

TERMS AND CONDITIONS OF CHATTEL MORTGAGE

1. Definitions

1.1 In these Terms and Conditions unless the context otherwise requires:

- (1) **"Authorised Officer"** means any director or secretary of us, any person whose title includes the term manager, and any other person from time to time designated by us as an Authorised Officer;
- (2) **"Business Day"** means a day we are open for general business in the capital city of the State;
- (3) **"Chattel Mortgage"** means the Chattel Mortgage as constituted by the Particulars and these Terms and Conditions;
- (4) **"Collateral Security"** means any Encumbrance (other than this Chattel Mortgage) taken by us to secure all or any of your obligations under this Chattel Mortgage and includes any guarantee of your obligations under this Chattel Mortgage or any security taken to secure such guarantee;
- (5) **"Electronic Address"** means:
 - (a) any facsimile number;
 - (b) any mobile phone number or other telephone that can receive short message service (SMS) messages; and
 - (c) any email addressas specified in the Particulars or otherwise notified to us in any other document provided to us in connection with this Chattel Mortgage, or such amended electronic address as may be notified to us from time to time in writing.
- (6) **"Encumbrance"** means:
 - (a) any mortgage, charge, lien, pledge, hypothecation, bill of sale, assignment, title retention arrangement, trust or power held as security, or other interest securing the payment of money or performance of any obligation of any person or any other agreement, notice or arrangement having a similar effect;
 - (b) a right, interest or an arrangement which has the effect of giving another person a preference, priority or advantage over creditors including any right of set-off;
 - (c) third party right or interest or any right arising as a consequence of the enforcement of a judgment; or
 - (d) a PPSA Security Interest;
- (7) **"Final Date"** means the date the last Repayment Instalment is scheduled to be due and payable under this Chattel Mortgage.
- (8) **"Government Agency"** means any government or governmental, semi governmental or judicial entity or authority in any state, country or other jurisdiction, including any self-regulatory organisation established under a statute or stock exchange;
- (9) **"Guarantee"** means any guarantee and/or indemnity given by a Guarantor;
- (10) **"Guarantor"** means each person who has guaranteed your obligations under this Chattel Mortgage and includes any Guarantor referred to in the Particulars and if there is more than 1 Guarantor means the Guarantors collectively and each of them separately;
- (11) **"Particulars"** means the Particulars to which these Terms and Conditions are attached;
- (12) **"PPS Act"** means the *Personal Property Securities Act 2009* (Cth);
- (13) **"PPS Law"** means:
 - (a) the PPS Act and regulations made under the PPS Act; and
 - (b) any amendment made to any other legislation as a consequence of a PPS Law referred to in paragraph (a), including, without limitation, amendments to the *Corporations Act 2001* (Cth);
- (14) **"PPSA Security Interest"** means anything that is defined to be a 'security interest' under a PPS Law;
- (15) **"Secured Money"** means:
 - (a) the Loan; and
 - (b) any other money owing by you to us on any account (whether alone or jointly with any other party);
- (16) **"State"** means the State or Territory of our address shown in the Particulars;
- (17) **"Taxes"** means taxes, import duties, levies, charges, fees, withholdings and deductions of every description imposed by statute or any government, governmental or fiscal authority (including stamp duty, bank account debits tax, transaction duties and goods and services tax) together with interest penalties, fines and expenses relating to them but does not include income tax on the net income of a tax payer or an amount that would cause a provision of this document to be void by virtue of any applicable legislation;
- (18) **"Termination Amount"** means an amount being the total of:
 - (a) the sum of the Present Value calculated at the date of termination of this Chattel Mortgage of each Repayment Instalment which has not then accrued due but which would have accrued if this Chattel Mortgage had not been terminated;
 - (b) all Repayment Instalments which have accrued due at the date of termination of this Chattel Mortgage but which are then unpaid;
 - (c) interest calculated as provided for in clause 3.5; and
 - (d) all other monies owing under or in respect of this Chattel Mortgage.
- (19) **"You"** means the Borrower specified in the Particulars and its executors, administrators or successor and if there is more than 1 Borrower means the Borrowers collectively and each of them separately. "Your" has a corresponding meaning; and
- (20) **"We"** or **"us"** means the Mortgagee and its successors and assigns. "Our" has a corresponding

meaning.

1.2 Each term referred to in the Particulars has, subject to the succeeding paragraphs, the meaning given to it in those Particulars.

1.3 The Goods means the goods referred to in the Particulars together with:

- (1) any software and accessories installed on those Goods and manuals, log-books, maintenance records and licences held in conjunction with those Goods; and
- (2) any additions to or goods acquired in substitute for the Goods described in the Particulars.

1.4 If there is more than one Borrower named then the liability of each of them is joint and several.

1.5 If there is more than 1 Guarantor then the liability of each Guarantor is joint and several.

1.6 References to statute include all regulations and other instruments under that statute and all consolidations, amendments and re-enactments or replacements of that statute.

1.7 References to the singular include references to the plural and vice versa.

1.8 Reference to one gender includes any other gender.

1.9 Reference to a person includes a reference to an individual, a person, a trust, partnership, joint venture and incorporated association, a corporation or an authority as the case may be.

1.10 Reference to month means a calendar month.

1.11 Where any matter or thing is required to be done by you on a day which is not a Business Day, then the act must be done on the preceding day which is a Business Day.

1.12 Headings are for convenience only and do not effect the interpretation of these Terms and Conditions.

1.13 If any provision of this Chattel Mortgage is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality or enforceability of the remaining provisions is not affected or impaired.

1.14 All calculations in relation to this Chattel Mortgage including Present Values are made on a compounding monthly rate of return basis regardless of the actual payment period.

1.15 Unless the contrary intention appears, reference in this Chattel Mortgage to "chattel paper", "commercial property", "financing change statement", "financing statement", "inventory", "proceeds" and "verification statement" have the respective meanings given to them under the PPS Act.

1.16 Nothing in this Chattel Mortgage is to be construed as:

- (1) an agreement that an Encumbrance provided for by this Chattel Mortgage attaches at a later time than the time specified in section 19(2) of the PPS Act; or
- (2) an agreement to subordinate an Encumbrance provided for by this Chattel Mortgage in favour of any person.

2. Mortgage of Goods

2.1 As security to us for the payment of the Secured Money and the performance by you of your obligations under this Chattel Mortgage you, as beneficial and legal owner, transfer to us by way of mortgage all your present and future right, title and interest in the Goods.

2.2 You agree that you will, immediately when we ask you to do so, sign all documents we think necessary to perfect the transfer of the Goods to us.

2.3 If you do not have legal title to the Goods at the time this Chattel Mortgage is signed then the legal title vests in us immediately on happening of any of the following:

- (1) The delivery or invoicing or installation of the Goods or any part of the Goods to you or as you direct.
- (2) The use of the Goods or any part of the Goods by you or any other person with your consent or acquiescence.
- (3) The attachment of the Goods or any part of the Goods to premises you occupy.
- (4) Any other act or conduct by you acknowledging this Chattel Mortgage.
- (5) Payment to us by you or on your behalf of any part of the Secured Money.

2.4 The mortgage created by clause 2.1 constitutes a PPSA Security Interest and extends to all proceeds of the Goods.

2.5 The mortgage created by clause 2.1 is effective and attaches to the Goods:

- (1) when you sign this Chattel Mortgage; or
- (2) immediately after you acquire any right or interest in the Goods, if you have not acquired the Goods when you sign this Chattel Mortgage.

2.6 If we ask, you must deposit with us any documents of title (including chattel papers) relating to the Goods or other documents which evidence your rights in the Goods.

2.7 If you comply with all of the terms of this Chattel Mortgage and pay to us all of the Secured Money and if you ask us to do so then we must at your cost reassign the Goods (or the part of the Goods that is then vested in us) to you or as you direct (subject nevertheless to all deteriorations and losses in the meantime).

3. Payment of Interest and Repayment of Moneys Secured

3.1 Subject to clause 12, you must repay the Loan together with interest thereon by the Repayment Instalments and in the manner specified in the Particulars.

3.2 You must repay the balance of the Loan outstanding and all interest accrued thereon on the date for payment of the Final Repayment Instalment.

3.3 Interest accrues on the Secured Money (other than the Loan) at the rate from time to time agreed in writing between us in respect of those moneys.

3.4 You must repay the Secured Money (other than the Loan) and interest on those moneys in accordance with any agreement between you and us or otherwise on demand.

3.5 If you fail to pay any Repayment Instalment or other moneys payable under this Chattel Mortgage when due then we may charge interest on that overdue amount.

3.6 If any liability to pay the Secured Money or any part becomes merged in to any judgment, order, deed or other thing, then you must pay interest on the amount owing from time to time under that judgment, order, deed or other thing at the rate fixed by that judgment, order, deed or other thing.

3.7 All payments must be made by direct debit authority or in such other manner as we may from time to time specify.

3.8 All payments must be made free of any abatement, reduction, set-off or other deduction or withholding.

4. Early Termination

4.1 You may terminate your obligations under this Chattel Mortgage prior to the Final Date for Repayment of the Loan by paying to us the Termination Amount.

4.2 If this Chattel Mortgage is terminated by us prior to Final Date for Repayment of the Loan you must pay us the Termination Amount. Payments made under this clause are also to indemnify us for the loss sustained in respect of the instalments not then accrued due.

5. Location of Goods

5.1 The Goods must be kept in your possession and control.

5.2 The Goods must, subject to clause 5.3, be kept at the Premises or such other place as we may approve.

5.3 Where the Goods are mobile they may be used within the State. They must not be used outside the State without our permission. You indemnify us against any additional stamp duty payable arising from the use of the Goods outside the State.

5.4 You must promptly notify us of the location of the Goods whenever requested to do so by us or if any Goods become located outside the State.

5.5 You must give us at least 7 days prior written notice if you change your name or address.

6. Ownership of the Goods

6.1 You warrant to us that at the time of granting this Chattel Mortgage you are the legal and beneficial owner of the Goods free of any Encumbrance.

6.2 You must not:

- (1) do anything which could prejudice or jeopardise our rights in respect of the Goods;
- (2) affix the Goods to any land, building or other real property without our prior written consent. Any affixing must be temporary only and must only be to the extent necessary for the proper use of the Goods. You must when requested by us obtain waivers by other persons to ensure that no other person may acquire or retain any interest in the Goods;
- (3) cause or permit any other personal property in which another person has an Encumbrance or other interest or right to become an accession to the Goods or commingled with any Goods;
- (4) create any Encumbrance over or cause or permit any person to acquire any interest in any of the Goods or your right in respect of the Goods; or
- (5) sell, transfer, lease or otherwise dispose of your interest in the Goods.

6.3 You must:

- (1) procure the removal of any registration (other than by or in favour of us) in relation to any Encumbrance that affects the priority of this Chattel Mortgage;
- (2) immediately notify us in writing if you become aware of any person (other than us) taking steps to register, or registering, a financing statement in relation to the Goods; and
- (3) without affecting the priority of this Chattel Mortgage, take any action necessary to register, perfect,

preserve and maintain any Encumbrance in the Goods which you hold, or have the benefit of, under or in accordance with the PPS Law.

7. Use of the Goods

7.1 You must, at your own cost, comply with all laws relating to the use, operation, maintenance and possession of the Goods including obtaining and maintaining any necessary licences, permits or registration.

7.2 You must use only qualified personnel to operate and use the Goods.

7.3 You represent and warrant that the Goods are commercial property and are not and do not form part of the inventory of your business.

7.4 You must ensure all operation of the Goods comply with all laws and all manufacturer's instructions as to use, operation and maintenance.

7.5 You must not without our consent make any alteration, addition or improvement to the Goods. Any alteration, addition or improvement forms part of the Goods and is subject to this Chattel Mortgage.

7.6 You must not:

- (1) grant a lease or licence of any part of the Goods;
- (2) waive any rights or release any person from any obligation in connection with the Goods; or
- (3) conceal the Goods, alter them or any identifying number or mark (inc. any serial number) on them.

7.7 You must:

- (1) immediately notify us in writing of any Goods that become located outside Australia; and
- (2) promptly notify us of the location of the Goods whenever requested to do so by us.

7.8 You assume all risks and liabilities arising from your possession or use of the Goods. You indemnify us against any liability arising from the use of or possession of the Goods by you or any other person.

8. Repair of the Goods

8.1 You must at your own cost take proper care of the Goods.

8.2 You must keep the Goods in good repair and condition and in proper working order so that the Goods can operate efficiently and at performance levels applicable to the Goods at the commencement of this Chattel Mortgage.

8.3 You must maintain and service the Goods in accordance with any manufacturer's specification or recommendation.

8.4 You must whenever requested by us, both before and after exercise by us of any rights in respect of the Goods, provide us with a written statement disclosing all defects in the Goods.

8.5 All repairs to the Goods must be carried out by suitably trained and qualified personnel.

8.6 You must not create or permit the creation of any Encumbrance on the Goods. You must notify any repairer of this prohibition.

9. Inspection

9.1 You must upon us giving reasonable notice permit us to inspect and test the Goods.

9.2 You must (and must use your best endeavours to ensure others) allow us to enter upon any premises where the Goods are or are believed to be located to exercise any of our rights under this Chattel Mortgage.

10. Loss or Damage

10.1 You bear the entire risk of loss or damage to the Goods from any cause.

10.2 If the Goods or any part thereof are lost, damaged, impounded, immobilised or forfeited, then:

- (1) you must promptly notify us;
- (2) if the Goods have been totally or substantially lost, damaged, impounded, immobilised or forfeited then we may terminate this Chattel Mortgage. In that event the whole of the Secured Money becomes immediately due and payable; and
- (3) if we do not terminate this Chattel Mortgage under clause 10.2(2), you must immediately repair or replace the lost or damaged Goods. In that event, the provisions of clause 10.3 apply.

10.3 If the Goods are lost or damaged but we do not terminate this Chattel Mortgage under clause 10.2(2), then:

- (1) you must immediately repair or replace the lost or damaged Goods with Goods which is, in our opinion, comparable, in good repair and condition and in working order;
- (2) all such repaired or replacement goods form part of the Goods and are subject to this Chattel Mortgage;
- (3) any moneys received in respect of any insurance against the loss or damage of the Goods must, if we so require, be applied towards your obligations under this clause.

10.4 You indemnify us:

- (1) Against any claims or costs arising out of the Goods (including claims and costs relating to the operation use or the keeping of the Goods);
- (2) Any loss of (including lawful confiscation), damage to or destruction of the Goods;
- (3) Against any Taxes imposed on or payable by us in connection with:
 - (a) The purchase or sale of the Goods;
 - (b) Any payment, receipt or other transaction arising out of our purchase or sale of the Goods;
 - (c) This Chattel Mortgage;
 - (d) Any moneys payable under this Chattel Mortgage or the Loan;
 - (e) Any receipt or other transaction arising out of this Chattel Mortgage or the Loan;
 - (f) Any other supply made by us under or in connection with this Chattel Mortgage;
- (4) Against any loss or liability or damage we suffer because of a breach or repudiation of this Chattel Mortgage by you.

11. Insurance

11.1 You must keep the Goods insured against such risks as we may from time to time require.

11.2 Without limiting clause 11.1 you must insure the Goods against loss or damage due to fire, accident, theft, malicious damage and loss or damage to third parties or their property.

11.3 Insurance must be on such terms as we may reasonably require with an insurer approved by us.

11.4 Insurance must be for the respective rights and interests of us as Mortgagee and you as Mortgagor and must be for the full insurable value of the Goods. Our interest must be noted on the policy.

11.5 You must promptly pay all premium, stamp duty and other costs in relation to insurances effected under this clause.

11.6 You must whenever requested by us provide to us copies of all policies of insurance to be effected under this clause together with such other evidence as we may reasonably require to satisfy ourselves that the Goods are fully and properly insured.

11.7 You must not do or permit anything to be done which could prejudice any insurance or any claim under any insurance to be effective under this clause.

11.8 You must promptly give us written notice of any event which could or might lead to a claim under any insurance in respect of the Goods. You must comply with all of our instructions in connection with any claim under the insurances.

11.9 You authorise to take all steps necessary to make, adjust and compromise any claim in respect of the Goods and to receive any moneys payable under the insurances. We may give effective receipts and discharges and generally act on your behalf in respect of any such claims and in such manner as we may think fit.

12. Event of Default

12.1 If an Event of Default occurs or is taken to have occurred, then:

- (1) at our option the whole of the Secured Money becomes immediately due and payable without the need for any demand or notice; and
- (2) we may enforce all of our rights under this Chattel Mortgage.

12.2 The following are Events of Default:

- (1) you do not pay any Repayment Instalment, or any other part of the Loan on time;
- (2) you do not pay any other part of the Secured Money on time;
- (3) you fail to comply with any other obligation under this Chattel Mortgage;
- (4) default occurs under any Collateral Security or any other Encumbrance given by you to us or under any other agreement between you or us or under any Encumbrance given by you over the Goods to any other person;
- (5) any warranty given by you under this Chattel Mortgage is or becomes false or misleading in any material respect;
- (6) you or any Guarantor being an individual become insolvent under administration within the meaning of the *Corporations Act 2001* or a bankruptcy notice is filed in respect of any such person;
- (7) you or any Guarantor being a corporation become an externally administered body corporate within the meaning of the *Corporations Act 2001* or any steps are taken to make you an externally administered body corporate;
- (8) if any insurer having insured the Goods cancels any such insurance for any reason;
- (9) if you have made a materially false statement in the course of negotiations preceding the entering into of this Chattel Mortgage and/or you have done anything whereby the rights under this Chattel Mortgage may be prejudiced or jeopardised in any material manner;
- (10) if you are in default under any other agreement, loan or financial arrangement with us and consequent upon that default we are entitled to terminate that other agreement, loan or financial arrangement or to

require that moneys under there become immediately due and payable; and
(11) if you cease or threaten to cease to carry on your business or to transfer or dispose of all or without our prior written consent a substantial part of your assets whether voluntary or due to compulsory acquisition.

13. Powers on Default

13.1 At any time after an Event of Default has occurred, then in addition to all other powers conferred on us by law we have the following powers:

- (1) to take possession of the Goods and for that purpose to take any proceedings in your name or otherwise and to give valid receipts;
- (2) subject to our obligations imposed by law to sell or concur in selling the Goods or any interest in the Goods. Any such sale:
 - (a) may be for cash or any other valuable consideration;
 - (b) may be by public auction, private treaty, public tender or such other method as we may require; and
 - (c) may be at a price payable in a lump sum or by instalments.
- (3) to effect a sale by conveying or transferring the legal and beneficial title in your name and on your behalf or otherwise to do anything we consider desirable to complete the sale;
- (4) to exercise the power of sale given by this Chattel Mortgage in respect of all of the Goods or any part thereof and to apportion the cost of sale between those Goods and to give any options to purchase;
- (5) to enter into, rescind or vary a contract for sale and to resell without being responsible for loss;
- (6) to set aside from the proceeds of sale any amount to meet future claims until the possibility of such claims being made is ended;
- (7) in order to transfer any of the Goods to any purchaser, to complete blanks in transfer documents or instruments delivered by you to us;
- (8) to make any arrangements or compromise affecting the Goods;
- (9) to employ managers, officers, agents, employees, contractors and others to exercise our powers at any remuneration and on any conditions we determine;
- (10) to carry out and enforce specific performance of or obtain the benefit of, all contracts relating to the Goods;
- (11) to make repairs and improvements to or on the Goods or to enhance, upgrade or refurbish the Goods;
- (12) to take proceedings at law or in equity or in bankruptcy in your name or otherwise in connection with the Goods;
- (13) to do everything necessary to comply with your obligations under this Chattel Mortgage and to do, or cause to be done, anything else to protect the Goods or exercise our powers which we think is in our interests (including expending money);
- (14) to delegate to any person any of the powers conferred on us and exercise all of your rights, powers and privilege in respect of the Goods;
- (15) to insure any part of the Goods that are of an insurable nature and against loss or damage by fire or other risk as we think fit; and
- (16) generally to do or cause to be done anything relating to the Goods and income from the Goods (without being responsible for any loss or damage) that is considered necessary by us and could have been done by us if we were the owners of the Goods.

13.2 Any person paying money to or otherwise dealing with us, or any receiver or receiver and manager appointed by us, is not concerned to enquire whether we, or any receiver or receiver and manager appointed by us, are authorised to act and is not obliged to see to the application of any moneys paid or our, or any receiver or receiver and manager appointed by us, receipt of the moneys is sufficient discharge to that person paying it.

13.3 In addition to the powers and remedies set out in this Chattel Mortgage we have all the other powers and remedies given to a mortgagee or chargee by statute law or equity. These powers and remedies may be exercised either separately or concurrently with the powers set out in this Chattel Mortgage.

13.4 Any requirement for any notice or lapse of time before this Chattel Mortgage may be enforced or a receiver or receiver and manager may be appointed in respect of the Goods is waived by you and dispensed with to the extent permitted by law.

13.5 We may appoint a receiver or receiver and manager and where there are two or more receivers or receivers and managers their appointment may be joint and/or several of any of the Goods and any receiver and manager appointed by us may exercise any of the rights, powers and remedies we may exercise under this Chattel Mortgage or in respect of the Goods.

13.6 We may at our entire discretion withdraw from possession after entry or appointment and may re-enter and withdraw as often as we consider appropriate.

14. Partnership Provisions

14.1 Where this Chattel Mortgage secures the indebtedness of a partnership (the "Firm" for the purposes of this clause) this Chattel Mortgage is a running and continuing security to us for the indebtedness to us of the

Firm howsoever the Firm is constituted and even if one or more of the persons named as Mortgagor is no longer a member of the Firm.

14.2 You covenant to pay the Secured Money despite the death or retirement of any member of the Firm, the admission of a new member to the Firm or any settlement of accounts the release of any personal security or anything else.

14.3 Each of you agrees with each other and with us that his or her individual interest in the Firm ranks behind our rights and interest under this Chattel Mortgage.

15. Application of Moneys

15.1 To the extent permitted by law and subject to any order of application of payments prescribed by the PPS Act, moneys received as a result of exercise by us of our powers under this Chattel Mortgage may be applied in the following order:

- (1) towards satisfaction of any costs and expenses as referred to in clause 27;
- (2) to pay any receiver's or receiver and manager's remuneration;
- (3) to pay the balance of Secured Moneys, and it may be applied between interest, principal and other moneys at our discretion;
- (4) to pay any surplus to you or other person entitled to it and in particular we may hold the balance of the moneys to the whole of a subsequent encumbrance whether registered or not and may pay into Court by way of inter-pleader without incurring any liability to you.

15.2 Any surplus moneys as referred to under clause 15.1(4) do not bear interest. We may discharge our liability to account by crediting it in our books in your name.

15.3 In applying moneys towards satisfaction of the Secured Money you are entitled to be credited only with moneys that are actually received by us and only from the time of receipt.

16. Notices

16.1 Any demand or notice under this Chattel Mortgage must be in writing.

16.2 Any demand or notice may be signed on our behalf by an Authorised Officer.

16.3 Any notice to be served on you or any Guarantor may be served in any of the following manners:

- (1) in the case of an individual, personally;
- (2) in the case of a company, by delivering or posting the same to the principal office of the company;
- (3) in any case by being left or posted by prepaid post to the address set out in the particulars for that person or such other address as may be notified to us by that person.

16.4 Any notice served by post is deemed to be served three Business Days after the date of posting.

16.5 A notice required to be given to you or any Guarantor ("relevant person") under this Chattel Mortgage may be given by us in any of the following ways:

- (1) in person;
- (2) by delivery; or
- (3) electronically.

16.6 A notice may be given in person:

- (1) by handing a written notice to the relevant person; or
- (2) by orally advising the relevant person in person or over the telephone of the substance of the notice.

16.7 A notice may be given by delivery, by delivering it or posting it addressed to the relevant person at his or her postal address.

16.8 A notice may be given electronically by:

- (1) sending it by facsimile, email or SMS to the relevant person at his or her electronic address; or
- (2) making the notice available for a reasonable period of time on our secured website at www.mylease.com.au for retrieval by electronic communication by the relevant person. We will promptly notify the relevant person by electronic communication, to the last notified electronic address for that relevant person, that the information is available for retrieval on our website at www.mylease.com.au and the nature of that information.

16.9 By including an electronic address or addresses (facsimile number, mobile phone number or other telephone number of a phone that can receive short message service (**SMS**) messages) or email address) in the Particulars for a relevant person, that relevant person consents to notices being sent to them electronically and nominates that address or addresses as their initial electronic address or addresses.

16.10 Each relevant person (i.e. you and each Guarantor) must give us written notice if they change their name, postal address, or electronic address (telephone or mobile number, facsimile number or email address)

16.11 A notice may be given to a relevant person that is a company by giving that notice in any manner permitted by this clause 16 to any person shown on the records at the Australian Securities and Investment Commission as a director of that company

16.12 Subject to any laws that may provide otherwise, a notice will be taken to have been given:

- (1) If the notice is given in person, at the time it is given;
 - (2) If the notice is given by delivery (other than by posting), upon delivery;
 - (3) if the notice is given by delivery by posting, 2 business days after posting;
 - (4) if the notice is given electronically under paragraph 16.8(1), on the day it is sent; and
 - (5) if the notice is given electronically under paragraph 16.8(2), on the day, when the electronic communication of our notification to you referred to in clause 16.8(2) is sent.
- However, a notice given electronically will not be taken to have been given if we receive notification from the recipient's electronic service provider that transmission or delivery was not successful.

16.13 Where "you" consist of more than one person, we may give you notice by giving that notice in any manner permitted by this clause to any one of you.

16.14 Where there is more than one Guarantor we may give notice to all Guarantors by giving notice in any manner permitted by this clause to any one of the Guarantors.

16.15 A notice may be given on behalf of us by an Authorised Officer

16.16 Subject to any law that provides otherwise, a notice from you or any Guarantor to us must be in writing and sent to us at our address in the state shown in the Particulars. We are not deemed to receive a notice under this agreement until we actually receive the notice in legible form.

17. Proper Law

17.1 This Chattel Mortgage is governed by the laws of the State.

17.2 You irrevocably submit to the jurisdiction of the courts of the State.

18. Waiver and Variation

18.1 No purported indulgence or waiver of our rights under this Chattel Mortgage affects our rights under this Chattel Mortgage or constitutes a waiver of any breach committed by you unless such waiver is in writing signed by us.

18.2 This Chattel Mortgage cannot be varied except expressly in writing signed by both parties.

19. Evidence

19.1 A certificate signed by an authorised officer of us purporting to state at the date set out in the certificate the amount owing by you or any other matter or thing relating to this Chattel Mortgage is prima facie evidence of the matters set out in such certificate.

20. No Merger

20.1 This Chattel Mortgage does not merge with any other Encumbrance taken by us over the Goods nor does it extinguish or postpone or otherwise prejudicially affect any lien or security to which we are entitled by reason of the deposit of any document.

20.2 Any judgment or order obtained by us against you in respect of the Secured Money or any parties is held collaterally with this Chattel Mortgage and this Chattel Mortgage does not merge in the judgment or order.

21. Guarantee and Indemnity

21.1 In consideration of us at the request of the Guarantor agreeing to enter into this Chattel Mortgage, the Guarantor guarantees to us the due and punctual performance by you of your obligations under this Chattel Mortgage.

21.2 As a separate obligation the Guarantor agrees to indemnify us against all loss or damage which we may suffer or sustain as a result of the non-payment of any moneys or the non-performance of any obligations under this Chattel Mortgage by you whenever and so often as such event occurs.

21.3 The obligations of the Guarantor under this Guarantee are principal obligations imposed upon the Guarantor as principal debtor. Accordingly the Guarantor acknowledges that we have the right to make a claim or demand against the Guarantor pursuant to the Guarantee without first having taken any proceedings against you or any other person.

21.4 This Guarantee is not to be considered wholly or partly discharged unless and until all of the guaranteed money have been paid in full.

21.5 This Guarantee is not impaired or discharged by:

- (1) any variation (with or without the consent of the Guarantor) whenever made of this Chattel Mortgage;

- (2) any breach, wilful or otherwise, of your obligations under this Chattel Mortgage with or without your consent or knowledge or the consent or knowledge of any Guarantor or of us;
- (3) the granting of time, credit, forbearance, indulgence or concession to you or to any guarantor or any compromise, abandonment, waiver, release, variation or redemption or compounding by us of any of our rights under this Chattel Mortgage or any Collateral Security or against any other Guarantor.
- (4) the unenforceability in whole or in part of this Guarantee against any other Guarantor;
- (5) the fact that all or any part of the Secured Moneys may not be or may cease to be recoverable from you or any other person liable for any reason (other than the same has been fully paid or satisfied);
- (6) the liquidation, death, insolvency or bankruptcy, as the case may be, of you or any Guarantor;
- (7) the avoidance for any reason by statute or otherwise of any payment by or on behalf of you or any Guarantor;
- (8) the transfer or assignment of the benefit of this Chattel Mortgage to any person or corporation;
- (9) you or any Guarantor being under any legal disability;
- (10) the failure to register or perfect our Encumbrance in the Goods or arising under this Chattel Mortgage;
- or
- (11) any other matter or thing which but for this provision could or might operate to abrogate the effect of provisions of this Guarantee.

21.6 Despite anything else in this Chattel Mortgage, if section 114 of the *Goods Act* 1958 Victoria applies to this Chattel Mortgage, the liability of the Guarantor is limited to liability in respect of the amount you are liable by reason of any breach of this Chattel Mortgage plus the reasonable costs of and incidental to enforcing this Guarantee.

22. Trusts

22.1 The provisions of this clause apply only if you or any Guarantor is entering to this Chattel Mortgage or the Guarantee as a Trustee of a Trust.

22.2 For the purpose of this clause every reference to "Trustee" is a reference to each person who has entered into this Chattel Mortgage whether as Mortgagor or Guarantor on behalf of a Trust. Every reference to a "Trust" is a reference to each such Trust of which that person is a Trustee. A reference to "Chattel Mortgage" means the Chattel Mortgage or the Guarantee which that person is entering into.

22.3 Each Trustee enters into this Chattel Mortgage both in its personal capacity and as Trustee of the Trust.

22.4 The Trustee warrants to us that:

- (1) it has full, complete, valid and unfettered authority and power to enter into the Chattel Mortgage and that the entering of the Chattel Mortgage by the Trustee is in the due and proper administration of the Trust and is for the benefit of the beneficiaries of the Trust;
- (2) the performance by the Trustee of its obligations under the Chattel Mortgage has been duly authorised in accordance with the terms of the Trust;
- (3) no limitations or restrictions exist in respect of the Trustee's rights to be indemnified from the trust assets in respect of the obligations incurred by the Trustee under this Chattel Mortgage (whether as Mortgagor or Guarantor).

22.5 The Trustee must not so far as it is able to do so, without our written consent permit any of the following:

- (1) any variation, replacement or limitation of the terms of the Trust Deed;
- (2) its removal as Trustee or the appointment of another Trustee as Trustee of the Trust whether or not in conjunction with the Trustee;
- (3) any distribution, transfer or setting aside of any part of the income or capital of the Trust.

23. Confidentiality

(1) Subject to clause 23(2), a party to this Chattel Mortgage may not disclose:

- (a) any information of a kind referred to in section 275(1) of the PPS Act; or
- (b) the existence or content of this Chattel Mortgage.

(2) A party to this Chattel Mortgage may disclose information or documents referred to in clause 23(1) as follows:

- (a) in the case of us, in assigning or enforcing or seeking to assign or enforce this Chattel Mortgage or in a proceeding arising out of or in connection with this Chattel Mortgage or to the extent that disclosure is regarded by us as necessary to protect its interests;
- (b) if required under a binding order of a Government Agency or any procedure for discovery in any proceedings;
- (c) if required under any law or any administrative guideline, directive, request or policy whether or not having the force of law (except to the extent the requirement can be excluded or limited by contract or by a confidentiality obligation) and, if not having the force of law, the observance of which is in accordance with the practice of responsible bankers or financial institutions similarly situated;
- (d) as required or permitted by this Chattel Mortgage;

- (e) the party's legal advisers and consultants;
 - (f) in the case of us, to a ratings agency or to a potential assignee, transferee or sub-participant or to any person with whom we may enter into a transaction, including a securitisation; or
 - (g) with the prior consent of the other parties, which must not be unreasonably withheld.
- (3) Clause 23(2)(c) does not require us to disclose any information of the kind referred to in section 275(1) of the PPS Act.
- (4) You agree that you will not authorise the disclosure of any information as contemplated by section 275(7)(c) of the PPS Act.
- (5) This clause 23 survives the termination of this Chattel Mortgage.

24. Contracting out

24.1 You have no rights under, or by reference to, sections 125, 142 and 143 of the PPS Act and waives your rights to:

- (1) receive any notice under sections 95, 121(4), 130 and 135 of the PPS Act;
- (2) receive a statement of account under section 132(4) of the PPS Act;
- (3) receive details of the amounts paid to other secured parties in a statement of account provided by the Chargee under section 132(1) of the PPS Act; and
- (4) receive any other notice or copies of any documents under the PPS Act (including a copy of, or notice of, any verification statement confirming registration of a financing statement or a financing change statement relating to any Security Interest created under, or provided for by, this Chattel Mortgage) unless the notice is required by the PPS Act and cannot be excluded.

25. General

25.1 You authorise us to set-off or appropriate any moneys held in any account on your behalf with us or any related corporation (as that term is defined in the *Corporations Act 2001*) against any moneys owing by you under this Chattel Mortgage.

25.2 Time is of the essence in respect of your obligations under this Chattel Mortgage.

25.3 Any provision of this Chattel Mortgage which is prohibited or unenforceable in any jurisdiction is as to that jurisdiction ineffective to the extent of such prohibition or unenforceability without prejudice to the remaining provisions of this Chattel Mortgage.

25.4 This Chattel Mortgage may be assigned by us to any person.

25.5 You may not assign your rights under this Chattel Mortgage without our prior written consent.

25.6 If any law requires you or any Guarantor to make any deduction or withholding from any payment under this Chattel Mortgage or under any guarantee, then:

- (1) you or the Guarantor (as the case may be) must pay to us such additional payments as are necessary to ensure that, after making the withholding or deduction, we receive a sum equal to the sum we would have received if no deduction or withholding had been made; and
- (2) you or the Guarantor indemnify us against any failure by you or the Guarantor (as the case may be) to make such deduction or withholding.

26. Commission

26.1 You acknowledge that where you have been introduced to us by an agent, dealer, broker or other person we may pay commission, fee or other remuneration to such agent, dealer or other person. You consent to such payment and acknowledge that in calculating the moneys payable by you under this Chattel Mortgage we may have taken into account any such payment.

27. Costs and Expenses

27.1 You must pay to us on demand:

- (1) our costs and expenses in connection with the negotiation, preparation, execution, stamping, registration and completion of this Chattel Mortgage and any of the forms required by any statute or regulation to be lodged with any registry;
- (2) all Taxes payable in respect of the Loan, this Chattel Mortgage or any Collateral Security or in respect of a discharge (partial or otherwise) or a payment or receipt or any other transaction contemplated by this Chattel Mortgage or any Collateral Security;
- (3) our reasonable costs (including our administration costs) in connection with anything done in connection with this Chattel Mortgage or its release or enforcement;
- (4) our reasonable costs of obtaining advice as to our rights under or in relation to this Chattel Mortgage and any information relevant to those rights.

27.2 Everything that you are required to do under this Chattel Mortgage is done at your cost.

28. Agency

28.1 You and the Guarantor acknowledge that we may have made the Loan and taken this Chattel Mortgage and the Guarantee as agent for some other person. Neither you nor any Guarantor is entitled to make any objection to that (irrespective of whether that agency is disclosed or otherwise).

29. Power of Attorney

29.1 You irrevocably appoint us and every person who is an Authorised Officer separately to be your attorney.

29.2 An attorney appointed under clause 29.1 may do anything (including executing documents):

- (1) That you could do as the owner of the Goods;
- (2) That you are obliged to do under this Chattel Mortgage;
- (3) That we think advisable in order to give complete effect to or to perfect this Chattel Mortgage or to ensure compliance with the terms of this Chattel Mortgage or for the exercise of any of the powers or remedies conferred by this Chattel Mortgage or by law on us;
- (4) To sign any document required to be signed by you;
- (5) That gives effect, releases and receipts for money received by us under a right of power or remedy in this Chattel Mortgage;

29.3 You agree to ratify anything done by an attorney in accordance with clause 29.

29.4 You must immediately on receipt of a written request of an attorney appointed under clause 29.1 sign any further power of attorney in favour of that attorney in the form or to the effect required by that person.

30. Further assurances

30.1 If we ask you to do so, you must at your own cost immediately:

- (1) execute in our favour or as we direct and in the form required by us further documents (including Encumbrances, transfers, assignments, deeds, instruments, releases, assurances, notices, consents or amendments to this Chattel Mortgage) and do everything we ask (including providing information, obtaining consents or waivers) to:
 - (a) provide more effective or better security to us over the Goods or any part of the Goods or proceeds of the Goods in any relevant jurisdiction and in a manner not inconsistent with this Chattel Mortgage with any additional terms reasonably required by us having regard to the nature of that part of the Goods or proceeds of the Goods and the type of additional Encumbrance being created;
 - (b) enable us to register this Chattel Mortgage or our interest in the Goods (including enabling us to prepare and register a financing statement or financing change statement), with the agreed priority (and if required, to renew the registration);
 - (c) ensure that, any Encumbrance created under, or provided for, by this Chattel Mortgage:
 - (i) attaches to the Goods; and
 - (ii) is enforceable, perfected and otherwise effective;
 - (d) stamp, protect, perfect, record or better secure our positions under this Chattel Mortgage in any relevant jurisdiction;
 - (e) if you are in default, enable us to evidence that we are in control and possession of the Goods for the purposes of the PPS Act;
 - (f) overcome any defect or adverse effect arising from the PPS Law;
 - (g) enable us to exercise our rights or powers in respect of the Goods, proceeds of the Goods or our Encumbrance in the Goods or those proceeds, or perform any of our obligations under the PPS Law; and you must ensure that any person interested in the Goods does likewise;
- (2) take or defend such legal proceedings as we may consider advisable for the protection or recovery of the Goods.

30.2 We and any Authorised Officer may fill in any blanks in this Chattel Mortgage and complete in our favour or in the favour of any person purchasing under the powers given by this Chattel Mortgage any transfer or other instrument executed by or on behalf of you in blank and delivered to us in connection with this Chattel Mortgage.

30.3 We may take all steps as we consider advisable to register, amend or remove the registration of, protect, perfect or record our Encumbrance in the Goods, or to better secure our position in respect of this Chattel Mortgage under the PPS Law.

30.4 You authorise us to complete any blanks in this Chattel Mortgage or in any other documentation necessary to effect registration of this Chattel Mortgage.

30.5 You undertake to comply with any requisitions that may be raised by any person in relation to the registration of this Chattel Mortgage.

31. Inconsistency

31.1 To the extent permitted by the PPS Law, our rights, powers and remedies under this Chattel Mortgage prevail to the extent they are inconsistent with the provisions of the PPS Law.

32. GST

32.1 Without limiting any other provision of this Chattel Mortgage if GST is imposed on any supply made by us under or in connection with this Chattel Mortgage or the Goods, the amount you must pay for that supply is increased by the amount of that GST.

32.2 For the avoidance of any doubt, to the extent that we incur an amount of additional costs expense or recover a lesser amount by reason of the impact of GST in connection with or arising out of this Chattel Mortgage, the Goods or any security for any amount owing under this Chattel Mortgage that amount is for your account and may be recovered by us from you.

32.3 In this clause GST means the Goods and Services Tax imposed under the A New Tax System (Goods and Services Tax) Act and related legislation or any other similar value added tax.

33. ANTI-MONEY LAUNDERING AND COUNTER TERRORISM FINANCING ACT 2006

33.1 The Borrower undertakes to not knowingly do anything to put the Mortgagee in breach of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006, rules and other subordinate instruments (AML/CTF Laws). The Borrower undertakes to notify the Mortgagee if the Borrower is aware of anything that would put the Mortgagee in breach of AML/CTF Laws.

33.2 If requested the Borrower undertakes to provide additional information and assistance and comply with all reasonable requests to facilitate the Mortgagee's compliance with AML/CTF Laws in Australia or an equivalent overseas jurisdiction.

33.3 The Borrower undertakes that the Borrower is not aware and has no reason to suspect that:

- (1) The money used to fund the payments under or related to this Chattel Mortgage is derived from or related to money laundering, terrorism financing or similar activities (Illegal Activities); and
- (2) Proceeds of investment made in connection with this Chattel Mortgage will fund illegal activities.

33.4 The Mortgagee is subject to AML/CTF Laws. In entering into this Chattel Mortgage, the Borrower consents to the Mortgagee disclosing in connection with AML/CTF Laws any of the Borrower's Personal Information (as defined in the Privacy Act 1988 (Cth)) we have.

33.5 In certain circumstances the Mortgagee may be obliged to freeze or block an account where it is used in connection with Illegal Activities or suspected Illegal Activities. Freezing or blocking can arise as a result of the account monitoring that is required by AML/CTF Laws. If this occurs, the Mortgagee is not liable to the Borrower for any consequences or losses whatsoever and the Borrower agrees to indemnify the Mortgagee if the Mortgagee is found liable to a third party in connection with the freezing or blocking of the Borrower's account.