

# Loan Contract Booklet

Version 2019 - 1

## **This booklet comprises the following parts:**

### **Part 1: Terms of the Loan Contract**

Please note the following:

- You must read the Terms of the Loan Contract carefully.
- Your loan contract comprises the Schedule and the Terms of the Loan Contract. The Terms of the Loan Contract must be read in conjunction with the Schedule.
- The Terms of the Loan Contract do not contain all of the information you may be required to be given by law before you enter into your loan contract. The rest of that information is contained in the Schedule, and in the Information Statement in Part 2 of this booklet.

### **Part 2: Information Statement – Things you should know about your proposed credit contract**

### **Part 3: Explanation of the break cost fee**



# Part 1: Terms of the Loan Contract

## 1. Definitions

In this loan contract:

- a. **we/us/our** means MyState Bank as the credit provider;  
MyState Bank Limited (MyState) ABN 89 067 729 195  
AFSL 240896  
Australian Credit Licence Number 240896  
A wholly owned subsidiary of MyState Limited ABN 26 133 623 962.
- b. **you/your** means each Borrower named in the Schedule;
- c. **account** means each account which we open in your name for the purposes of this loan contract;
- d. **account balance** means in relation to an account the difference between all amounts debited to the account and all amounts credited to the account;
- e. **amount of credit** means the amount of credit (if any) shown in the Schedule under the heading "Amount of Credit";
- f. **business day** is a weekday other than a national public holiday;
- g. **credit limit** means the credit limit (if any) shown in the Schedule under the heading "Credit Limit";
- h. **facility** means a credit facility forming or comprising a part of your loan contract. It includes any credit facility described under the heading "Amount of Credit" or "Credit Limit" in the Schedule;
- i. **fixed interest rate period** means in relation to a facility:
  - any period shown in the Schedule under the heading "Annual Percentage Rate" which is expressed to be a fixed interest rate period; or
  - any period which you and us agree is to be a fixed interest rate period in respect of a facility and for which the annual percentage rate is a fixed rate;
- j. **funding** means the date on which the loan or any part of the loan is advanced;
- k. **guarantor** means the guarantor (if any) or any other person who at any time guarantees the loan, named in the Schedule;
- l. **loan** means the credit provided or to be provided under this loan contract by us to you;
- m. **loan to valuation ratio** means, at any time, the ratio which the account balance bears to the value of the mortgaged property at that time;
- n. **mortgaged property** means the property specified in the Schedule or any other real estate which is to be mortgaged to us as security for your obligations under this loan contract;
- o. **the Schedule** means the schedule which forms part of this loan contract and is signed by you;
- p. **small business** means a business that:
  - i. has an annual of less than \$10 million in the previous financial year;
  - ii. Has fewer than 100 full-time equivalent employees; and
  - iii. Has less than \$3 million total debt to all credit providers including:
    - Any undrawn amounts under existing loans;
    - Any loan being applied for; and
    - The debt of all its related entities that are businesses.
- q. **voluntary excess repayment limit** means:
  - i. in relation to a facility that has a fixed interest rate period not exceeding 1 year, an amount of \$10,000 (or such other amounts as you and we agree in writing) for that year; and
  - ii. in relation to a facility that has a fixed interest rate period exceeding 1 year, and amount of \$10,000 (or such amount as you and we agree in writing) in respect of each year ending on the day before an anniversary if the commencement of that fixed interest rate period
- r. **voluntary repayment** means in relation to a facility that has a fixed interest rate period, a repayment which is made by you and which is not required by this loan contract or any other agreement made between you and us.

## 2. Interpretation

- a. words and phrases have the same meaning as in the Schedule;
- b. words and phrases have the same meaning as in the *National Consumer Credit Protection Act 2009* (Cth) (NCCP) even when the NCCP does not apply to this loan contract;
- c. headings are for convenience only and do not affect the interpretation of this loan contract;
- d. words importing the singular include the plural and vice versa;
- e. words importing a gender include any gender;
- f. a reference to a clause or schedule is a reference to a clause or schedule of this loan contract;
- g. a reference to this loan contract includes the Schedule; and
- h. a reference to a party to this loan contract includes that party's successors and permitted assigns.

## 3. Pre-funding conditions

- 3.1 You must draw down the facility within 90 days of the date we signed the Offer and Loan contract otherwise we may withdraw or cancel the facility.
- 3.2 We will not lend you the amount of credit or give you access to credit under a facility that has a credit limit, until:

- a. if applicable, the Guarantor gives us a guarantee that satisfies us;
- b. you and, if applicable, the Guarantor, give to us a mortgage over the mortgaged property that satisfies us and we are also satisfied with the results of all searches, certificates, inquiries and valuations concerning the mortgaged property;
- c. you, and if applicable, the Guarantor, take out any compulsory insurance or mortgaged property insurance that we may reasonably require;
- d. your mortgage and, if applicable, the Guarantor's mortgage is properly completed and ready for registration;
- e. you, and if applicable, the Guarantor satisfy us that you, and if applicable, the Guarantor, have taken out the insurance referred to in clause 3.2(c);
- f. where the purpose of the loan is to finance building work:
  1. if required by us, you have given to us (in each case in a form and substance satisfactory to us):
    - i. a copy of the building contract for the building work;
    - ii. all plans, specifications and approvals for the building work;
    - iii. evidence that the building work is covered by insurance and our interest is noted on the policy of insurance as first mortgagee; and
    - iv. evidence that the building work is covered by any required housing guarantee or indemnity in your state or territory; and
  2. we are satisfied that the amount necessary to complete the building work (and all other associated costs) does not exceed the amount of credit not yet drawn.

3.3 If the facility does not specify a credit limit, you must arrange to borrow the amount of credit within 30 days of the date of this loan contract or later as we both agree. If you do not do so, we may terminate this loan contract so far as it relates to that facility.

3.4 If the facility has a credit limit, you must access the credit limit within 30 days of the date of this loan contract or later as we both agree. If you do not do so, we may terminate this loan contract so far as it relates to that facility.

#### 4. Post-funding conditions

- 4.1 You must provide us with any of the following within 60 days of the date of our request:
- annual financial statements;
  - personal assets and liability statements;

- monthly/quarterly trading results or cashflow statements;
- monthly/quarterly/annual cashflow projections;
- monthly/quarterly aged debtor listings;
- business activity statements; and
- any other reasonable information specified in our request.

4.2 You agree that we may conduct an annual or periodic review of the loan.

4.3 If you are a company you agree that you will not without our prior written consent (which will not be unreasonably withheld) grant any further charge over any assets that are already charged in our favour by any fixed or floating charge.

4.4 If you are a company you agree that you will not without our prior written consent (which will not be unreasonably withheld) allow the transfer of control of more than 30% of your share equity or the share equity of any entity which has provided security to us for the loan whilst any part of the loan remains outstanding.

4.5 Whenever we reasonably request, you must re-confirm the representations and warranties made when entering into this loan contract.

#### 5. Amount of credit

5.1 Subject to clause 3 and this loan contract, we agree to lend you up to the amount of credit. Subject to clause 5.2, the amount of credit will be debited to your account when it is advanced. If more than one facility is specified in the Schedule, we will open a separate account in relation to each facility.

5.2 However, we will not advance to you the difference between the amount of a credit fee and charge we are to pay out of the amount of credit and the amount that we actually pay of that credit fee and charge.

5.3 Unless we agree otherwise, you may only borrow the amount of credit in a single borrowing.

#### 6. Credit limit (continuing credit contract)

6.1 This clause 6 applies if a facility has a credit limit.

6.2 Subject to clause 6.3 and this loan contract, in respect of that facility, we agree to make available to you credit up to the credit limit.

6.3 You agree not to exceed the credit limit in respect of the facility.

6.4 We may reduce the credit limit in respect of the facility to the account balance of your account for that facility at any time. We do not have to notify you beforehand but we will notify you as soon as practicable afterwards.

- 6.5 If:
- a. you draw a cheque on your account for the facility; and

- b. payment of the cheque would result in you exceeding your credit limit;

You agree that presentment of your cheque for payment is a request by you to us to increase your credit limit temporarily. If we pay your cheque, you agree that you will pay us, on demand, the amount required to reduce the balance of your account to the previous credit limit.

- 6.6 It is entirely within our discretion to decide whether to pay on your cheque or not.

## 7. Building work

- 7.1 This clause 7 applies if the loan is to be used in whole or in part to carry out building work, and we have agreed to advance the amount of credit by instalments over a period of time.
- 7.2 Each advance will be debited to your account when it is advanced by us.
- 7.3 You may borrow an instalment of the amount of credit, subject to:
  - a. us being satisfied that:
    - 1. at the time you request an instalment of the loan to be advanced, the building work is proceeding on time, and will be completed no later than 12 months from funding (or such other period as we agree);
    - 2. at the time you request an instalment of the loan to be advanced, the amount necessary to complete the building work (and all other associated costs) does not exceed the amount of credit not yet drawn;
    - 3. You must not agree to any changes to the plans and specifications or to your building contract without our consent. You must notify us of the proposed changes in writing. You must pay the costs of any of those charges;
    - 4. in the case of the last drawing, all building certificates and occupancy permits required for the lawful use and occupation of the building work have been obtained;
    - 5. the amount of credit is fully drawn down not later than 30 days after the building work is completed;
    - 6. the request for drawing of a portion of the amount of credit is in form and substance satisfactory to us;
  - b. us obtaining (at your cost) a valuation report satisfactory to us from a valuer appointed by us; and
  - c. us being satisfied that the loan to valuation ratio (based on the value of the building work as at the date the further instalment of the amount of credit is to be advanced) will not exceed any loan to valuation ratio specified in the Schedule, or such other loan to valuation ratio as we agree.
- 7.4 If any more money is payable to the builder (for

example, for variations) then you must pay it from your own funds before The Credit Prover will make the final payment.

- 7.5 Usually we will make all payments payable to the builder. We can change the way payments are made.
- 7.6 We may monitor the building work (for example, by inspection), and inspect any plans or specifications for the building work, for our own purposes. If we are not satisfied with the building work or the plans and specifications, we may refuse to advance a further instalment of the loan.
- 7.7 If we decide to monitor the building work or inspect any plans and specifications:
  - 7.7.1 we do not owe you any duty to exercise care or skill in doing so; and
  - 7.7.2 we need not tell you the results of any inspection.
- 7.8 We may refuse to advance a further instalment of the amount of credit if you are in default under this loan contract.

## 8. Repayments

- 8.1 You must repay the account balance in relation to a facility by making the repayments set out in the Schedule applicable to that facility. However, this is subject to the other terms of this loan contract, for example, if we increase repayments or if you are in default.
- 8.2 If the facility has a credit limit and you exceed the credit limit, you must also pay us the amount required to reduce the account balance to the credit limit on demand.
- 8.3 This clause 8.3 only applies to a facility that has a fixed interest rate period. During a fixed interest rate period you must not make any voluntary repayment which would result in you at any time exceeding the voluntary excess repayment limit applicable to the facility.
- 8.4 If we do not receive value for a cheque or direct credit, we may:
  - a. reverse the credit; and
  - b. charge you interest or if it applies, default interest; and
  - c. exercise any right or remedy under this loan contract, as if the repayment had never been made.
- 8.5 If you are liable to us under 2 or more loan contracts or facilities and do not tell us to which account we are to credit any repayment, we may credit the repayment to any loan contract or facility as we choose.
- 8.6 We may apply any payment from you or the Guarantor to enforcement expenses, default interest (where it applies), credit fees and charges, interest or principal in the order we choose.
- 8.7 We may apply any payment from you or the

Guarantor to the most recent debit to your account.

- 8.8 You must make all payments due under this loan contract and any mortgage, except to the extent permitted by law, without any deduction, set-off, counterclaim or condition.

## 9. Calculating interest charges

- 9.1 We will calculate interest daily in relation to each facility by multiplying the unpaid daily account balance for that facility at the end of the day by the daily percentage rate applicable to that facility. The daily percentage rate is the annual percentage rate applicable to the facility divided by 365.
- 9.2 We will debit interest on or about the same day every month. This day will not necessarily be the same day that your repayments are due. We will also debit interest on the day you pay the balance of an account.
- 9.3 If we obtain a judgment for any money that you owe us under this loan contract then the applicable court judgement interest charges will continue to be calculated on the amount of the judgment on a daily basis by applying the applicable daily percentage rate to the amount of the judgment until the amount of the judgment is actually paid.
- 9.4 At your request we may debit interest charges before the end of a day to which an interest charge applies, if the credit under this loan contract is provided or intended to be provided wholly or predominantly to:
- 9.4.1 purchase, renovate or improve residential property for investment purposes; or
  - 9.4.2 refinance credit that was provided for such a purpose (but not where at the time this loan contract is entered into, the predominant use of the residential property is for personal, domestic or household purposes).

## 10. Fixed interest rates and changes to the type of annual percentage rate

- 10.1 You may request us to change the type of annual percentage rate that applies to a facility to any other type of annual percentage rate, which is then available from us. We do not have to agree to that request but will not act unreasonably. The request must be made in writing.
- 10.2 If we agree to your request we will give you a written notice (including by electronic means) setting out particulars of the change to the terms of this loan contract and any other information required by law.
- 10.3 If we agree to change the type of annual percentage rate, then the new type of annual percentage rate will apply to the relevant facility from the re-set date. The re-set date is the date which we agree the change in the type of annual percentage rate that is to apply to the facility.
- 10.4 If we agree to change the type of annual percentage

rate applying to a facility to an annual percentage rate that is a fixed rate then:

- 10.4.1 the fixed rate will apply to the relevant facility during the agreed fixed interest rate period; and
  - 10.4.2 the fixed interest rate period will begin on the re-set date and will end on the date we specify when we agree to the change; and
  - 10.4.3 the fixed interest rate will be the rate for similar fixed rate loans then available from us on the re-set date as determined by us.
- 10.5 Prior to the end of a fixed interest rate period for a facility you may request us to fix the annual percentage rate applicable to that facility for a further period to commence when the existing fixed interest rate period for that facility ends. If the annual percentage rate for the facility is not fixed for a further period from the end of the fixed interest rate period, the annual percentage rate applicable to that facility becomes a variable rate.

## 11. Calculating default interest charges

- 11.1 This clause 11 only applies if a default rate of interest is specified in the Schedule or has been added to the loan contract under clause 19.1.
- 11.2 If you do not make a repayment when due, you must pay us default interest as well as interest.
- 11.3 We will calculate default interest daily by multiplying the overdue amount by the daily default percentage rate. The daily default percentage rate is the default rate of interest divided by 365.
- 11.4 We will debit default interest on the same days as we debit interest under clause 9.2.

## 12. Credit fees and charges

We may debit the credit fees and charges, and/or lenders mortgage insurance, specified in the Schedule (and in the case of credit fees and charges, also as otherwise notified by us to you from time to time in accordance with clause 16.3) to your account.

## 13. Agreement to mortgage

- 13.1 Where the Schedule describes mortgaged property (other than mortgaged property owned by the Guarantor, if any) you agree that you will:
- a. execute and deliver to us a first priority mortgage, in registrable form, over the mortgaged property; and
  - b. deliver to us any documents of title relating to the mortgaged property.
- 13.2 The mortgage must be in the form we require.

## 14. Variation of annual percentage rate

- 14.1 We may vary the annual percentage rate shown in the Schedule at any time prior to funding. If the variation increases the annual percentage rate, we will give you written notice of the change (including by electronic means) on or before the day it takes effect. However, if the annual percentage rate shown in the Schedule is for a facility that has a fixed interest rate period, we will not vary the annual percentage rate before funding if funding occurs within the period of 14 days commencing on and including the disclosure date shown in the Schedule.
- 14.2 Subject to clause 14.1, we may vary the annual percentage rate at any time. However, we do not have this right in relation to the annual percentage rate which applies to a facility during a fixed interest rate period for that facility.
- 14.3 If the variation increases your obligations, we will notify you on or before the day the increase takes effect by:
- 14.3.1 publishing a notice in a newspaper and sending you notification in your next statement of account; or
- 14.3.2 giving you written notice (including by electronic means).
- 14.4 In making any changes to the annual percentage rate, we will act reasonably.

## 15. Variation of interest calculations

- 15.1 We may vary how we calculate interest or how often we debit interest.
- 15.2 If the variation increases your obligations, we will give you written notice (including by electronic means) before the increase takes effect. The notice period is 20 days or any longer period the NCCP specifies from time to time.
- 15.3 In making any changes to how we calculate interest or how often we debit interest, we will act reasonably.

## 16. Variation of credit fees and charges

- 16.1 Subject to clause 16.2, we may:
- a. vary the amount of any credit fee or charge shown in the Schedule;
- b. add a new credit fee or charge (which is a credit fee or charge);
- c. vary the method of calculating any credit fee or charge; or
- d. vary the time or frequency of payment for any credit fee or charge.
- 16.2 During a fixed interest rate period, we may not:
- 16.2.1 increase the amount of a credit fee or charge payable on early termination of this contract or on payment of any amount under this contract; or
- 16.2.2 vary the method of calculating any credit fee or charge payable on early termination of this

contract or on prepayment of any amount under this contract so as to increase the amount of the credit fee or charge.

- 16.3 If the variation increases your obligations, we will notify you before the change takes effect by:
- 16.3.1 publishing a notice in a newspaper and sending you notification in your next statement of account; or
- 16.3.2 giving you written notice (including by electronic means).
- The notice period is 20 days or any longer period the NCCP specifies from time to time.
- 16.4 If the variation does not increase your obligations, we will send you notification in your next statement of account.
- 16.5 In making any changes, we will act reasonably.

## 17. Variation of repayments

- 17.1 We may vary:
- a. the amount, frequency or time of repayments; or
- b. the method of calculating repayments; or
- c. the method of calculating the minimum repayment.
- 17.2 If any of these variations increases your obligations, we will give you written notice (including by electronic means) at least 20 days before the increase takes effect.
- 17.3 If a variation does not increase your obligations, we will notify you in your next statement of account.
- 17.4 In making any changes, we will act reasonably.

## 18. Other variations

- 18.1 We may vary this loan contract:
- a. when the annual percentage rate stated in the Schedule is expressed as a reference rate plus or minus a margin – to increase or decrease that margin;
- b. if this loan is regulated by the NCCP, when the Schedule does not state a default rate of interest – to add a default rate of interest to calculate default interest under clause 11;
- c. to increase or decrease the default rate of interest; or
- d. to vary the minimum amount under the redraw facility, if applicable.
- 18.2 If any of these variations increases your obligations, we will give you written notice (including by electronic means) before the increase takes effect. The notice period is 20 days or any longer period the NCCP specifies from time to time.
- 18.3 If the variation does not increase your obligations, we will send you notification in your next statement of account.
- 18.4 In making any changes, we will act reasonably.

## 19. Default

- 19.1 You are in default under this loan contract if any of the following events of default have occurred. Each paragraph is a separate term.
- a. A credit limit applies to a facility, you exceed the credit limit.
  - b. You do not make a repayment in full by the date it is due under your loan contract.
  - c. Early repayment is required under a separate financing arrangement you have with us, or default based action is taken against a you, due to an event of default which is described in this clause.
  - d. Any guarantee or any mortgage that we require becomes wholly or partly void or unenforceable according to its terms.
  - e. You or the Guarantor fail to maintain on terms that satisfy us any mortgaged property insurance that we require.
  - f. You or the Guarantor go into bankruptcy, voluntary administration, insolvency, or no longer have legal capacity.
  - g. You are unable to pay your debts as they fall due, or seek to make an arrangement or composition with your creditors under a law dealing with bankruptcy.
  - h. Anything you or the Guarantor told us in connection with applying for the loan or about any mortgaged property is found to be materially untrue, misleading or false.
  - i. You use the loan for a purpose not approved by us.
  - j. We believe on reasonable grounds that you have not complied with the law or any requirement of a statutory authority.
  - k. You or the Guarantor further mortgages or charges any mortgaged property without first arranging an agreement between us and the other security holder on terms reasonably acceptable to us concerning the parties' respective rights in respect of the mortgaged property.
  - l. We believe on reasonable grounds that there has been an event which materially adversely changes the value of the mortgaged property.
  - m. The required insurance over the mortgaged property is not maintained on terms acceptable to us.
  - n. You are a company, and:
    1. there is any change in ownership or control of you or any company of which you are a subsidiary without our consent; or
    2. a receiver, manager, receiver and manager, administrator, controller, provisional liquidator, or liquidator is appointed to any part of your assets.
  - o. You or the Guarantor breach any other term of this loan contract.
- 19.2 If you are in default, we may:
- a. cancel any or all facilities by notice to you
  - b. demand and require immediate repayment of any money due under this loan contract; or
  - c. exercise any rights, powers or privileges conferred by any law, this loan contract, or any mortgaged property.
- 19.3 Despite clause 19.2, if you are an individual or a small business, we will not require you to repay the loan, take enforcement action against you, or exercise our powers in respect of the mortgaged property unless we have given you at least 30 days' written notice that you are in default, and if the event of default is rectifiable, you have not rectified that event of default and no default of the same type has arisen during that period.
- 19.4 We do not need to give a period of notice to require repayment of an overdraft or on-demand facility.
- 19.5 Unless your loan is regulated by the NCCP, we may give less than 30 days' notice or no notice if:
- a. based on our reasonable opinion, it is necessary for us to manage an immediate risk;
  - b. you are insolvent, or go into bankruptcy, voluntary administration, or other insolvency process or arrangement;
  - c. enforcement action is taken against you by another creditor;
  - d. we believe, on reasonable grounds, that you have not complied with the law or any requirement of a statutory authority; or
  - e. we have already given you a notice to rectify an event of default.
- 19.6 If your loan is regulated by the NCCP, we do not need to give you a default notice or wait 30 days before commencing enforcement action if:
- a. we reasonably believe that we were induced by fraud by you or a guarantor to enter into your loan contract;
  - b. we have made reasonable attempts to locate you or a Guarantor but without success;
  - c. a court authorises us to begin the enforcement proceedings; or
  - d. we reasonably believe that you or a Guarantor have removed or disposed of mortgaged goods given as security for this loan or that urgent action is necessary to protect the mortgaged property.
- 19.7 We will only act on a specific event of non-monetary default if the event by its nature is material, or we reasonably consider that the event has had, or is likely to have a material impact on:
- a. you or a Guarantor's ability to meet their financial obligations to us;
  - b. our credit or security risk (or our ability to assess these); or

- c. our legal or reputation risk where an event in clause 19.1(h), (i) or (j) has occurred.

Our decision of a matter under clause 19.1(h), (i) or (j) is final.

- 19.8 If you or the Guarantor fails to do anything that this loan contract, the guarantee, any mortgage or any insurance policy requires you or the Guarantor to do, we may:
- a. do the thing as required;
  - b. do it in your name; and
  - c. do it at your expense and debit your account for the expense.

## 20. Enforcement expenses

- 20.1 If you are in default under this loan contract, we may charge you enforcement expenses we reasonably incur. We may debit these to your loan account.
- 20.2 An enforcement expense includes an expense for doing any of the following under this loan contract, any guarantee or any mortgage:
- a. enforcing any right we have;
  - b. attempting to enforce any right;
  - c. performing any of your obligations or those of any Guarantor in accordance with clause 19.8;
  - d. protecting any right;
  - e. waiving any right;
  - f. contemplating the enforcement of any right;
  - g. sending an arrears letter or default notice before commencing enforcement proceedings.
- 20.3 An enforcement expense also includes any expense we have to pay on the dishonour of a cheque or any other payment instrument given to us for a payment in relation to this loan contract.

## 21. Trustee provisions

- 21.1 If you enter into this loan contract in your capacity as a trustee and in your own capacity you make the following statements:
- a. you are the only trustee(s) of the Trust;
  - b. you have been validly appointed trustee of the Trust;
  - c. no action has been taken or is contemplated to remove you as trustee of the Trust or to appoint an additional trustee of the Trust;
  - d. the Trust is in full force and effect and no action has been taken or is threatened to terminate the Trust;
  - e. you have entered into this loan contract as part of the due and proper administration of the Trust and for the benefit of the beneficiaries under the Trust;
  - f. you have the right to be indemnified out of the assets of the Trust in respect of your obligations under this loan contract;

- g. all documents evidencing the terms of the Trust were delivered to us before we made this offer, and
  - 1. are valid and enforceable;
  - 2. are current and have not been amended, altered or revoked in any way; and
  - 3. contain all of the terms of the Trust;
- h. you are not in default of your duties as trustee; and
- i. you have the power as trustee of the Trust to enter into this loan contract.

21.2 You must:

- a. not default or otherwise breach your duties as trustee of the Trust;
- b. not resign or be replaced or removed as trustee or permit or cause any other person to be appointed as trustee of the Trust;
- c. not release, dispose of or otherwise prejudice or exclude;
  - 1. your right of indemnity against the property and assets which are subject to the Trust;
  - 2. any lien which you have over the property and assets which are subject to the Trust; or
  - 3. your right to be indemnified by any person in relation to your obligations and liabilities as trustee of the Trust;
- d. on written demand by us exercise all rights of indemnity you have in relation to or under the Trust;
- e. not cause or permit the Trust to be terminated;
- f. not exercise or permit any person to exercise any power to vary, amend, revoke, or supplement the trust documents evidencing the Trust;
- g. not exercise any power to advance or distribute capital of the Trust unless we agree in writing.

21.3 You are in default under this loan contract if anything you told us in clause 3 is materially untrue or misleading, or if you breach any of your obligations under clause 4.

## 22. Miscellaneous matters

- 22.1 We may debit your loan account for any government tax or stamp duty payable in connection with this loan contract or any guarantee or mortgage specified in the Schedule or any insurance policy that we require.
- 22.2 You agree to pay our reasonable legal costs and expenses of any guarantee or mortgage specified in the Schedule.
- 22.3 If you must make a payment or do any other thing on or by a day that is not a business day, you must make the payment or do the other thing by the next business day.



- 22.4 If there is more than one Borrower, each of you is liable to us separately for all of your obligations under and in connection with this loan contract (including the obligation to pay each account balance) as well as together.
- 22.5 You agree that we may assign any of our rights under this loan contract, any mortgage or any guarantee without further consent from you, if we choose to do so. If our rights under this loan contract are assigned to another person, or pass by law to another person, you will have (and may exercise) the same rights in respect of the loan contract against the assignee as you have against us.
- 22.6 You represent and warrant that all information, representations and documents that you, or any other person acting on your behalf, gave us about your loan application are true and correct.
- 22.7 A waiver of any of our rights under this loan contract does not occur unless we give it to you in writing.
- 22.8 If any part of this loan contract is invalid, unenforceable or in breach of any law, it is not included in this loan contract. The remainder of this loan contract continues in full force and effect.

### **23. Giving any guarantor information**

Your signing this loan contract also operates as a consent to us to give information about this loan contract to any Guarantor.

### **24. Redraw facility**

- 24.1 This clause 24 does not apply in relation to a facility that is subject to a fixed interest rate during a fixed interest rate period.
- 24.2 If the Schedule states that there is a redraw facility attached to the facility, then the following conditions apply:
- a. subject to clause 23.2(c) and with our consent on each occasion (which will not be unreasonably withheld), you may re-draw excess repayments up to, but no more than, the amount that would have been the outstanding balance under this loan contract had you made all repayments as the loan contract requires;
  - b. if there is more than one Borrower under this loan contract, you authorise us to process the re-draw on the instructions of any of you until such time as any of you advise us, in writing, to the contrary; and
  - c. the minimum amount of each redraw is \$500.
  - d. we reserve the right to withdraw the Redraw Facility attached to the account at any time.

### **25. Application of the Banking Code of Practice**

This loan contract is a banking service to which the Banking Code of Practice "BCOP" applies. The BCOP is an industry code which sets standards of good banking conduct for banks, their staff and their representatives.

The BCOP will come into effect and apply to this contract from 1 July 2019.

### **26. Application of the National Credit Code**

You only have rights under the NCCP in connection with this loan contract if:

- a. you are an individual (natural person) or a strata corporation; and
- b. the credit is provided or intended to be provided wholly or predominantly:
  - i. for personal, domestic or household purposes; or
  - ii. to purchase, renovate or improve residential property for investment purposes; or
  - iii. to refinance credit that has been provided wholly or predominantly to purchase, renovate or improve residential property for investment purposes; and
- c. a charge is or may be made for providing the credit.

## Part 2: Information Statement

Please note the following Information Statement applies only to credit that is provided or intended to be provided in accordance with Clause 26 of Part 1: Terms of the Loan Contract.

### Information Statement

#### Things you should know about your proposed credit contract

In this document:

- a. **we/us/our** means MyState Bank as the credit provider;  
MyState Bank Limited (MyState) ABN 89 067 729 195  
AFSL 240896  
Australian Credit Licence Number 240896  
A wholly owned subsidiary of MyState Limited ABN 26 133 623 962.
- b. **you/your/yourself** means each Borrower named in the Schedule.

This statement tells you about some of the rights and obligations of yourself and The Credit Provider. It does not state the terms and conditions of your credit contract, herein after referred to as loan contract.

If you have any concerns about your loan contract, contact us and, if you still have concerns, our external dispute resolution scheme, or get legal advice.

### The Loan contract

#### 1. How can I get details of my proposed loan contract?

We must give you a pre-contractual statement containing certain information about your loan contract. The pre-contractual statement, and this document, must be given to you before:

- a. your loan contract is entered into; or
- b. you make an offer to enter into the loan contract; whichever happens first.

#### 2. How can I get a copy of the final loan contract?

If the loan contract document is to be signed by you and returned to us, you must be given a copy to keep.

Also, we must give you a copy of the final loan contract within 14 days after it is made. This rule does not, however, apply if we have previously given you a copy of the loan contract document to keep.

If you want another copy of your loan contract write to us and ask for one. We may charge you a fee. We have to give you a copy:

- a. within 14 days of your written request if the original loan contract came into existence 1 year or less before your request; or
- b. Otherwise within 30 days of your written request.

#### 3. Can I terminate the loan contract?

Yes. You can terminate the loan contract by writing to us so long as:

- a. you have not obtained any credit under the loan contract; or

- b. a card or other means of obtaining credit given to you by us has not been used to acquire goods or services for which credit is to be provided under the loan contract. However, you will still have to pay any fees or charges incurred before you terminated the loan contract.

#### 4. Can I pay my loan contract out early?

Yes. Pay us the amount required to pay out your loan contract on the day you wish to end your loan contract.

#### 5. How can I find out the payout figure?

You can write to us at any time and ask for a statement of the payout figure as at any date you specify. You can also ask for details of how the amount is made up. We must give you the statement within 7 days after you give your request to us. You may be charged a fee for the statement.

#### 6. Will I pay less interest if I pay out my loan contract early?

Yes. The interest you can be charged depends on the actual time money is owing. However, you may have to pay an early termination charge (if your loan contract permits us to charge one) and other fees.

#### 7. Can my loan contract be changed by MyState?

Yes, but only if your loan contract says so.

#### 8. Will I be told in advance if MyState is going to make a change in the loan contract?

That depends on the type of change. For example:

- a. you get at least same day notice for a change to an annual percentage rate. That notice may be a written notice to you or a notice published in a newspaper;
- b. you get 20 days advance written notice for:
  1. a change in the way in which interest is calculated; or
  2. a change in credit fees and charges; or
  3. any other changes by us; except where the change reduces what you have to pay or the change happens automatically under the loan contract.

#### 9. Is there anything I can do if I think that my loan contract is unfair?

Yes. You should first talk to us. Discuss the matter and see if you can come to some arrangement. In regard to making a complaint please refer to Complaints and Feedback at point 26.

Alternatively, you can go to court. You may wish to get legal advice, for example from your community legal centre or Legal Aid.

You can also contact ASIC, the regulator, for information on 1300 300 630 or through ASIC's website at [www.asic.gov.au](http://www.asic.gov.au)

### Insurance

#### 10. Do I have to take out insurance?

We can insist you take out or pay the cost of types of insurance specifically allowed by law. These are compulsory

third party personal injury insurance, mortgage indemnity insurance or insurance over property covered by any mortgage. Otherwise, you can decide if you want to take out insurance or not. If you take out insurance, we can not insist that you use any particular insurance company.

**11. Will I get details of my insurance cover?**

Yes, if you have taken out insurance over mortgaged property or consumer credit insurance and the premium is financed by us. In that case the insurer must give you a copy of the policy within 14 days after the insurer has accepted the insurance proposal.

Also, if you acquire an interest in any such insurance policy which is taken out by us then, within 14 days of that happening, we must ensure you have a written notice of the particulars of that insurance.

You can always ask the insurer for details of your insurance contract. If you ask in writing, your insurer must give you a statement containing all the provisions of the contract.

**12. If the insurer does not accept my proposal, will I be told?**

Yes, if the insurance was to be financed by the loan contract. The insurer will inform you if the proposal is rejected.

**13. In that case, what happens to the premiums?**

We must give you a refund or credit unless the insurance is to be arranged with another insurer.

**14. What happens if my loan contract ends before any insurance contract over mortgaged property?**

You can end the insurance contract and get a proportionate rebate of any premium from the insurer.

**Mortgages**

**15. If my loan contract says I have to give a mortgage, what does this mean?**

A mortgage means that you give us certain rights over any property you mortgage. If you default under your loan contract, you can lose that property and you might still owe money to us.

**16. Should I get a copy of my mortgage?**

Yes. It can be part of your loan contract or, if it is a separate document, you will be given a copy of the mortgage within 14 days after your mortgage is entered into.

However, you need not be given a copy if we have previously given you a copy of the mortgage document to keep.

**17. Is there anything that I am not allowed to do with the property I have mortgaged?**

The law says you cannot assign or dispose of the property unless you have our, or the court's, permission. You must also look after the property.

Read the mortgage document as well. It will usually have other terms and conditions about what you can or cannot do with the property.

**18. What can I do if I find that I cannot afford my repayments and there is a mortgage over property?**

See the answers to questions 22 and 23. Otherwise you may:

- a. if the mortgaged property is goods — give the property back to us, together with a letter saying you want us to sell the property for you;
- b. sell the property, but only if we give permission first;

OR

- c. give the property to someone who may then take over the repayments, but only if we give permission first.

If we won't give permission, you can contact the AFCA scheme for help.

If you have a Guarantor, talk to the Guarantor who may be able to help you.

You should understand that you may owe money to us even after the mortgaged property is sold.

**19. Can MyState take or sell the mortgaged property?**

Yes, if you have not carried out all of your obligations under your loan contract.

**20. If MyState writes asking me where the mortgaged goods are, do I have to say where they are?**

Yes. You have 7 days after receiving our request to tell us. If you do not have the goods you must give us all the information you have so they can be traced.

**21. When can MyState or its agent come into a residence to take possession of mortgaged goods?**

We can only do so if we have the court's approval or the written consent of the occupier which is given after the occupier is informed in writing of the relevant section in the NCCP.

**General**

**22. What do I do if I cannot make a repayment?**

Get in touch with us immediately. Discuss the matter and see if you can come to some arrangement. You can ask us to change your loan contract in a number of ways:

- a. to extend the term of your loan contract and reduce payments; or
- b. to extend the term of your loan contract and delay payments for a set time; or
- c. to delay payments for a set time.

**23. What if MyState and I cannot agree on a suitable arrangement?**

If we refuse your request to change the repayments, you can ask us to review this decision if you think it is wrong.

If we still refuse your request you can complain to the AFCA scheme. Further details about this scheme are set out in question 26.

## 24. Can MyState take action against me?

Yes, if you are in default under your loan contract.

But the law says that you cannot be unduly harassed or threatened for repayments. If you think you are being unduly harassed or threatened, contact the AFCA scheme or ASIC, or get legal advice.

## 25. Do I have any other rights and obligations?

Yes. The law will give you other rights and obligations. You should also read your loan contract carefully.

Please keep this information statement. You may want some information from it at a later date.

## 26. Complaints and Feedback

We take your feedback seriously and aim to provide simple, easy to use and trustworthy services to our customers. We see your complaint or feedback as an opportunity to not only resolve the matter for you, but as a way to improve the way we do things.

### Make a complaint or provide feedback

You can advise us of your complaint or provide feedback by:

- calling us – 138 001;
- using the online form at [mystate.com.au](http://mystate.com.au);
- email us – ([mycomplaint@mystate.com.au](mailto:mycomplaint@mystate.com.au));
- visit your local branch; or
- write to us (Complaints & Feedback, GPO Box 1274, Hobart Tasmania 7001).

### Details of your complaint or feedback

So that we can resolve your complaint as quickly as possible, it is important that you provide us with as much information as possible. This includes details such as:

- your customer number and name;
- contact details – preferred contact method; if by phone advise the best times to reach you;
- complaint or feedback information – what is your complaint or feedback about and when did it happen; and
- resolution – how would you like the matter resolved.

### Timeframes

We will try our best to resolve the complaint for you on the spot, and in most cases we can. If we can't we will:

- keep you up to date on our investigation and progress;
- work to resolve your complaint within 21 days of receiving it from you;
- let you know if we need more information or more time to investigate; and
- provide you with final resolution within 45 days – if not we will inform you of the reasons for delay.

If we request further information from you to help us

resolve your complaint and you do not respond, we may consider the matter resolved. However, if you provide information at a later date we will reopen the complaint and continue to work on a resolution for you.

### Other options

If you are not satisfied with our initial response, you can request for your complaint to be reviewed by our Customer Advocate. Our Customer Advocate's role is to act as independently as possible and to make sure that your complaint was handled fairly.

### Customer Advocate Review

**Phone:** 138 001

**Email:** [customeradvocate@mystate.com.au](mailto:customeradvocate@mystate.com.au)

**Post:** GPO Box 1274, Hobart TAS 7001

MyState Bank is a member of the Australian Financial Complaints Authority (AFCA). AFCA is an external dispute resolution body that deal with complaints regarding the financial services industry.

### Australian Financial Complaints Authority

**Online:** [www.afca.org.au](http://www.afca.org.au)

**Email:** [info@afca.org.au](mailto:info@afca.org.au)

**Phone:** 1800 931 678

**Mail:** Australian Financial Complaints Authority  
GPO Box 3 Melbourne VIC 3001

## Part 3: Explanation of the break cost fee

This part is provided for information purposes only. It does not form part of your loan contract with us. However, terms used in this part 3 have the same meaning as in your loan contract.

### Background

We are not obliged to accept a full repayment (or any partial amount in addition to the scheduled repayment amount) during a fixed interest rate period for a loan facility or change the type of interest rate from a fixed rate to a variable rate prior to the end of the fixed interest rate period for that loan facility. If we do, you may be liable to pay a break cost fee in addition to any other applicable early repayment fee.

The break cost fee may be payable where either you or a person on your behalf (e.g. a Guarantor) makes the early repayment or where an amount is received early as a result of a default under the loan contract or security.

For example, you might have to repay the loan early if you decide to sell or refinance the mortgaged property.

When you enter into a fixed interest rate loan contract, you are effectively locking in the loan interest rate offered to you for an agreed period of time (e.g. 5 years). If you decide to switch or payout your fixed rate loan before the end of your agreed period, you are effectively breaking that fixed rate loan agreement and a break cost fee may apply.

A break cost fee is not a penalty or a revenue fee to us, it is a calculation of the cost recovery as a result of the breaking of your fixed interest rate term.

The reason why we may incur a loss is because when a Borrower enters into a loan contract with a fixed interest rate, we arrange funds for the loan facility for the term of the fixed interest rate period. This includes borrowing money from savers, investors and the wholesale market.

As you have fixed your interest rate for an agreed period of time with us, we will also seek to fix our funding costs for a similar period of time to protect us against future interest rate movements.

If you decide to break your fixed rate contract, this impacts on our fixed rate funding. In order for us to fairly and reasonably calculate whether we have made a loss, we compare the movement in the wholesale swap rates by assessing the difference between the wholesale swap rate at the inception of the loan and the published wholesale swap rate for the remaining term of the fixed interest rate period at the time the loan is fully or partially repaid.

If on the day that you break your fixed rate loan early, the wholesale swap is less than the wholesale swap rate applied at the start of your fixed rate period, we will make a loss and will charge you a break cost fee.

### How the break cost fee is calculated

We use the following formula to calculate the break cost fee:

$$BCF = A \times \left\{ \frac{(1+i)^n}{(1+r)^n} - 1 \right\} - \left\{ \frac{P}{(1+r)^n} \right\} \times \left[ \left\{ \frac{(1+i)^n - 1}{i} \right\} - \left\{ \frac{(1+r)^n - 1}{r} \right\} \right]$$

where:

BCF	=	the break cost fee
A	=	the current loan outstanding, which is subject to the fixed rate

P	=	the monthly schedule payments to which the fixed rate applies
i	=	the wholesale swap rate at the inception of the loan
r	=	the wholesale swap rate for the remainder of the fixed interest period
n	=	the remaining number of months in the fixed interest period.

### Example

The following example demonstrates how the formula works, and is based on approximations using rounded dollar values.

On 1 September 2009 a borrower took out a home loan for \$150,000. The term of the loan is 25 years, with the interest rate fixed for the first 5 years at 7% per annum. On expiry of the 5 year fixed term, the loan will revert to a standard variable rate home loan. The wholesale swap rate for 5 year fixed term was 6% on this date.

1 September 2012, three years into the fixed rate loan, the borrower sells the house and pays out the balance of the loan. The fixed rate term still has 2 years remaining. With repayments being made on time and in accordance with the loan contract repayment schedule, on 1 September 2012, the outstanding balance on the fixed rate loan is now \$142,500.

On 1 September 2012 the wholesale swap rate for 2 year fixed term is 4.5%.

The loan balance was paid back early, therefore only has a market value of 4.5% for the remaining two years, however the funding costs for the same period are 6%. The loss incurred to us is effectively 1.5% of the balance that has been paid back early over the remaining two years.

We would therefore suffer a financial loss in this situation. Using the following values in this example:

A	=	\$142,5
P	=	\$1,061
i	=	6%
r	=	4.5%
n	=	24

the break cost payable would be \$3,963.76.

The results from this example should be used as an indication only and do not represent actual published rates. Information such as interest rates quoted and default figures in the assumptions are subject to change. For specific calculations, please contact us.

**IF YOU HAVE ANY QUESTIONS AS TO HOW THE BREAK COST FEE WORKS OR WHEN IT MIGHT BECOME PAYABLE, PLEASE LET US KNOW.**

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**138 001**  
**mystate.com.au**