit Licence No. 244 616 ("BOQ/the Mortgagee") is the issuer of home loans and the mortgagee under this mortgage. Virgin Money (Australia) Pty Limited ABN 75 103 478 897 ("Virgin Money Australia") promotes and distributes the home loans as an authorised credit representative of BOQ. Virgin Money Australia is a wholly-owned but non-guaranteed subsidiary of BOQ.

About this *mortgage*

This *mortgage* is between you and Bank of Queensland Limited ABN 32 009 656 740, Australian Credit Licence No. 244616 and its successors and assigns. “We”, “us and “our” in this *mortgage* means Bank of Queensland Limited and its successors and assigns.

This *mortgage* is made up of two documents: These General Conditions and the form to which these General Conditions are attached.

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

The relevant provisions of the Code of Banking Practice will apply to your *mortgage*.

Registered Number 717628069 in Queensland

Registered Number AK897082 in New South Wales

Registered Number 2061864 in the Australian Capital Territory

Registered Number AA3145 in Victoria

Registered Number M549 in Tasmania

Registered Number 12628867 in South Australia

Registered Number N474234 in Western Australia

Registered Number 372219 in the Northern Territory

Contents

HOW TO INTERPRET THIS <i>MORTGAGE</i>	7
1 Meaning of words	7
2 Interpretation	9
NATURE OF THIS <i>MORTGAGE</i>	10
3 What you undertake in this <i>mortgage</i>	10
4 <i>Mortgage</i>	10
HOW THIS <i>MORTGAGE</i> AFFECTS YOU AND THE <i>PROPERTY</i> - GENERAL	10
5 Looking after the <i>property</i>	10
6 The <i>property</i> and adjoining land	11
7 Caveats, notifications or dealings	11
8 Insurance	11
9 Insurance claims and compensation claims	11
10 Dealing with the <i>property</i>	12
11 Other <i>securities</i>	12
12 Security over related property	12
13 <i>Licences</i>	12
14 Building and other work	13
HOW THIS <i>MORTGAGE</i> AFFECTS YOU AND THE <i>PROPERTY</i> - SPECIFIC TYPES OF <i>PROPERTY</i>	13
15 <i>Shared schemes</i>	13
16 Crown land	13
17 Rural land	14
18 Mining	14
ADDITIONAL AMOUNTS YOU MUST PAY	14
19 Cost	14
20 GST	15
21 Interest	15
DEFAULT	15
22 When are you in default?	15
23 What can happen when you are in default?	16
24 Disposal of <i>property</i> is final	17

GENERAL	17
25 Dealing with rights under this <i>mortgage</i>	17
26 Disclosure of information	17
27 Things we may do at any time	17
28 Consents	18
29 Manager	18
30 Currency conversions	18
31 Setting off money	18
32 What happens to money we receive?	18
33 Multiple accounts	18
34 Our certificates	18
35 Prompt performance	19
36 How we may exercise our rights	19
37 Administrative matters	19
38 Changes	20
39 If any part of the <i>mortgage</i> is unenforceable	20
40 Your obligations and our rights are unaffected	20
41 Reinstatement of rights	20
42 Indemnities	20
43 Power of attorney	20
44 Partnership	21
45 Additional obligation if you are a company	21
46 Trustee provisions	21
47 Notices, other communications and service of documents	21
48 National credit and other legislation	22
49 PPSA	22
50 Inconsistent law	23
51 Governing law and serving documents	23
52 Deed	23
53 Notice of subsequent <i>security</i>	23

Real Property Mortgage General Conditions

HOW TO INTERPRET THIS MORTGAGE

1. MEANING OF WORDS

agreement covered by this mortgage means an agreement or other arrangement (including a deed) under which one or more of you incurs or owes obligations to us or under which we have rights against you, including any such agreement or arrangement which all of you acknowledge in writing to be an "agreement covered by this mortgage". It includes any agreement or security assigned to us.

attorney means each attorney appointed by you under clause 43.

business day means any day on which trading banks are open for business in Brisbane

contaminant means anything (including a liquid, solid, gas, odour, temperature, sound, vibration or radiation) that presents or could present a risk of harm to human health or the environment.

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

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

crown lease means the crown lease for the property (of if the property is a unit in a unit plan, the unit plan relating to the property).

debtor/guarantor means:

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

encumbrance means any:

- (a) security;
- (b) right of set-off, assignment of income, garnishee order or monetary claim;

(c) notice under section 255 of the Income Tax Assessment Act 1936 (Cth) or under section 260-5 of the Taxation Administration Act 1953 (Cth) or under any similar provision of any law;

(d) right that a person (other than the registered proprietor) has to remove something from land (known as a profit à prendre), easement, public right of way or restrictive or positive covenant or lease, licence to use or occupy; or

(e) equity, interest or writ of execution,

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

environment means components of the earth, including:

(a) land, air and water;

(b) any layer of the atmosphere;

(c) any organic or inorganic matter and any living organism; and

(d) human-made or modified structures and areas,

and includes interacting natural ecosystems that include components referred to in (a), (b) and (c) above.

for example see including.

governing body means each entity which manages or administers any shared scheme of which the property is part.

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

guarantee includes an indemnity.

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

insolvent means a person who:

(a) is (or state that they are) an insolvent under administration or insolvent (each as defined in the Corporations Act);

(b) has a controller appointed, is in liquidation, in provisional liquidation, under administration or wound up or has had a receiver appointed to any part of their property;

(c) is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute, or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by us);

- (d) is no longer in control of their affairs;
- (e) has an application or order made (and in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with them, which is preparatory to or could result in any of the things referred to above;
- (f) is taken (under section 459F of the Corporations Act) to have failed to comply with a statutory demand;
- (g) is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or they make a statement from which we reasonably deduce they are so subject);
- (h) is otherwise unable to pay their debts when they fall due; or
- (i) has something substantially similar to any of the things referred to above happen to them under the law of any jurisdiction.

licence means any licence, permit, allocation, quota or authorisation (including to sell liquor, to discharge hazardous waste, to draw water or to develop and use the *property*) which allows activity to be carried out on or in connection with the *property*. It also includes a lease or any other allocation or right and any interest in a company trust, joint venture, co-operative or irrigation scheme you use or hold in connection with the use or supply of water on or to the *property*.

mortgage means these General Conditions and the form to which incorporates these General Conditions by reference or to which these General Conditions are attached or annexed.

National Credit Code means the National Credit Code as set out in Schedule 1 of the *National Consumer Credit Protection Act 2009* (Cth) including any instruments made under that Schedule and Regulations made under that Act for the purposes of that Schedule (all as amended from time to time).

own when used in relation to land, means being the registered proprietor, the registered holder, the registered Crown lessee or the holder of an estate in fee simple.

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

person includes an individual, a firm, a body corporate, an unincorporated association or an authority.

property means all of your rights, property and undertaking in each one or more of the following:

- (a) the land described in this *mortgage*;
- (b) each fixture, fitting, structure or improvement on the land or fixed to it;

(c) any licence or entitlement in connection with the land; and

(d) your estate and interest in the land.

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

receiver includes receiver, or receiver and manager.

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

security means any security for the payment of money or performance of obligations including a mortgage, charge, lien, pledge, trust or power or title retention arrangement and a security interest as defined in sections 12(1) or 12 (2) of the *PPSA*. *Security* also includes a *guarantee*.

shared scheme means each scheme or plan regulated by a *shared scheme law* that affects the *property*. Examples of properties which are often part of a shared scheme are strata or stratum title home units and town houses and properties in integrated developments.

shared scheme law means any legislation that provides for the:

- (a) subdivision and development of land with shared property;
- (b) subdivision of buildings;
- (c) management of land which is subdivided and has shared property; or
- (d) management of subdivided buildings.

such as see including.

taxes means taxes, levies, imposts, charges and duties (including stamp and transaction duties) imposed by any authority together with any related interest, penalties, fines and expenses in connection with them, except if imposed on our overall net income.

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

This definition applies:

- (a) irrespective of the capacity in which you or we became entitled to the amount concerned;
- (b) irrespective of the capacity in which you or we became liable in respect of the amount concerned;
- (c) whether you or we are liable as principal debtor, as surety, or otherwise;
- (d) whether you are liable alone, or together with another *person*;
- (e) even if you owe an amount or obligation to us because it was assigned to us, whether or not:
 - (i) the assignment was before, at the same time as, or after this *mortgage* is executed;

- (ii) you consented to or were aware of the assignment; or
 - (iii) the assigned obligation was secured;
- (f) even if this *mortgage* was assigned to us, whether or not:
- (i) you consented to or were aware of the assignment; or
 - (ii) any of the *total amount owing* was previously unsecured; and
- (g) if you are a trustee, whether or not you have a right of indemnity from the trust fund.

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

Virgin Money® is a trademark of Virgin Enterprises Limited, a company registered in England, having registration number 01073929 and used by Bank of Queensland Limited under licence.

Virgin Money's Real Property Mortgage General Conditions means these general conditions that form part of the *mortgage*.

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

works means building work, excavation or earthworks on the *property*, work demolishing, removing or altering any part of the *property*, or any building or development work required by an authority in connection with the *property*.

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

2. INTERPRETATION

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

Reference to:

- (a) a *person* includes the *person's* successors and assigns;
- (b) a thing *includes* all or part of that thing;
- (c) a document *includes* that document as changed or replaced from time to time;
- (d) a statute *includes* a statute as amended, repealed or replaced from time to time;
- (e) individuals *includes* corporations and the other way around;
- (f) a gender *includes* all other genders;

- (g) currency is to Australian dollars;
- (h) the *mortgage* is a reference to this *mortgage* (as varied from time to time) between you and us;
- (i) clauses are references to clauses in this *mortgage*;
- (j) the singular *includes* the plural and the other way around;
- (k) the Corporations Act means the Corporations Act 2001 (Cth); and
- (l) the National Credit Code is a reference to the code which appears in Schedule 1 to the *National Consumer Credit Protection Act 2009* (Cth) including any regulations under that act relating to that code.

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

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

The use of the word "may" about any right or power we have under this *mortgage* indicates that the right or power may be exercised or not exercised, at our discretion.

Words or phrases which are derived from words or phrases which are defined have a similar meaning to the defined term.

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

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

It is the parties' intention that, in the interpretation of this *mortgage*:

- (a) if possible, words which have an ordinary meaning are given that meaning;
- (b) this *mortgage* is to be interpreted broadly;
- (c) if a general term is used it must be given a broad meaning; and
- (d) general terms must not be limited because of any legal rules of interpretation.

NATURE OF THIS MORTGAGE

3. WHAT YOU UNDERTAKE IN THIS MORTGAGE

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

- 3.2 You are liable for all the obligations under this *mortgage* both separately on your own and jointly with any one or more other *persons* named in this *mortgage* as mortgagor.
- 3.3 You must ensure that you are not in default under this *mortgage*. You must also carry out on time all your obligations to us under every *agreement covered by this mortgage including* the obligation to pay any of the *total amount owing*.

These obligations and your other obligations under this mortgage (such as under clause 19) continue even if we release the *property* from this *mortgage*.

- 3.4 You declare that:
- (a) you *own* the *property* or will acquire title to it using financial accommodation which will form part of the *total amount owing*;
 - (b) you have told us about all rights that affect, or are proposed or likely to affect, the *property* (*such as* easements, leases, *securities*, the rights of a beneficiary under a trust or proposals to compulsorily acquire the *property*) and any claim under any law relating to native title;
 - (c) you do not breach any law or any obligation (*including* if you are a corporation, under your constitution) to any other *person* by signing this *mortgage*;
 - (d) your obligations under this *mortgage* are valid and binding and enforceable in accordance with its terms;
 - (e) all the information you have given us is correct and not misleading;
 - (f) you have not withheld any information that might have caused us not to enter into this *mortgage* or any *agreement covered by this mortgage*;
 - (g) no consents are required to allow you to *own* or continue to *own* the *property* or to enter into this *mortgage*;
 - (h) you have told us about any structure on adjoining land that encroaches on the *property* and any structure on the *property* that encroaches on adjoining land;
 - (i) you have told us about any *contaminant* on, in, under or migrating to or from the *property*; and
 - (j) you are not in default (see clause 22).
- 3.5 You must tell us if anything has happened which prevents you from repeating any one or more of the declarations in clause 3.4.

4. MORTGAGE

- 4.1 For the purpose of securing to us payment of the *total amount owing*, you mortgage the *property* to us. You do this as beneficial *owner* unless you enter this *mortgage* as trustee of a trust. In that case, you mortgage:

- (a) the *property* comprising the trust fund of the trust as sole trustee of the trust; and
- (b) the balance of the *property* as beneficial *owner*.

- 4.2 You acknowledge giving this *mortgage* and incurring obligations and giving rights under the *mortgage* for valuable consideration received from us (*including* financial accommodation agreed to be provided under any *agreement covered by this mortgage*).
- 4.3 You may require us to release the *property* from this *mortgage* when there is no *total amount owing*. However, even if the *total amount owing* is repaid, the *property* remains mortgaged to us until we actually release it from this *mortgage*.
- 4.4 You agree that the mortgage in clause 4.1 in respect of any *property* which you do not *own* at the date of this *mortgage* takes effect immediately as soon as you become the *owner* of that *property*.
- 4.5 If we provide you with a discharge in registrable form of all or any part of the *property* you *own*, the *property* the subject of the discharge is automatically released from this *mortgage*.

HOW THIS MORTGAGE AFFECTS YOU AND THE PROPERTY - GENERAL

5. LOOKING AFTER THE PROPERTY

- 5.1 You must:
- (a) keep the *property* in good condition and correct any defect;
 - (b) protect the *property* from damage;
 - (c) not do nor allow any *person* to do anything that might lower the value of the *property* or affect our rights as mortgagee;
 - (d) tell us if the *property* is defective or seriously damaged;
 - (e) give us a copy of any order or notice from any *person* about the *property* as soon as you become aware of it;
 - (f) comply with all laws and requirements of authorities and your other obligations in connection with the *property*;
 - (g) ensure that each *person* who uses or occupies the *property* complies with all laws and requirements of authorities in connection with the *property*;
 - (h) get our consent before you conduct major *works* relating to or on the *property* or enter into a contract to carry them out, in accordance with clause 14;
 - (i) give us details about all land and interests in land (*such as* leases) you acquire; and

- (j) pay on time all amounts for which you are liable as *owner* of the *property* (including rates, taxes, registration fees and licence fees).

5.2 You must:

- (a) tell us if there is a *contaminant* on, in, under or migrating to or from the *property*;
- (b) not have a *contaminant* on the *property* or release a *contaminant* from the *property* or allow a *contaminant* to escape or migrate to or from it;
- (c) immediately remove any *contaminant* from the *property* and make good any damage caused by the *contaminant* or its removal;
- (d) if a *contaminant* is released, escapes or migrates from the *property*, minimise its impact on the *environment* and make good any damage it causes; and
- (e) not deal with the *property* or any *contaminant* in such a way as to increase the risk of harm from any *contaminant*.

6. THE *PROPERTY* AND ADJOINING LAND

6.1 If any part of a structure on the *property* encroaches on adjoining land, then, if we ask, you must:

- (a) correct the encroachment;
- (b) obtain an easement or other permission acceptable to us to allow it to continue; or
- (c) become the *owner* of the encroached land.

6.2 If we ask, you must have any encroachment on the *property* from adjoining land removed.

7. CAVEATS, NOTIFICATIONS OR DEALINGS

You must do everything necessary to remove any caveat, notification or dealings placed on the title to the *property* without our consent.

8. INSURANCE

- 8.1 You must maintain insurance over the *property* against fire and other usual risks.
- 8.2 The insurance under clause 8.1 must be for the full insurable value of the *property* and any *works* on a replacement and reinstatement basis (if the *property* is capable of replacement or reinstatement), unless the *property* and the *works* are insured by a *governing body* as part of a *shared scheme*.
- 8.3 If the *property* and the *works* are insured by a *governing body* as part of a *shared scheme* anywhere other than Victoria, the insurance to be taken out by you under clause 8.1 must be for the total amount secured by all mortgages and charges over the *property*.

8.4 If the *property* is part of a *shared scheme* in Victoria, the insurance under clause 8.1 must be for the full insurable value of the *property* and any *works* on a replacement and reinstatement basis, unless the *governing body* has insured the *property* and the shared property. In that case, you need only take out insurance for any sum by which the *total amount owing* exceeds the amount of the *governing body* insurance attributable to the *property* and your share in the shared property.

8.5 You must maintain insurance over the *property* against risks usually insured against, including public liability risk, workers compensation, loss of rent and other income and against any other risks we may specify in any other *agreement covered by this mortgage* or document which relates to the payment of the *total amount owing*.

8.6 Each policy under clauses 8.1 and 8.5 must:

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

8.7 If the *property* is part of a *shared scheme*, you must also ensure that the *governing body* maintains whatever insurance it is required to by law.

8.8 You must produce evidence satisfactory to us of current insurance cover that complies with this clause 8 whenever we ask for it.

8.9 You must ensure that:

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

8.10 The obligations in clauses 8.8 and 8.9 apply to insurance taken out by either you or a *governing body*.

9. INSURANCE CLAIMS AND COMPENSATION CLAIMS

9.1 You must do your best to ensure that proceeds from an insurance claim or compensation claim (including a claim by a *governing body* if the *property* is part of a *shared scheme*) of more than \$5,000 are paid to us. (We must then use them as set out in clause 32). All other proceeds must be used to reinstate the property. However, if we direct you to use or hold any insurance proceeds in a particular way, you must use or hold them as we direct.

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

- 9.3 If we notify you, we may take over your rights to make, pursue or settle a claim. We may exercise those rights in any manner we choose.
- 9.4 You agree that you do not have any right to a claim against us in relation to any insurance or compensation claim, the manner in which we deal with a claim or in relation to insurance of the *property* generally.

10. DEALING WITH THE *PROPERTY*

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

- (a) create or allow to exist another *encumbrance* in connection with the *property*;
- (b) create any trust, power or lien in connection with the *property* or allow one to arise; or
- (c) deal in any way with this *mortgage* or allow any interest in it to arise or be varied.

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

- (a) sell, transfer or dispose of the *property*;
- (b) lease or license the *property*, or allow a surrender or variation of any lease or *licence*;
- (c) part with possession of the *property*;
- (d) subdivide or consolidate the *property*;
- (e) create, release or vary an easement, covenant or public right that relates to the *property*, or allow one to arise;
- (f) waive any of your rights or release any *person* from its obligations in connection with the *property*; or
- (g) deal in any other way with the *property* or any interest in it, or allow any interest in it to arise or be varied.

10.3 You must comply with all conditions in the *crown lease* and exercise any option or right to extend or renew the *crown lease*.

11. OTHER *SECURITIES*

11.1 If a law entitles you to create another *security* in connection with the *property* or any *property* referred to in clause 12 without our consent, clause 10 does not operate to require you to obtain our consent before creating that other *security*. However:

- (a) if you intend to create another *security*, you agree to notify us at least 7 days before you propose to do so; and
- (b) if we request an agreement under clause 11.2 and you have not complied with that request by the time the *security* is created:
 - (i) we need not make funds available under any *agreement covered by this mortgage*; and

- (ii) we may exercise any other rights which arise because you do not do so, *such as* the right to take possession of the *property* and sell it.

11.2 If we ask, you must get an agreement acceptable to us regulating the priority between this *mortgage* and any other *security* over or proposed to be created over the *property*.

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

11.4 You must comply on time with any obligation in connection with any other *security* over the *property*.

12. *SECURITY* OVER RELATED *PROPERTY*

12.1 If we ask, you must secure to us on terms we require as further *security* for the payment of the *total amount owing*:

- (a) your rights to insurance proceeds and insurance contracts over or in connection with the *property* and (if the *property* is part of a *shared scheme*) any shared property;
- (b) your rights under any contract to carry out *works* and under any warranty, *guarantee* or builders' insurance relating to the *property* or any *works* (whether carried out before or after this *mortgage* is signed);
- (c) any encroached land of which you become the *owner*;
- (d) any further estate or interest you acquire in the *property*;
- (e) any stock on the *property*, any right over water, *including licences* and entitlements, or clip or crop produced on the *property*; and
- (f) any compensation agreement in connection with mining on the *property* and any cash received in connection with a compensation agreement or mining on the *property*.

13. *LICENCES*

13.1 If a *licence* is required for any activity carried out on or in connection with the *property*, then you must:

- (a) when carrying out that activity, do so in a proper and orderly manner;
- (b) comply with all laws and requirements of authorities in connection with the *licence*;
- (c) obtain and renew on time the *licence* and each authorisation necessary to carry on the activity for which the *licence* is necessary and oppose any application to restrict or cancel the *licence*;
- (d) not, without our written consent:
 - (i) remove or apply to remove the *licence* from the *property*;

- (ii) surrender or attempt to surrender the *licence*;
 - (iii) deal in any way with any interest in the *licence*;
 - (iv) amend the *licence*;
 - (v) do anything which could cause the *licence* to be forfeited or cancelled; or
 - (vi) allow any *security* to arise over the *licence*; and
- (e) give us a copy of each notice, order, summons or conviction in connection with the *licence*.
- 13.2 If you are not the holder of the *licence*, you must ensure that:
- (a) the holder complies with the obligations set out in clause 13.1 as if it were you; and
 - (b) the holder gives us an authority to apply for information from authorities and a power of attorney relating to the *licence*, each in a form satisfactory to us.
- 13.3 After a default has occurred, if we ask, you must do your best to ensure that the *licence* is transferred to us or our nominee.
- 13.4 You acknowledge that, despite this *mortgage*:
- (a) you remain liable to perform your obligations under the *licence*; and
 - (b) we have no obligations under the *licence* and no liability under the *licence* if you are in default under it.

14. BUILDING AND OTHER WORK

- 14.1 You must get our consent and all necessary approvals from authorities (and the *governing body* if the *property* is part of a *shared scheme*) before you carry out or permit *works*, or enter into a contract to carry them out. You will need to give us full details of the work, *including* plans to obtain our consent.
- 14.2 You must:
- (a) comply with all laws, requirements of authorities, easements and covenants which affect any *works*;
 - (b) conduct all *works* actively and continuously;
 - (c) ensure that all *works* are done competently and completed within a reasonable time and in accordance with any plans and specifications approved by us;
 - (d) obtain and give us relevant certificates that we require (*such as* certificates of satisfactory completion or compliance);
 - (e) ensure that the *persons* carrying out the *works* are paid; and
 - (f) ensure that any contract to carry out *works* is not materially varied, perform your obligations under any such contract and promptly notify us if any default occurs under any such contract.

- 14.3 If we think you are not proceeding with *works* satisfactorily, we may take them over at your cost *including* by varying, demolishing or stopping them as we or the *receiver* (if applicable) see fit.

14.4 We are not liable for any loss:

- (a) in connection with *works* that we consent to (*including* loss arising out of plans or specifications we may approve); or
- (b) which arises because we do not finish *works* we take over under clause 14.3.

- 14.5 If we monitor *works* (*such as* inspecting or accepting any part of their construction or approving plans), we will be doing so for our own purposes. We do not owe you any duty to exercise care or skill in doing so and we need not tell you the results of any inspection.

HOW THIS MORTGAGE AFFECTS YOU AND THE PROPERTY - SPECIFIC TYPES OF PROPERTY

15. SHARED SCHEMES

If the *property* is part of a *shared scheme* (*for example*, a townhouse or home unit), you must:

- (a) give us copies of any documents that you receive about the *shared scheme* or the *property*;
- (b) comply with the by-laws, rules, service agreement or articles of the *shared scheme*;
- (c) vote at any *governing body* meeting following any directions we give you;
- (d) ensure that the *governing body* complies with its obligations (*such as* keeping the shared property in good condition);
- (e) tell us if the *governing body* does not comply with its obligations (*including* its insurance obligations);
- (f) ensure that your rights under the *shared scheme* are not varied; and
- (g) tell us of any proposal to substitute, terminate or materially vary the *shared scheme* or its by-laws, rules, service agreement or articles.

16. CROWN LAND

If the *property* is held under law relating to Crown land:

- (a) you must not allow your existing estate or interest in the *property* to change without our consent;
- (b) you must get our consent before applying to convert any existing estate or interest; and
- (c) we may pay any purchase money or other amount *payable* in connection with the *property* (and if we do this, you must reimburse us when we ask).

17. RURAL LAND

If any of the *property* is used for grazing, farming, horticultural or agricultural purposes, you must:

- (a) manage and preserve it properly and efficiently *including* by taking reasonable action (*such as* fencing and spraying) to keep it free from disease, pests and harmful vegetation;
- (b) not, without our consent, give any other *security* over any stock on the *property*, any right over water, *including licences* and entitlements, or clip or crop produced on the *property*; and
- (c) not, without our consent, deal with any quota or contract for producing or selling crops or produce capable of being produced on the *property* or do anything which could cause a quota or contract to be forfeited or cancelled.

18. MINING

Unless we consent, you must not:

- (a) mine or consent to mining on the *property*; or
- (b) enter into any compensation agreement in connection with mining on the *property*.

ADDITIONAL AMOUNTS YOU MUST PAY

19. COSTS

IF THE NATIONAL CREDIT CODE APPLIES TO THIS MORTGAGE CLAUSE 19.1 APPLIES.

- 19.1 When we ask, you must *pay* us any *costs* we reasonably incur in enforcing this *mortgage* after you are in default (*including* in preserving and maintaining the *property such as* by paying insurance, rates and *taxes* for the *property* and our *costs*). This applies to expenses we incur before or after taking action under clause 23.

IF THE NATIONAL CREDIT CODE DOES NOT APPLY TO THIS MORTGAGE CLAUSES 19.2 TO 19.6 APPLY.

- 19.2 You must pay us for:

- (a) our reasonable *costs*, and any *receiver's costs* and remuneration, in arranging, administering and terminating this *mortgage* or another *agreement covered by this mortgage (including* giving and considering consents, variations, discharges and releases, producing title documents, or enforcing, attempting to enforce or taking any other action in connection with our or any *receiver's* rights); and
- (b) all *taxes*, fees and charges payable in connection with this *mortgage*, any other *agreement covered by this mortgage* and any transaction under them and any interest, penalties, fines and expenses in connection with them.

- 19.3 You must pay us these amounts when we ask. We can also debit any of these amounts to any account you have with us even if we do not expressly ask you to pay us. However we will provide you with such details of such amounts upon request from you.

- 19.4 You indemnify us against, and you must therefore pay us on demand for, liability, loss or *costs (including* consequential or economic loss) we suffer or incur:
- (a) if you default under this *mortgage* (in which case you will also be liable for any loss arising because we require repayment of the *total amount owing* earlier than its due date);
 - (b) if you do not pay us the *total amount owing*;
 - (c) in connection with us or any *person* acting on our behalf or instruction exercising, or not exercising, rights under this *mortgage*;
 - (d) in connection with the *property*, the monitoring of *works* or this *mortgage*; or
 - (e) under any indemnity we give a *controller* or administrator appointed:
 - (i) in respect of you; or
 - (ii) over any of the *property*.

- 19.5 You must pay us an amount equal to any liability, loss or *costs (including* consequential or economic loss) of a kind referred to in clauses 19.4(a) to (d) suffered or incurred by:

- (a) any *receiver* or *attorney* appointed under this *mortgage*;
- (b) any of our employees, officers, agents, or contractors; or
- (c) any lessee, purchaser or occupier of the *property*.

- 19.6 If a judgment, order or proof of debt in connection with the *total amount owing* is expressed in a currency other than that in which the *total amount owing* is due, then you indemnify us against, and you must therefore pay us on demand for:

- (a) any difference arising from converting the other currency if the exchange rate we use for converting the other currency when we receive a payment in the other currency is less favourable to us than the exchange rate used for the purpose of the judgment, order or acceptance of proof of debt; and
- (b) the *costs* of conversion.

20. GST

Unless it is prevented by the National Credit Code, you agree to compensate us on demand if we determine that, as a direct or indirect result of the imposition of *GST*, our *costs* in connection with this *mortgage* are increased. If we:

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

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

21. INTEREST

IF THE NATIONAL CREDIT CODE DOES NOT APPLY TO THIS MORTGAGE CLAUSE 21 APPLIES.

- 21.1 You must pay interest on any part of the *total amount owing* which is due for payment but which is not otherwise incurring interest. The interest accrues daily from (and *including*) the due date up to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days (in a leap year, a year of 366 days). You must pay interest owing under this clause 21.1 on demand from us.
- 21.2 The rate of interest applying to each daily balance is the rate specified by us from time to time or (if no rate is specified) 2% above the highest rate applying to any of the *total amount owing* on that day.
- 21.3 Each month (or any other period we choose), we may add to the amount you owe us any interest under this clause 21 which has not been paid. You will then be liable for interest under this clause 21 on the total amount.
- 21.4 If any amount you must pay under this *mortgage* becomes covered by a court order, you must pay interest on that amount as a separate obligation. The interest accrues from and *including* the date that we first ask you for the amount until but excluding the date that amount is paid. This obligation is not affected by the court order. The rate is the rate in clause 21.2 or the rate in the court order (whichever is higher). You must pay interest under this clause 21.4 on demand from us.

DEFAULT

22. WHEN ARE YOU IN DEFAULT?

You are in default if:

- (a) you do not pay the *total amount owing* on time;
- (b) you do something you agree not to do under this *mortgage*, or you don't do something you agree to do under this *mortgage*;
- (c) you are, or a *debtor/guarantor* or another *person* is, in default under any *agreement covered by this mortgage* or an event of default, however described, occurs under an *agreement covered by this mortgage*;

- (d) you give, or a *debtor/guarantor* or another *person* gives, us incorrect or misleading information (*including* through your declarations under clause 3.4 and clause 46.1) in connection with this *mortgage* or another *agreement covered by this mortgage*;
- (e) you do not, or another *person* does not, carry out in full an undertaking given in connection with this *mortgage* or another *agreement covered by this mortgage*, within the period specified, or within 7 days if no period is specified;
- (f) you (if you are a corporation) are or become, or a *debtor/guarantor* (if it is a corporation) is or becomes, *insolvent* or steps are taken to make you or the *debtor/guarantor insolvent*;
- (g) you (if you are a corporation) are or become deregistered, or a *debtor/guarantor* (if it is a corporation) is or becomes deregistered, or steps are taken to deregister you or the *debtor/guarantor*;
- (h) a *controller* or a *receiver* is appointed to any part of your or a *debtor/guarantor's* property;
- (i) this *mortgage* is, becomes or is claimed to be void or unenforceable or this *mortgage* does not have or loses the priority it is intended to have;
- (j) anything happens which in our reasonable opinion affects your ability to pay us the *total amount owing*, or to fulfil your obligations under any *agreement covered by this mortgage* or *security*, or our rights under any *security* or our ability to recover the *total amount owing*;
- (k) we believe on reasonable grounds that urgent action is necessary to protect the *property* where we have requested you to take such action and you have failed to do so within a reasonable time as specified by us;
- (l) the value of the *property* materially decreases;
- (m) a *person* is appointed to investigate or manage your affairs or the affairs of a *debtor/guarantor*; or
- (n) (if you are a corporation) any of the following occur without our consent:
 - (i) a change takes place in your directors or company secretary;
 - (ii) a transfer of shares in your capital is registered;
 - (iii) new shares, convertible notes or options for shares in your capital are issued; or
 - (iv) your capital is reduced or made capable of being called up only in certain circumstances;

- (o) (if you are a corporation) you cease to be a subsidiary of the company which is your holding company at the date of this *mortgage* or a company ceases to be your subsidiary;
- (p) you do not, or a *debtor/guarantor* does not, meet all your or their monetary obligations (whether present or future) on time or within any applicable grace period or any of these obligations become, or can be rendered, *payable* early otherwise than at your or the *debtor/guarantor's* election; or
- (q) we reasonably believe someone acted fraudulently in connection with the *mortgage* or an *agreement covered by this mortgage*.

23. WHAT CAN HAPPEN WHEN YOU ARE IN DEFAULT?

IF A NATIONAL CREDIT CODE APPLIES TO THIS MORTGAGE CLAUSES 23.1 TO 23.4 APPLY.

- 23.1 If you are in default and we choose to enforce this *mortgage*, we must give you a notice. The notice will:
- (a) state that you are in default; and
 - (b) specify any period of grace required by law.
- 23.2 The law requires us to give you certain information before enforcing this *mortgage*. We may *include* that information in the notice under clause 23.1 or another notice.
- 23.3 During the period of grace given under clause 23.1, you are allowed to correct any default that can be corrected. If you do not correct that default within that period or if there is a default that cannot be corrected, then, to the extent it is not already due for payment, the *total amount owing* becomes immediately due for payment at the end of the grace period without further notice. In addition, we may then do one or more of the following:
- (a) sue you for the *total amount owing*;
 - (b) take or give up possession of the *property* as often as we choose;
 - (c) sever, remove and sell fixtures and fittings;
 - (d) remove personal possessions and either abandon them or store them without being liable to you. If we store them and you do not reclaim them within a reasonable time, we may dispose of them in any manner permitted by law and use the proceeds towards paying the *total amount owing*;
 - (e) anything else the law allows an *owner* of the *property* to do, *including* improving, selling or leasing it; and
 - (f) exercise any other rights we have.
- 23.4 If we take possession of the *property*, we are not liable as an owner-builder unless required by law.

IF A NATIONAL CREDIT CODE DOES NOT APPLY TO THIS MORTGAGE CLAUSES 23.5 TO 23.15 APPLY.

- 23.5 If you are in default, the *total amount owing* is *payable* on demand.
- 23.6 Neither we nor any *receiver* need give you any notice or demand or allow time to elapse before exercising a right under this *mortgage* or conferred by law (*including* a right to sell) unless the notice, demand or lapse of time is required by law and cannot be excluded.
- 23.7 A law applying to this *mortgage* may require us to give you a period of notice or to wait for a period of time before exercising a specific power (*such as* to sell the *property*). If such a law allows for that period to be shortened by agreement, then you agree that it is shortened to 1 *business day* or the minimum period the law allows to be agreed (whichever is longer).
- 23.8 After a default has occurred and any time required under clause 23.6 has elapsed then to the extent that it is not already due for payment, the *total amount owing* becomes immediately due for payment, and we may then do one or more of the following in addition to anything else the law allows us to do as mortgagee:
- (a) sue you for the *total amount owing*;
 - (b) appoint one or more *receivers*;
 - (c) do anything that a *receiver* could do under clause 23.14; and
 - (d) exercise any other rights we have.
- 23.9 If we or the *receiver* take possession of the *property*, we are not liable as an owner-builder unless required by law.
- 23.10 In addition to our powers under clause 23.8, we may appoint a *receiver* if you or your directors request us to do so.
- 23.11 In exercising our power to appoint a *receiver* we may:
- (a) appoint any *receiver* to all or any part of the *property* or its income; and
 - (b) set a *receiver's* remuneration at any figure we determine as appropriate, remove a *receiver* and appoint a new or additional *receiver*.
- 23.12 If we appoint more than one *receiver*, they may act independently unless we specify that they must act together.
- 23.13 The *receiver* is your agent unless we notify you that the *receiver* is to act as our agent. You are solely responsible for anything done, or not done, by a *receiver* and for the *receiver's* remuneration and costs.
- 23.14 Unless the terms of appointment restrict a *receiver's* powers, the *receiver* may do one or more of the following:
- (a) take or give up possession of the *property* as often as it chooses;

- (b) sever, remove and sell fixtures and fittings; and
- (c) remove personal possessions and either abandon them or store them without being liable to you. If the *receiver* stores them and you do not reclaim them within a reasonable time, the *receiver* may dispose of them in any manner permitted by law and use the proceeds towards paying the *total amount owing*; and
- (d) anything else the law allows an *owner* or a *receiver* of the *property* to do, *including* improving, selling or leasing it.

23.15 The *receiver* may exercise its powers without your consent and without giving you notice.

24. DISPOSAL OF THE *PROPERTY* IS FINAL

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

- (a) you will not challenge the acquirer's right to acquire the *property* (*including* on the ground that we or the *receiver* were not entitled to dispose of the *property* or that you did not receive notice of the intended disposal) and you will not seek to reclaim that *property*; and
- (b) the *person* who acquires the *property* need not check whether we or the *receiver* had the right to dispose of the *property* or whether we or the *receiver* exercised that right properly.

GENERAL

25. DEALING WITH RIGHTS UNDER THIS *MORTGAGE*

25.1 We may assign or otherwise deal with our rights under this *mortgage* or another *agreement covered by this mortgage* in any way we consider appropriate, provided that any such assignment or dealing may not materially prejudice your rights or obligations under this *mortgage* or the *agreement covered by this mortgage*. If we do this, we do not have to tell you and you may not claim against any assignee (or any other *person* who has an interest in this *mortgage* or the *agreement covered by this mortgage*) any right of set-off or other rights you have against us.

25.2 If we do assign or otherwise deal with our rights under this *mortgage*, you agree that you are still liable for the *total amount owing* under this *mortgage*.

25.3 Your rights are personal to you and may not be assigned without our written consent.

26. DISCLOSURE OF INFORMATION

Information you provide to us may be disclosed:

- (a) if you consent (unless you are an individual, you may not unreasonably withhold your consent);

- (b) if required by any stock exchange or if allowed or required by law;
- (c) to any *person* in connection with our exercising rights or dealing with rights or obligations (*including* preparatory steps *such as* negotiating with any potential assignee of our rights or other *person* who is considering contracting with us or a *receiver* in connection with this *mortgage*);
- (d) to our officers, authorised agents, representatives (including Virgin Money Australia) and employees, to *receivers* and to legal advisers, auditors and other advisers;
- (e) to any of our *related entities*;
- (f) where we think it is necessary to protect our position;
- (g) if the information is generally and publicly available;
- (h) to any other *debtor/guarantor*; or
- (i) for the purposes of the securitisation of any *agreement covered by this mortgage*.

27. THINGS WE MAY DO AT ANY TIME

27.1 We may enter land and buildings owned or occupied by you (*including* the *property*) and your places of business to:

- (a) inspect the *property* or any *works*;
- (b) find out whether you are complying with this *mortgage*;
- (c) carry out our rights under this *mortgage*;
- (d) inspect and copy records relating to you, your subsidiaries or the *property*; or
- (e) investigate your financial affairs or business or the financial affairs or business of your subsidiaries or any *debtor/guarantor*.

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

27.2 Unless there is an emergency, we must give you reasonable notice before entering under clause 27.1. You must help us to enter, *such as* by getting any consent necessary.

27.3 We may do anything which you should have done under this *mortgage* but which you have either not done or in our opinion have not done properly. If we do so, you must pay our *costs* when we ask in accordance with clause 19.

27.4 We do not become a mortgagee in possession because we enter the *property* under clause 27.1 or exercise our rights under clause 27.3.

27.5 If we ask, you must ensure that rent and other income from the *property* is paid to us. If, despite this, they are paid to you, you must pay them to us. In each case, we must then use the money we receive as set out in clause 32.

27.6 If we reasonably believe you are or may be in default or we reasonably believe that circumstances exist which could lead to you being in default, we may appoint a *person* to investigate whether this belief is accurate. You must co-operate with and comply with every reasonable request made by this *person*. You must pay to us all costs in connection with the investigation.

28. CONSENTS

28.1 Whenever a provision of this *mortgage* specifies that our consent or approval is required or that we may direct or require you to do or not do some act or thing, or that we will determine whether an event has occurred or not occurred, we will act reasonably in determining whether or not to give that consent or approval, determining whether that event has occurred or directing you to take some action or satisfy a requirement of ours.

28.2 We may impose reasonable conditions on any consent or approval we give under this *mortgage*. You must comply with all conditions and requirements in any consent or approval we give.

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

29. MANAGER

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

30. CURRENCY CONVERSIONS

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

30.2 If we receive an amount in a currency other than that in which it is due:

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

31. SETTING OFF MONEY

31.1 Except to the extent you have a right of set-off granted by law which we cannot exclude by agreement (*such as* under the National Credit Code), you must pay the *total amount owing* in full without setting off amounts you believe we owe you and without counterclaiming amounts from us.

31.2 We may set off against the *total amount owing* any money we owe you.

32. WHAT HAPPENS TO MONEY WE RECEIVE?

32.1 Money received under this *mortgage* is to be used towards paying the *total amount owing* unless we are obliged to pay the money to anyone with a prior claim. However, if money received represents proceeds of an insurance claim, we may use it to reinstate or replace the *property* or carry out other work on it.

32.2 If, at the time we receive the money, any part of the *total amount owing* is not then due for payment, we will deal with it in accordance with any *agreement covered by this mortgage*.

32.3 We may use any money received under this mortgage towards paying any part of the *total amount owing* we choose, such as by:

- (a) paying a later instalment before an earlier instalment. (This applies even if that later instalment falls due after we give a notice of demand); or
- (b) applying the payment to one *agreement covered by this mortgage* before another.

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

32.5 We will credit payments as soon as practicable after we receive them (*including*, where we have appointed a *receiver*, as soon as practicable after we receive the payment from the *receiver*) and we do not have to refund any payment to you.

33. MULTIPLE ACCOUNTS

33.1 We may use any money in any of your *Virgin Money*[®] branded accounts with us to pay the *total amount owing*.

33.2 If you have more than one *Virgin Money*[®] branded account with us (either alone or with another *person*) we may treat these accounts as one. If a *debtor/guarantor* has more than one account with us (either alone or with another *person*) we may treat these accounts as one.

We do not have to do so, nor do we have to tell you before we do so.

34. OUR CERTIFICATES

34.1 We may give you a certificate about a matter or about an amount *payable* in connection with this *mortgage*. The certificate is sufficient evidence of the matter or amount, unless it is proved to be incorrect.

34.2 We may rely on certificates provided by any other *person* with a *security* over the *property* as to the amount that is owed to them.

35. PROMPT PERFORMANCE

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

36. HOW WE MAY EXERCISE OUR RIGHTS

36.1 We may exercise a right or remedy in any way we consider appropriate.

36.2 We may enforce this *mortgage* before we enforce other rights or remedies:

- (a) against any other *person*; or
- (b) under another document, *such as* another *security*.

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

36.3 If we or a *receiver* do not exercise a right or remedy fully or at a given time, we or the *receiver* can still exercise it later.

36.4 Neither we nor a *receiver* are liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising, a right or remedy.

36.5 If we or a *receiver* exercise any right under this *mortgage* or at law to enter or take possession of the *property*, we or the *receiver*:

- (a) have complete and unfettered discretion as to how the *property* is managed; and
- (b) are liable to account only for rents and profits actually received by us or the *receiver*;
- (c) may lease the *property* for any period (notwithstanding any law to the contrary).

36.6 Our and any *receiver's* rights and remedies under this *mortgage*:

- (a) are in addition to other rights and remedies given by law independently of this *mortgage*; and
- (b) may be exercised even if this involves a conflict of duty or we, or the *receiver*, have a personal interest in their exercise.

36.7 Our rights and remedies under this *mortgage* may be exercised by any of our directors, any of our employees or any other *person* (including Virgin Money Australia) we authorise.

37. ADMINISTRATIVE MATTERS

37.1 You must deposit with us:

- (a) any documents of title and leases; and
- (b) any other documents we request,

relating to the *property*. But you need not deposit them with us if another *person* is holding them under another *security* over the *property* to which we have consented and which has priority over this *mortgage*.

37.2 We may register this *mortgage* at your expense.

37.3 You must do anything we ask (*such as* obtaining consents, signing and producing documents, replying to questions, producing receipts and getting documents completed and signed):

- (a) to provide more effective *security* over the *property* (or any other *property* you are required to mortgage under this *mortgage*) for the payment of the *total amount owing*;
- (b) to enable us to register or otherwise perfect this *mortgage* (and any other *security* you are required to give under this *mortgage*) with the agreed priority (and, if required, renew its registration) and to perfect any *security* over personal property arising under or in connection with this *mortgage* in accordance with the *PPSA*;
- (c) to enable us to exercise our rights in connection with the *property*;
- (d) to ensure that each agreement which is intended to be covered by this *mortgage* becomes an *agreement covered by this mortgage*;
- (e) to enable us to register the power of attorney in clause 43 or a similar power;
- (f) to protect the *property* or fix any defect in it;
- (g) to show whether you are complying with this *mortgage*; or
- (h) to ensure that this *mortgage* is binding on you.

37.4 If we ask, you must supply us with any information or documents about or affecting:

- (a) the *property*, any *works* or any *licence*;
- (b) the *shared scheme*, if the *property* is part of a *shared scheme*;
- (c) any lease, tenancy or other arrangement connected with the *property*;
- (d) this *mortgage*;

- (e) you, the financial position of any *debtor/guarantor* or the *property*;
- (f) a valuation or other expert report about the *property* from an expert nominated by us; or
- (g) proof that you have observed your obligations in the *mortgage* and any *agreement covered by this mortgage*.

37.5 You must pay for anything that you must do under this *mortgage*.

37.6 You authorise us or any *person* we authorise to make any changes to the *mortgage* so that it can be stamped and registered (but only if the changes do not change its meaning).

37.7 You agree that we may fill in any blanks in this *mortgage* or any blanks in any document related to this *mortgage* (such as an acknowledgment).

38. CHANGES

A term of this *mortgage*, or right or obligation created under it, may not be waived or varied except in writing signed by the party or parties to be bound. If the National Credit Code applies to this *mortgage*, we will notify you of any changes in the way and at the time that the National Credit Code says we must.

39. IF ANY PART OF THE *MORTGAGE* IS UNENFORCEABLE

If a court declares that any clause or part of a clause of the *mortgage* is illegal or void, then the rest of the *mortgage* is to be interpreted as if that clause or that part of the clause is varied to the extent necessary to render the clause or part clause no longer illegal or void, or is if necessary omitted.

40. YOUR OBLIGATIONS AND OUR RIGHTS ARE UNAFFECTED

40.1 Any present or future law that would otherwise vary your obligations under this *mortgage* is excluded (to the extent allowed by law) if it affects our rights or remedies adversely.

40.2 This *mortgage* does not merge with or adversely affect, and is not adversely affected by, any of the following:

- (a) another *security* or right or remedy to which we are entitled; or
- (b) a judgment or order which we obtain against you in respect of any of the *total amount owing*.

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

40.3 This *mortgage* binds each *person* who signs as mortgagor even if another *person* who was intended to sign does not sign it or is not bound by it.

41. REINSTATEMENT OF RIGHTS

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

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

42. INDEMNITIES

The indemnities in this *mortgage* are continuing obligations, independent of your other obligations under this *mortgage*. They continue even after we have released the *property* from this *mortgage*. It is not necessary for us to incur expense or make payment before enforcing a right of indemnity conferred by this *mortgage*.

43. POWER OF ATTORNEY

43.1 You appoint us, each of our directors, each of our employees whose job title *includes* the word “manager”, each of our solicitors, each other *person* we authorise (including Virgin Money Australia), and each *receiver* under this *mortgage*, separately as your *attorney*. If we ask, you must formally approve anything they do under clause 43.2. You may not revoke these appointments.

43.2 If you are in default (and where required by law we have served a notice stating that you are in default) each *attorney* may:

- (a) do anything which you can lawfully authorise an *attorney* to do in connection with this *mortgage*, a *licence* or the *property* and do anything which you can do as *owner* of the *property* or which the *attorney* believes is expedient to give effect to any of our rights or a *receiver's* rights (these things may be done in your or the *attorney's* name and they *include* signing and delivering deeds, selling, transferring or leasing the *property*, selling, transferring or surrendering any lease, lodging or withdrawing caveats, otherwise dealing with the *property* and starting, conducting and defending legal proceedings, and dealing with a *licence*);
- (b) delegate their powers (*including* this power) and revoke a delegation; and
- (c) exercise their powers even if this involves a conflict of duty or they have a personal interest in doing so.

43.3 Where permitted by law the *attorney* may exercise its powers in clause 43.2 without your consent and without giving you notice.

43.4 You acknowledge that any *person*, including any registration authority in Australia or elsewhere dealing with any *attorney* or a *person* purporting to be an *attorney* under this power, is:

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

44. PARTNERSHIP

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

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

45. ADDITIONAL OBLIGATION IF YOU ARE A COMPANY

You must not without our consent, approve or register a transfer of shares in your capital or change your directors or company secretary.

46. TRUSTEE PROVISIONS

46.1 You make the following declarations if you enter into this *mortgage*, or *own* any of the *property*, as trustee of any trust or settlement:

- (a) this *mortgage* is for the benefit of the trust;
- (b) this *mortgage* does not conflict with the operation or terms of the trust;
- (c) you are the sole trustee of the trust;
- (d) you have authority to enter into this *mortgage*;
- (e) the trust has not been terminated and no beneficiary is presently entitled to any assets of the trust;

- (f) you have the right to be fully indemnified out of the trust assets for obligations incurred under this *mortgage*;
- (g) no action has been taken or proposed to terminate the trust;
- (h) true copies of the trust deed and other documents relating to the trust have been provided to us and disclose all the terms of the trust;
- (i) you have not delegated any of your powers as trustee or exercised any power of appointment;
- (j) no *property* of the trust has been resettled or set aside or transferred to any other trust; and
- (k) the trust documents comply with all applicable laws.

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

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

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

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

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

46.4 If you default you:

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

47. NOTICES, OTHER COMMUNICATIONS AND SERVICE OF DOCUMENTS

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

47.2 Communications from us may be signed by any of our employees or authorised agents and representatives (including Virgin Money Australia). In addition, if the notice is given by fax or email it is properly signed if our or Virgin Money Australia's name appears at the beginning or end of the transmission.

47.3 If you are a company, communications from you must be signed by a director or another *person* we approve.

47.4 Communications to you may be:

- (a) given personally (if you are a company, to one of your directors);

- (b) left at your residential or business address last known to us;
- (c) sent by post to your postal or residential or business address last known to us;
- (d) sent by email or other electronic communication to your or your approved *person's* email or other electronic address last known to us;
- (e) sent by fax to your residential or business fax number last known to us;
- (f) given in any other way permitted by law.

47.5 Communications to us must be:

- (a) given personally to one of our employees at Bank of Queensland's registered office and no other place; or
- (b) sent by prepaid post or by fax to our registered office and no other place; or
- (c) given by any other means permitted by law.

The Customer Care team may be able to provide details of how your notice can be sent to us (including an email or other electronic address) but the Customer Care team may not be authorised to receive the notice on our behalf. To ensure it is dealt with correctly, any notice should always be addressed to our registered office.

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

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

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

48. NATIONAL CREDIT AND OTHER LEGISLATION

48.1 To the extent that the National Credit Code or other legislation applies to this *mortgage*, if:

- (a) that legislation would otherwise make a provision of this *mortgage* illegal, void or unenforceable; or
- (b) a provision of this *mortgage* would otherwise contravene a requirement of that legislation or impose an obligation or liability which is prohibited by that legislation,

this *mortgage* is to be read as if that provision were varied to the extent necessary to comply with that legislation or if necessary, omitted.

48.2 To the extent that the National Credit Code applies to this *mortgage* the *total amount owing* does not include any amount which exceeds the sum of:

- (a) the amount of your liabilities under each *agreement covered by this mortgage*; and
- (b) our reasonable enforcement expenses reasonably incurred in enforcing this *mortgage*.

48.3 To the extent that the National Credit Code or other legislation applies to this *mortgage*:

- (a) our rights to demand any amounts from you and to exercise our rights and remedies against you are subject to the limitations on enforcement of this *mortgage* imposed by the legislation; and
- (b) our rights and remedies under this *mortgage* are in addition to those given to a credit provider under the legislation.

48.4 If a law requires that something must be done before you may validly grant *security over any property*, to the extent required, this *mortgage* only takes effect in relation to that *property* when the thing required is done.

49. PPSA

49.1 To the extent the law permits, you:

- (a) agree that we need not comply with, and you may not exercise rights under, any provisions of Chapter 4 of the *PPSA* that may be contracted out of; and
- (b) waive your rights to receive any notice that is required by the *PPSA*, including a notice of verification statement (but this does not prohibit us from giving any such notice).

49.2 You agree that if we exercise a right, power or remedy in respect of a *security*, we are not doing so under the *PPSA* unless we state otherwise at the time of exercise, or the right, power or remedy can only be exercised under the *PPSA*.

49.3 If the *PPSA* is amended after the date of this *mortgage* to permit us to agree with you to exclude other provisions

of the *PPSA*, we may notify you that we need not comply with any of those provisions, as specified in the notice.

50. INCONSISTENT LAW

To the extent permitted by law, this *mortgage* prevails to the extent it is inconsistent with any law.

51. GOVERNING LAW AND SERVING DOCUMENTS

- 51.1 This *mortgage* is governed by the law of the state or territory where the *property* is situated. You and we submit to the non-exclusive jurisdiction of the courts of that place.
- 51.2 We may serve any document in a court action (*including* a writ of summons, other originating process or third or other party notice) on you by delivering it to, or leaving it at, your address last known to us or such other address as you and we agree at any time. This clause does not prevent any other method of service.

52. DEED

This *mortgage* is a deed.

53. NOTICE OF SUBSEQUENT *SECURITY*

- 53.1 If we receive notice (whether actual or constructive) of any subsequent *security* over or affecting any of the *property* we may open a separate account in the *debtor's* name in our books.
- 53.2 If we do not open such a new account it will be treated as if we had done so at the time we received or were deemed to have received notice of the security.
- 53.3 From the time the new account is or is deemed to be opened:
- (a) all advances and accommodation made available by us to any *debtor*;
 - (b) all payments and repayments made by any *debtor* to us; and
 - (c) moneys to be applied towards the *total amount owing*
 - (d) will be or be deemed to be debited or credited, as appropriate, to the new account and payments and repayments by any *debtor* will only be applied in reduction of the *total amount owing* other than moneys debited or deemed to be debited to the new account if, and to the extent that, there is no debit balance in that account.



13 81 51
virginmoney.com.au