

# Feel at home with the fine print

Home Loans  
Terms and Conditions  
Date: 1 November 2018



# Do I really need to read this?

Since you're just about to make one of the biggest commitments of your life, you should have a read. We know **it's 102 pages** (we tried to make it shorter!). So make a big cuppa, put your feet up and once you've gone through this booklet keep it somewhere safe in case you need to refer to it later.

# Thank you for considering an ING Home Loan

Before you consider whether an ING Home Loan will meet your needs, please read this Terms and Conditions booklet. It gives you helpful information, such as key features and the Terms and Conditions that apply to our home loans.

These Terms and Conditions do not contain all of the information that we are required to give you before you enter into the contract. The rest of the information is contained in the Loan Offer and the Fee Schedule.

Some words in this booklet have special meanings. To make it easier to read, take some time to go through “Explaining words in Plain English” on page 90. The words in this glossary are in italics (*like this*). You can’t miss them.

**For more information visit [ing.com.au](http://ing.com.au)  
or call us on 133 464.**

The information in this Terms and Conditions booklet is up to date as at 1 November 2018.

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# 1. When we can (and can't) give you the green light

- A few things before we get started
- When we can't lend you money
- What you need to tell us
- Amounts owed when the contract ends

Before we will lend you any money, there's a bit of paperwork that needs to be sorted out. To help you be a bit more prepared, here's a list of what's needed. The more we can have all our ducks lined up, the easier and quicker it will be for us to press the button on the funds.

## A few things before we get started

1.1 We do not have to lend you any money unless we have received and are satisfied with:

- (a) each *security* and any documents or information we require in relation to any *security*;
- (b) evidence that you've paid or made satisfactory arrangements to pay any applicable conveyance, transfer stamp duty or similar levy in connection with each *security*;
- (c) evidence of any insurance we require;
- (d) evidence that council, water and other rates, taxes or charges for any *security* are paid and up to date;
- (e) any report or *valuation* we require;
- (f) evidence that any *guarantor* understands the risks involved in giving his or her guarantee and indemnity;
- (g) any certificate of independent advice from a solicitor or certificate of financial advice from a financial adviser we require;
- (h) evidence you meet the *customer eligibility criteria*; and
- (i) any other document, evidence or information we reasonably require.

## When we can't lend you money

- 1.2 We do not have to lend you all or any money or can end this *contract* before we have lent you any of the *loan* if:
- (a) any of the items listed in clause 1.1 are not provided to us or are not satisfactory to us;
  - (b) you don't borrow any part of the *amount of credit* under any *loan* within 60 days of the *disclosure date*;
  - (c) you are using any part of a *loan* to purchase any *mortgaged property*, the purchase price of that *mortgaged property* on the *settlement date* is lower than the purchase price of that property stated in your application for the *loan*;
  - (d) any *security* has been withdrawn or is otherwise ineffective;
  - (e) any information you or a *security provider* gives us (or information we have about you, a *security provider* or any *security*) is incorrect, misleading or has changed since we received it;
  - (f) in our opinion, your circumstances, financial condition or affairs have changed adversely in respect of your ability to perform your obligations under this *contract* since the *disclosure date*;
  - (g) we reasonably form the view that you are 'high risk' given our obligations under anti-money laundering and counter-terrorism laws having regard to the risks in providing our services to you (for example, risk posed by your sources of funds and wealth, your business or employment, the countries in which you reside, the services we provide to you and the method through which you access those services, and/or your status as a *politically exposed person*);
  - (h) you have not provided ING with all of the information we require to determine your *Foreign Tax Residency Status*.

## What you need to tell us

- 1.3 Before you obtain any credit under this *contract*, you must tell us if anything has happened which prevents you from complying with your obligations under this *contract* or if there are changes to your position as stated in all the declarations you have made to us in connection with this *contract*.
- 1.4 We collect certain information about you in order to determine your *Foreign Tax Residency Status* and, where required by *law*, report that information, as well as information about any account you hold, to the Australian Taxation Office. The Australian Taxation Office is required

to exchange that information with equivalent foreign country tax authorities in accordance with the Australian Government's international obligations.

In order to determine your *Foreign Tax Residency Status*, we may need to obtain additional information from you, including documentation and certifications. If you don't provide any information we reasonably request by the time we require it, we may seek the information from a third party.

Any determination made by *ING* regarding your *Foreign Tax Residency Status* does not constitute tax advice.

## Amounts owed when the contract ends

- 1.5 If this *contract* is ended you must still pay all amounts you are required to pay up to that time under it. However if this *contract* is ended by you before you have obtained any credit under this *contract*, you must also pay all fees and charges we debit in respect of any of our costs we still have to pay in relation to services we have provided to you or carried out in preparation for providing the *loan* to you.

## 2. Getting a feel for our home loans

- How we lend you money
- What happens if you repay early?
- All about redraw

Here are the ins and outs of how much you can borrow, *additional payments*, break costs and our redraw facility.

The provisions in this clause 2 apply to each *home loan* and (except for clause 2.1.2) to each *Construction Loan*.

### How we lend you money

#### 2.1 How much you can borrow

- 2.1.1 Once we agree to lend you the *amount of credit*, we can debit all or any part of the *amount of credit* to your *loan account* on the day we lend it to you.
- 2.1.2 You must borrow all the *amount of credit* in one lump sum. We will lend you the *amount of credit* by either direct transfer to a *nominated account* or by providing a bank cheque in your name or to another *person* as directed by you. You need to let us know in writing the amount of the bank cheque and who you want it made out to.

### What happens if you repay early?

#### 2.2 Additional payments, changes to your loan and break costs

- 2.2.1 You may make *additional payments* to us at any time.
- 2.2.2 If you have a *fixed rate loan* you may be charged break costs if, before the expiry of the *fixed interest period*:
- (a) you make an *additional payment* of \$10,000 or more, or make *additional payments* totalling \$10,000 or more in any one-year period (with the first one-year period starting on the first day of the *fixed interest period*); or
  - (b) you pay out that *fixed rate loan* or an amount becomes due and payable under clause 16.2;

- (c) we agree to change your *loan* type or *fixed interest period* that applies to your *loan*. For example, if we agree to a request from you to switch from a 5 year *fixed rate loan* to a 2 year *fixed rate loan* or to a variable rate *loan*;
- (d) we agree to change the repayment type that applies to your *loan*. For example, if we agree to a request from you to switch from interest only repayments to principal and interest repayments; or
- (e) we agree to change the *loan* purpose. For example, if we agree to a request from you to switch from an owner-occupier *fixed rate loan* to an investor fixed rate *loan*.

In the remainder of this clause 2.2, the actions detailed in clause 2.2.2(a), (b), (c), (d) and (e) are each referred to as a “break costs event”.

- 2.2.3 When we fund a *fixed rate loan* we borrow funds from the market specifically for the *fixed interest period* you want, and provide the funds to you at the rate and for the *fixed interest period* outlined in our *Loan Offer*.

To do this, we lock in our funding costs at a particular rate for the *full fixed interest period*.

If you cause a break costs event to occur during the *fixed interest period*, the interest we receive from the *fixed rate loan* (for the amount of any early payment of the *loan* made as a result of the break costs event) stops, but our funding costs continue for the remaining *fixed interest period*.

We do not make a profit from charging break costs. These costs simply compensate us for any financial loss we incur.

### ■ How break costs are calculated

- 2.2.4 In calculating break costs, we look at the movement in our costs of borrowing funds from the market. We do this by comparing:

- the cost of funds for the *full fixed interest period* at the date we provided the funds to you; and
- the cost of funds for the remaining term of the *fixed interest period* at the date you cause the break costs event to occur.

We work out the movement in our cost of funds by reference to the movement in the rates at which banks lend to each other, or “wholesale interest rates”, between the relevant dates. Specifically, we look to the wholesale market swap rates.

If the wholesale swap rate applicable for the remaining term of the *fixed interest period* on the date you cause the break costs event to occur is less than the wholesale swap rate on the date we provided the funds to you we will make a loss, as we must continue to pay interest on those funds at a higher rate for the remainder of your *fixed interest period*.

Break costs are calculated by multiplying the amount of *loan* principal remaining at the time of the break costs event by the remaining term of the *fixed interest period* and by the change in our cost of funds (adjusted for receiving the money earlier than we otherwise would have as a result of the break costs event as applicable).

### Example

2.2.5 Assume that you borrowed \$250,000 from us for a *fixed interest period* of four years.

Two years later, you tell us you would like to pay out your *fixed rate loan* in full or another “break cost event” occurs. On this date, you have two years remaining of your *fixed interest period* and your *loan* balance has reduced to \$240,000.

Say that on the date we provide you the funds (*settlement date*), the wholesale swap rate for 4 year fixed terms was 7.00%p.a. and now two years later, the wholesale swap rate for 2 year fixed terms (the amount of your *fixed interest period* remaining) is 4.00%p.a. The difference, or the movement in our cost of funds, will be 3.00%p.a.

The break cost calculation will be:

the amount of loan principal remaining	×	the remaining term of the <i>fixed</i> <i>interest period</i>	×	the movement in our cost of funds
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For the purposes of this example, the calculation will be \$240,000 x 2 x 3.00%p.a., which equals \$14,400.00.

This amount is then “discounted” back to the present day value using a formula that calculates how much the inflow of that value in the future would be worth if it were made in full today. In the example above, the discount period remaining is two years.

The above example is based on a situation where you pay out your *fixed rate loan* in full, and would also apply to a situation where you wish to switch your *fixed rate loan* to a variable rate or to a different *fixed interest period*. However, the calculation would be different if you made *additional payments*, changed the repayment type that applies to your *loan* or changed your *loan* purpose in accordance with clauses 2.2.2(a), (d) and (e) respectively.

In the case of making *additional payments*, we would only multiply the amount of any additional payment by the remaining term of the fixed interest period and the movement in our cost of funds.

**Warning:**

Break costs could be substantial, particularly if *interest rates* fall during the fixed interest period. Before you decide to repay a portion or pay out a fixed rate *loan*, or ask us to change your *loan* type or fixed interest period, repayment type that applies to your *loan*, or *loan* purpose contact us for an estimate of the amount of the break costs.

## All about redraw

### 2.3 Redraw facility

- 2.3.1 If your *loan* has a redraw facility, this clause 2.3 applies to that *loan*.
- 2.3.2 Subject to this clause 2.3, you may redraw, on any day during the *loan term*, an amount from the *loan account*, up to but not exceeding the amount by which the *scheduled balance* for that *loan account* on that day exceeds the *balance*.
- You cannot redraw an amount under a *fixed rate loan* during the *fixed interest period* applying to that *loan* or an amount under a *Construction Loan* during a *construction period*.
- 2.3.3 We may at our discretion refuse to re-lend you an amount you want to redraw under clause 2.3.2 if:
- (a) you're in default under this *contract*; or
  - (b) your financial circumstances have significantly changed in respect of your ability to perform your obligations under this *contract* since the *settlement date*.
- 2.3.4 You may redraw amounts under clause 2.3.2 by:
- (a) requesting a bank cheque payable to you or another *person*. If the bank cheque is payable to another *person*, you must make the request to us in writing; or
  - (b) using our *Interactive Service* to ask us to transfer the amount from your *loan account* to a pre-nominated account.
- 2.3.5 Redraw will no longer be available, if you or your representative request a final payout figure on your *loan* (this is usually just before settlement).
- 2.3.6 We may suspend, reduce or cancel the redraw facility outlined in this clause 2.3 at any time.

# 3. The ins and outs of Construction Loans

This section applies only to *Construction Loans*.

- **Purpose of the loan**
- **How repayments work**
- **Commencement of construction**

A *Construction Loan* is a variable interest rate loan that is specifically designed to help you through the first year of *construction*. It's suitable for owner occupied or investment properties.

## Purpose of the loan

The provisions of this clause 3 apply to each *Construction Loan*.

- 3.1 If the purpose of this *loan* is to purchase any *mortgaged property*, the *amount of credit* (except any part which is to be used to fund *construction*) will be paid in one lump sum.
- 3.2 If the purpose of this *loan*, or any part of this *loan*, is to fund *construction*, we'll lend you the *amount of credit* (or in the case of part of your *loan* - that part of the *amount of credit* which is to be used to fund *construction*) progressively by:
  - (a) paying any fees and charges and insurance premiums included in the *amount of credit*; and
  - (b) paying the remainder of the *amount of credit* to the *builder* in a maximum of five progress payments paid over the *construction period*.

## How repayments work

- 3.3 We'll only lend the progress payments, if:
  - (a) for the first progress payment only, we've received all of the following (in a form satisfactory to us):
    - (i) a fixed price and fixed term Housing Industry Association or Master Builders Association building



- contract* in relation to the *construction*, with a *term* of 12 months or less;
- (ii) evidence of any insurance we require;
  - (iii) a copy of stamped council-approved plans and specifications in relation to the *construction*;
  - (iv) any other certificates or authorities from local councils or other bodies necessary to conduct the *construction*; and
  - (v) a copy of the *builder's licence*; and
  - (vi) *construction invoices* signed by you; and
- (b) for each progress payment (*including* the first and last):
- (i) we've received a request from you to pay the *builder* which is satisfactory to us; and
  - (ii) if you're using some of your own funds for *construction*, you have used those funds first; and
- (c) we have requested and received a satisfactory *Construction Loan Valuation* or completed an inspection in relation to any progress payment; and
- (d) for the last progress payment only, we've received all the following in a form satisfactory to us:
- (i) confirmation that the *construction* is finished (*including* a signed certificate from you saying you're satisfied with the completed *construction*);
  - (ii) any other document, information or evidence that we reasonably require; and
  - (iii) you've given us at least five *business days* notice before the payment needs to be made.

These conditions are in addition to those in clause 1.1 which must also be satisfied.

- 3.4 You must ensure that any agreed progress payment schedule is followed and that there are always sufficient funds in the *loan account* for your *Construction Loan* to complete the *construction*.

## Commencement of construction

- 3.5 The *construction* (as specified in the plans and specifications you give us before the first progress payment), must commence within 12 months of the *disclosure date* of your *Construction Loan* and must be completed by the end of the *construction period*.
- 3.6 You must not vary or terminate the building *contract* without our prior written consent.
- 3.7 Subject to the requirements of any *law*, we are not liable for any loss or damage arising out of the *construction*.

## 4. A step by step look at lines of credit

This section applies only to Action Equity Loans, Smart Home Loans, Home Equity Loans, Lo Doc Line of Credit Loans and Lo Doc Smart Home Loans.

- **How to borrow from your line of credit**
- **Can ING cancel the line of credit?**
- **Can I cancel the line of credit?**

A *line of credit* is a flexible *loan*. You can access funds when you need to and only pay for what you use.

If you don't make repayments you can let your interest add up, until you reach 100% of your *loan limit*. Once you reach your *loan limit*, repayments are interest only.

You can make *additional payments* or repay the *loan* in full at anytime. Any payments that reduce your *loan balance* are available for you to use again.

The provisions of this clause 4 apply to each *line of credit*.

### How to borrow from your line of credit

#### 4.1 How to borrow an amount

4.1.1 There are many ways you can get an advance on your *line of credit*. Subject to the terms of this *contract*, you can:

- (a) ask us to give you a bank cheque payable to you or to another *person*. If it's payable to another *person* you need to make the request to us in writing;
- (b) ask us to transfer the amount from your *loan account* to another account by letting us know in writing the BSB number, account number, account name, the amount to be transferred and the date the transfer is to occur. To alter, stop or suspend a transfer from your *loan account* to another account, you need to make the request to us in writing at least five *business days* before the transfer date;
- (c) use our *Interactive Service* to transfer money from your *loan account* to a pre-nominated account;

- (d) authorise a third party (*such as a health insurance or utilities provider*) to request payments from your *loan account*. To alter or stop the authorisation you need to make the request to us in writing. We'll process your request promptly. We suggest you also contact the third party and tell them not to request the payment;
  - (e) write a cheque against your *loan account* (if you have a cheque facility attached to your *line of credit*). Clause 20 sets out the terms that apply;
  - (f) use a *Visa Credit Card* (if it's attached to your *loan account*). This is the only way you can get credit from your *nil interest Visa account*. Details of how your *Visa Credit Card* operates are set out in clause 22; or
  - (g) use any other means we authorise from time to time.
- 4.1.2 We may refuse to pay you an amount requested under clause 4.1.1 if we consider that paying you that amount might cause the *balance* of your *loan account* to exceed the *credit limit*. We will take into consideration your current *balance* and any amounts charged, accrued or payable but not yet debited to your *loan account*.
- 4.1.3 We can debit to the *loan account* any amount provided to you on the day we provide you the amount.

## Can ING cancel the line of credit?

### 4.2 Payable on demand

- 4.2.1 We can demand at any time that you pay to us the *balance* of your *loan account*, plus any amounts charged, accrued or payable but not yet debited to your *loan account*. This applies whether or not you've breached the *contract*. If we make that demand your *line of credit* is cancelled and you must immediately pay to us the *balance* of your *loan account* plus any amounts charged, accrued or payable but not yet debited to your *loan account*.
- 4.2.2 You acknowledge that there is no agreement, arrangement, or understanding between us that repayment will only be demanded on the occurrence or non-occurrence of a particular event.

### 4.3 Credit limit

- 4.3.1 You must ensure that the *balance* of your *loan account* doesn't exceed your *credit limit*. Otherwise, you'll have to immediately pay us the amount that's over your *credit limit*. We do not need to ask you for it first.

4.3.2 We can change the *credit limit* at any time. If we decide to reduce the *credit limit*, unless you are in default we will advise you of this in writing as soon as possible afterwards. We will not increase the *credit limit* unless you ask us to or you give us your written consent. The *credit limit* does not change simply because we debit an amount to your *loan account* that takes the *balance* of your *loan account* over the *credit limit* applicable to that *loan account*.

## Can I cancel the line of credit?

4.4.1 You can cancel the *line of credit* at any time by:

- (a) telling us in writing; and
- (b) paying us the *balance* of the *loan account* applying to that *line of credit*, plus any amounts still owing but not yet debited to that *loan account*.

4.4.2 If the *line of credit* is cancelled:

- (a) you must not try to get any credit under the *line of credit*;
- (b) the rest of this *contract* continues to operate; and
- (c) you must immediately:
  - (i) return to us or destroy any unused cheques;
  - (ii) cut your *Visa Credit Card* in half (if you have one under this *contract*) and inform us that you've done so; and
  - (iii) let us know of any *Visa Credit Card* or cheque transactions you've completed in the previous 30 days.

## 5. A flexible feature of our line of credit

This section applies to Smart Home Loans and Lo Doc Smart Home Loans only.

### ▪ About our nil interest Visa account

With our *line of credit* you may also have access to a *nil interest Visa account*. Up to 3% of your approved *home loan*, to a maximum of \$10,000, is allocated to your *nil interest Visa account*. You can access these funds:

- with your *Visa Credit Card* using *EFTPOS* to get cash out;
- at any *ATM* in Australia carrying the *Cashcard* logo;
- with your personalised cheque book; and
- by transferring funds using our *Interactive Service*.

### Ask about our nil interest Visa account

- 5.1 The provisions of this clause 5 apply to any *loan* described in the *Loan Offer* as having access to a *nil interest Visa account*.
- 5.2 For the purposes of your *loan* we'll establish two *loan accounts* in your name, these are:
  - (a) a *nil interest Visa account*; and
  - (b) an account representing the *balance* of your *loan account* (i.e. *line of credit account*).
- 5.3 We'll charge interest on the *balance* of your *line of credit account* as set out in clause 6. We won't, however, charge interest on the *balance* of your *nil interest Visa account*. On the first day of each month, the negative *balance* of your *nil interest Visa account* will be transferred to your *line of credit account*. This transfer will occur by debiting the amount of that *balance* to your *line of credit account* and crediting that amount to your *nil interest Visa account*. Once the *balance* of your *nil interest Visa account* has been transferred to your *line of credit account*, interest will become payable on that *balance* in accordance with clause 6.
- 5.4 As the negative *balance* of the *nil interest Visa account* is transferred to the *line of credit account* on the first day of each month, no payments are required to be made into the *nil interest Visa account*.

- 5.5 If your *loan* is in more than one name, you can request a card for each of you (up to a maximum of four *Visa Credit Cards* per *loan account*). Each of the *Visa Credit Cards* can be used to make withdrawals from the *nil interest Visa account* as described in clause 22.2.1. Generally only withdrawals and any applicable fees and charges will be debited to your *nil interest Visa account*. All borrowers are liable for amounts debited to the *nil interest Visa account*, even if they're not a *Visa Credit Card* holder.

## 6. Interest charges in English

- How we calculate interest
- Interest charges
- Changes to the interest rate

Interest can sometimes seem tricky but we've tried to make it as simple as possible. If you have any questions, don't hesitate to call for more information.

### How we calculate interest

- 6.1 The provisions of this clause 6 apply to each *loan account* under this *contract* except a *nil interest Visa account* or the *Orange Advantage*.
- 6.2 Subject to clause 6.3, we calculate interest charges on a daily basis by applying the *daily percentage rate* to the *daily balance*. If you have more than one *loan account*, interest charges are calculated on a daily basis by applying the applicable *daily percentage rate* to the relevant portion of the *daily balance* of each *loan account*.
- 6.3 Under this *contract*, a default rate of interest may be charged when payments are in default. If you do not pay any amount payable under this *contract* on or by its due date for payment:
  - (a) and you are an individual, interest charges on that overdue amount, from that due date for payment to the date it is paid (exclusive), will instead be calculated by applying the *daily default rate* to that amount. And that overdue amount will, for that period, not form part of the *daily balance* for the purpose of clause 6.2; or
  - (b) if you are a company, from that due date for payment until it is paid (exclusive), interest charges will instead be calculated by applying the *daily default rate* to the *daily balance* (and not by the method described in clause 6.2).

## Interest charges

- 6.4 We debit interest charges to your *loan account* monthly, on the last day of each month. We can also debit interest charges at the following times:
- (a) immediately before we credit to your *loan account* a payment that equals or exceeds the *balance* of your *loan account* at that time; and
  - (b) at the end of the *loan term*; and
  - (c) on the day the *balance* of your *loan account* and any other amounts charged, incurred or payable but not yet debited to your *loan account* become due and payable under clause 16.2.
- 6.5 The amount of interest charges debited will equal the sum of interest charges calculated for each day in the period commencing:
- (a) from the *settlement date* (in the case of the first interest debit); otherwise
  - (b) the day following the last day for which an interest charge was debited.
- and ending:
- (c) where the interest charge debit takes effect earlier than (before) the end of the day on which it is debited; otherwise
  - (d) the day on which the interest charge is debited.

## Changes to the interest rate

- 6.6 We can change the *interest rate* (including the *reference rate*) applicable to your *loan account* at any time except the *interest rate* applicable to a *fixed rate loan* during a *fixed interest period* applying to that account. If any *law* regulates that change, we may only change to the extent permitted by, and subject to, the requirement of that *law*. We'll notify you of changes to the *interest rate* in accordance with clause 17.4.
- 6.7 You can find out what any current *reference rates* or *interest rates* under this *contract* are by visiting our *website* [ing.com.au](http://ing.com.au) or by calling a Customer Care Specialist on 133 464, 24 hours a day, 7 days a week.



# 7. How we calculate interest for Offset

- Orange Advantage - interest payments and calculations
- Situations when Offset may not apply
- Our right if you default on your loan

## Orange Advantage - interest payments and calculations

- 7.1 The following offset arrangement ("Offset") applies if you have an *Orange Advantage*.
- 7.2 Only one Orange Everyday account may be linked to your *loan account* for Offset purposes.
- 7.3 We do not pay interest on the Orange Everyday account linked to your *loan account*. What we do provide an interest offset for the interest calculated on a portion of your *loan account balance* that is equal to the positive balance in your Orange Everyday account.
- 7.4 The actual interest debited to your *loan account* at the end of each month is calculated by taking the total notional interest on the *loan* reduced by your total interest offsets.
- 7.5 Specifically, the process by which the interest on the *balance* on your *loan account* is reduced by reference to the positive balance in your Orange Everyday account is as follows:
  - (a) notional interest on your *loan* is calculated daily by using the close of business *balance* of your *loan* multiplied by the annual percentage *interest rate* and divided by 365;
  - (b) interest offsets are calculated daily based on the portion of the close of business balance of your Orange Everyday account that does not exceed the amount outstanding on your *loan account*, multiplied by the annual percentage *interest rate* that applies to your *loan* divided by 365. (Note: we do not calculate an interest offset and do not pay interest on any portion of the balance of your Orange Everyday in excess of the amount outstanding on the *loan account*, nor do we pay interest on your Orange Everyday account where the *loan* has been repaid);

- (c) all daily calculations of notional interest amounts and interest offsets are rounded to five decimal places;
- (d) all daily calculations of notional interest amounts are added together to five decimal places. Likewise all daily calculations of interest offsets are added together to five decimal places; and
- (e) at the end of each month the total of daily notional interest amounts gets rounded to two decimal places. Likewise, at the end of the month the total of daily interest offset amounts gets rounded to two decimal places. The actual interest debited to your *loan account* at the end of each month is calculated by taking the total notional interest on the *loan* reduced by your total interest offsets.

### Situations when Offset may not apply

- 7.6 Your Orange Everyday account will no longer be linked to your *loan account*, and Offset will no longer apply, if:
- (a) you close your Orange Everyday account or tell us that the Orange Everyday account should no longer be linked to your *loan account* (unless at the same time you nominate another Orange Everyday account in the same name(s) as your *loan account*);
  - (b) you or your representative request a final payout figure on your *loan* (this is usually just before settlement);
  - (c) you repay your *loan* in full and close your *loan account*;
  - (d) you switch to another *loan* type; or
  - (e) we terminate your Offset in accordance with clause 7.8.
- 7.7 If any of the things listed above occur, other than closing your Orange Everyday account, then the Orange Everyday account will return to the standard Orange Everyday *Terms and Conditions*.
- 7.8 We may terminate or vary your Offset by giving you at least 30 days' notice in writing.

### Our right if you default on your loan

- 7.9 If you default on your *loan account* and you fail to act on our request to remedy the default, we may apply the credit balance in your Orange Everyday account against the amount you owe us on your *loan account*.

# 8. Changing Products

- Requesting an interest rate change
- Our response and next steps

There may be times when you need or want to change to a different product. Here's what happens.

## Requesting an interest rate change

- 8.1 You may request us to change the type of *interest rate* that applies to a *loan* to any other type of *interest rate* which is then available from us (for example, from a fixed rate to a variable rate or vice versa).
- 8.2 If we agree to your request:
  - (a) we'll write to you setting out the changes to the terms of your *contract* and any other information required by *law*; and
  - (b) the new type of *interest rate* will apply to the *loan* from the date stated in that notice as the date that new rate will apply (the "re-set date").

## Our response and next steps

- 8.3 If we agree to change the type of an *interest rate* to a fixed rate then:
  - (a) the fixed rate will apply to the *loan* during the *fixed interest period* specified in the notice;
  - (b) the *fixed interest period* will begin on the re-set date;
  - (c) at the end of the *fixed interest period*, the variable rate applicable to similar *loan* products then available from us will apply to the *loan*.
- 8.4 If we agree to change the type of *interest rate* that applies to a *loan* from a fixed rate to a variable rate, the *fixed interest period* will cease applying to that *loan* from the re-set date. Refer to clause 2.2 for further information on the fees or break costs which may apply.

## 9. Fees and charges - a quick outline

### What do I pay?

- 9.1 You must pay to us the following fees and charges (which are authorised by this contract):
- (a) all government taxes, duties and charges, *including* any goods and service taxes relating to this contract, your *loan account* and its operation, whether or not you are principally liable for them; and
  - (b) the credit fees and charges set out in the *Loan Offer* and *Fee Schedule* which are payable at the times specified in the *Loan Offer* and *Fee Schedule*. These include fees for dishonoured transactions and fees that apply when your *loan account* is in arrears or a repayment is overdue.
- 9.2 We can debit these fees and charges to your *loan account*.
- 9.3 Information on our standard fees and charges is available on request.

# 10. Statements

- **When you'll receive a statement**
- **Checking your statement**

## When you'll receive a statement

- 10.1 We'll provide you with a statement for each:
- (a) *home loan* or *Construction Loan*, at least every six months; and
  - (b) *line of credit* at least every month, or such shorter intervals as we decide.
- However we may not send a statement if the *law* does not require us to.

## Checking your statement

- 10.2 Please check your statements carefully and let us know immediately if you have any questions or queries.

# 11. Know what you owe

## The short and sweet facts about what you will owe

Once we debit an amount to your *loan account*, (if it is not already owed) you owe us that amount.

## 12. The rules of repayments

- What you need to pay
- A repayment that puts your loan in credit
- When you must not make a loan repayment
- Adjustments to the balance of your loan

### What you need to pay

- 12.1 You must pay the repayments we determine at the times we determine. However, we cannot require you to pay any amount that exceeds the *balance* of your *loan account* plus any amounts charged, accrued or payable but not yet debited to your *loan account*. As at the *disclosure date*, the repayments are those set out in the *Loan Offer* and they must be paid at the times set out in the *Loan Offer*.
- 12.2 For each *home loan*, you must pay us the *balance* of your *loan account* plus any amounts charged, accrued or payable but not yet debited to your *loan account* at the end of the *loan term* if they have not become due and payable any earlier.
- 12.3 We do not treat a payment as made until we credit it to your *loan account*.
- 12.4 Repayments must be made in Australian currency, and must not be received from a *non-Australian source* without our prior written consent.

### A repayment that puts your loan in credit

- 12.5 If we receive a payment that puts your *loan account* in credit, we may:
- (a) not accept that payment and refund it to you;
  - (b) credit that payment to your account and refund the amount by which your *loan account* is in credit; or
  - (c) credit that payment to your *loan account* and leave your *loan account* in credit. You won't be paid interest on the amount by which your *loan account* is in credit.

## When you must not make a loan repayment

- 12.6 Payments received by us under the *contract* may be applied by us to any amounts you owe us under the *contract* in any order we determine. If you have any other *loan contracts* with us you can tell us how any payment you make to us is applied. If you do not tell us how the payment is to be applied, we will apply the payment to all or any of the *loan contracts* in any way we think fit.
- 12.7 You must not make a payment under a *loan contract* using your *nil interest Visa account* or a cheque facility we have issued to you under this *contract*.

## Adjustments to the balance of your loan

- 12.8 We may adjust the *balance of your loan account*, including backdating debits or credits or account corrections, to take into account any processing error, because a payment has been dishonoured, because there are refunds or corrections to your *loan account* or otherwise so as to accurately reflect the legal position between you and us.



# 13. Security, what's involved?

- What happens when your security includes a mortgage
- Disclosure of documents
- Lender's Mortgage Insurance
- Replacement of mortgaged property
- Property value change

## What happens when your security includes a mortgage

If your *security* includes a mortgage, you need to be aware of what's involved and what you're actually agreeing to. It's better to know than to have any surprises.

- 13.1 If the *security* includes a mortgage:
- (a) you must ensure the mortgagor meets their obligations under the mortgage;
  - (b) any expenses incurred by us in preserving or maintaining the *mortgaged property* (including insurance, rates and taxes payable for that property) after a breach occurs and which are authorised by the mortgage will be an enforcement expense under clause 16.7; and
  - (c) if the *mortgaged property* can be insured, you must ensure that the *mortgaged property* is adequately insured and that the insurer knows and notes on the policy, us as mortgagee. If you do not, we may take out that insurance and any premium we pay will be an enforcement expense under clause 16.7.

## Disclosure of documents

- 13.2 You agree that we can disclose the following documents to each *guarantor* named in your *Loan Offer*:
- (a) a copy of any notice, *including* correspondence, to us or to you in relation to the *contract*; and
  - (b) a copy of your *loan account* statements of account.

## Lender's Mortgage Insurance

- 13.3 We may take out and maintain Lender's Mortgage Insurance in relation to your *loan*. This isn't the same as property insurance as it doesn't protect you as a borrower. It protects us as the lender in case you default under this *contract* and we're still owed money after enforcing any *security*. You must pay the premium for the Lender's Mortgage Insurance or reimburse us if we have paid it. Lender's Mortgage Insurance is non-refundable. You will be responsible for repaying the insurer for any amount they've paid us and any amount that we cannot recover from the insurer.

## Replacement of mortgaged property

- 13.4 You must not sell, transfer or otherwise deal with any *mortgaged property* during the *loan term* without our prior written consent. Generally, we'll only agree if you provide a replacement *mortgaged property* satisfactory to us.

## Property value change

- 13.5 If at any time the value of the *mortgaged property* falls below the value given to it in the first *valuation* obtained by us, and we reasonably consider it has a material impact on our credit or security risk, you must within 14 days, after we ask you (having regard to our credit or security risk):
- (a) repay a portion of any *loan* - if you are a company;
  - (b) provide us with additional *security* which is acceptable to us;
  - (c) pay for any Lender's Mortgage Insurance which we take out (see clause 13.3); or
  - (d) do a combination of any of the above.

We can require you to comply with the terms of this clause 13.5 more than once.

# 14. What you can, can't and have to do with Security Deposits!

- Establishing a security deposit account
- Restrictions relating to a security deposit account
- Withdrawal of the security deposit
- Interest
- Nominated accounts
- Closing the security deposit account

## Establishing a security deposit account

- 14.1 (a) If we agree, you may deposit cash (of an amount satisfactory to us) with us (a “*security deposit*”). The *security deposit* will be held in your name in an account (“*security deposit account*”).
- (b) The *security deposit* and the *security deposit account* operate to secure your obligations under the *loan*, including, without limitation, the repayment of the *loan account*.

## Restrictions relating to a security deposit account

- 14.2 You must not:
- (a) make *additional payments*, or transfer funds, to the *security deposit account*;
  - (b) assign, transfer, create a *security interest* over, or otherwise deal with any rights you have in the *security deposit* or the *security deposit account*;
  - (c) use the *security deposit* or the *security deposit account* for any purpose other than as contemplated in this agreement; or
  - (d) withdraw or transfer funds from the *security deposit account*, unless:
    - (i) permitted or required to do so by this clause 14; or
    - (ii) we have given prior written consent to do so.

## Withdrawal of the security deposit

- 14.3 (a) You can only transact on your *security deposit* account to:
- (i) pay us the amount you owe us in full under your *loan account*; or
  - (ii) finance the purchase of replacement *mortgaged property* acceptable to us.
- (b) You must give us written instructions if you wish to withdraw funds from your *security deposit* account to pay us the amount you owe us in full. You do not need to give us any prior notice to do this. However, if you instruct us to withdraw money for this purpose after 4pm on a *business day*, we will process your instructions on the next *business day*.
- (c) You must give us prior written notice acceptable to us and obtain our prior written consent if you wish to transact on your *security deposit* account in any other way.

## Interest

- 14.4 We will pay interest on the *security deposit* account in accordance with this clause 14.4.
- (a) The *interest rate* on the *security deposit* account is variable and may change. Information about current *interest rate* is available from us by calling 133 464 and will also be set out in the statement of account.
  - (b) Interest is calculated on the daily closing balance of the *security deposit* account by multiplying the daily closing balance by the *interest rate* (as a percentage) and dividing this figure by the number of days in a calendar year.
  - (c) We will notify you of any variation to the *interest rate* by advertisement in the national media or in writing to you, no later than the day on which the variation takes place.
  - (d) Interest accrues from the day the opening deposit is made to the *security deposit* account. Interest is credited to your account on the last day of each quarter and on the day the account is closed. Subject to clause 14.4(e) if you have told us to credit the amount of accrued interest to your *nominated account*, we will transfer the amount of interest credited to your *security deposit* account to your *nominated account* on the next *business day*. Interest will be available in your *nominated account* in accordance with the *Terms and Conditions* that apply to your *nominated account*.

- (e) Any interest credited to your *security deposit* account when the *security deposit* account is closed must be used to either (at our discretion):
  - (i) assist in financing replacement *mortgaged property* acceptable to us; or
  - (ii) reduce the amount you owe us.
- (f) We may also, in our discretion, agree to pay you some or all of this interest by cheque.

## Nominated accounts

- 14.5 (a) You can nominate up to four *nominated accounts* at any one time. Your *nominated account* may be your *loan account*.
- (b) Your *nominated account* must be in the same name as at least one of the account holders and in accordance with the signing authority of the *loan account*.
- (c) If you are a joint account holder, we will need written instructions from all joint account holders if you wish any interest credited to the *security deposit* account to be transferred to your *nominated account*.
- (d) Interest credited to the *security deposit* account will not be transferred to your *nominated account* if we cannot verify your *nominated account* details.
- (e) You may change your *nominated account*, or any of the details of your *nominated account*, by calling us on 133 464. We will tell you what information we need and the procedure to follow when you contact us. Your new *nominated account* or requested changes will take effect when verified by us. Verification will take 3 to 10 *business days*, we will, however, process the changes earlier, if possible.

## Closing the security deposit account

- 14.6 (a) You instruct us to close your *security deposit* account by making a transaction in accordance with section 14.3(a). Your *security deposit* account will be closed immediately upon that transaction being completed. You cannot close your *security deposit* account in any other way. We will pay you any remaining positive balance of the *security deposit* account (if applicable) by transferring that amount to your *nominated account*. If you do not have a *nominated account*, we will pay you any remaining positive balance by cheque.
- (b) We may close your *security deposit* account immediately (and by giving you any notice required by *law*) or refuse to process any transactions if:
- (i) in relation to the *security deposit* account you breach clause 14.2 or clause 14.3(a) of these *Terms and Conditions*;
  - (ii) in relation to your *loan account* you breach any of clauses 1.3, 1.4, 2.3.2, 4.2.1, 4.3.1, 9.1, 12, 13 or 16.7 of these *Terms and Conditions*;
  - (iii) we suspect fraudulent activity;
  - (iv) we cannot verify your identity; or
  - (v) you fail to provide us with replacement *mortgaged property* acceptable to us within 3 months of opening the *security deposit* account.
- (c) If we close your *security deposit* account for any of these reasons, we will apply the proceeds of the *security deposit* account towards discharging the payment of the amount you owe us under the *loan account*. We will pay you any remaining positive balance of the *security deposit* account (if applicable) by transferring that amount to your *nominated account*. If you do not have a *nominated account*, we will pay you any remaining positive balance by cheque.

# 15. Checking our valuations

## Mortgage property valuations and costs

At any time over the *loan term*, we may have your *mortgaged property* valued. We do this to verify the value of your property against the original mortgage *valuation*.

Generally, we will only have your *mortgaged property* valued:

- (a) when you apply for the *loan*;
- (b) when you apply to vary the *loan*;
- (c) if the *loan* is in default;
- (d) if you propose to sell the *mortgaged property* for an amount which is less than the *loan balance*; and
- (e) when you request a progress payment to be made as detailed in clause 3.3.

We use the *valuation* specifically for our own purposes. If you wish to have a *valuation* for your own personal needs, we recommend you organise this separately.

Any *valuations*, will be at your cost.

# 16. What happens when you are in default?

- **When you are in default**
- **If we hold more than one security**
- **Enforcement expenses**

This clause explains what 'default' means and what happens if you are in default.

## When you are in default

16.1 You're in default if:

- (a) you don't pay any repayment payable under this *contract*, on or before its due date;
- (b) you're in breach of clauses 1.3, 1.4, 4.2.1, 4.3.1, 9.1, 12 or 13 of these *Terms and Conditions* or any material undertaking given to us at any time;
- (c) you, or another *person* acting with your knowledge or permission, give us incorrect or misleading information in connection with this *contract* or a *security*;
- (d) we reasonably believe you, or another *person* acting with your knowledge or permission, have acted fraudulently in connection with this *contract*;
- (e) we reasonably believe the information you or a *security provider* gave us in relation to meeting our *customer eligibility criteria* was incorrect, misleading or has changed so that you no longer meet the *customer eligibility criteria*;
- (f) you or a *security provider* defaults under a *security* or withdraws from it;
- (g) you are a company:
  - (i) you or a *security provider* becomes insolvent; or
  - (ii) steps are taken to wind you or a *security provider* up or appoint a liquidator, receiver or administrator to you or a *security provider* or to place any part of your or a *security provider's* assets into administration.



- (h) a power of sale arises under any *security interest* you or a *security provider* has given to us over any *mortgaged property*;
- (i) you commit an act of bankruptcy;
- (j) you are convicted of a criminal offence;
- (k) you pass away or become incapable of managing your affairs; or
- (l) we reasonably believe that continuing this *contract* with you would cause us to breach a relevant *law* or would represent an unacceptable level of risk for us due to the following:
  - (i) we reasonably believe that you have migrated to a country that we determine is ultra high risk given our obligations under anti-money laundering and counter-terrorism laws in respect of the services we provide (for information on relevant countries, please contact us);
  - (ii) you fail to provide any information or document to us that we have requested for the purpose of our compliance with a relevant *law* (including *Foreign Tax Residency Status* self certification or any details necessary for us to verify your nationality in accordance with anti-money laundering and counter-terrorism laws); or
  - (iii) we reasonably form the view that you are 'high risk' given our obligations under anti-money laundering and counter-terrorism laws having regard to our obligation to consider the risks posed by your sources of funds and wealth, your business or employment, the countries in which you reside, the services we provide to you and the method through which you access those services, and/or your status as a *politically exposed person*.

16.2 If you're in default, then subject to clause 16.3 and clause 16.4, the *balance* of your *loan account* and any other amounts charged, incurred or payable but not yet debited to your *loan account*, become automatically due and payable.

16.3 Where you are an individual, we will send you a default notice telling you what the default is, what you have to do to remedy the default, and that you will have at least 30 days from the date of the notice to remedy the default. If you do not comply with a default notice, or if the *law* does not require us to give a default notice or for the default notice to require that your default be remedied, you will become liable to pay us the *balance* of your *loan account* and any other amounts charged,

incurred or payable but not yet debited to your *loan account* immediately. We may exercise all or any of our rights under the *loan contract* or under any *security*.

- 16.4 Except where you are in default in the circumstances described in clauses 16.1(a) and clause 16.1(b), we may not take any of the steps described in clause 16.2 unless we make an assessment (acting reasonably) that your default is material. We might consider your default to be material either by its nature or because it had, or is likely to have, a material impact on:
- (a) your ability to meet your financial obligations with us;
  - (b) a *security provider's* ability to meet their financial obligations us;
  - (c) our credit or security risk (or our ability to assess these risks); or
  - (d) our legal or reputation risk.

### Anti-money laundering and counter-terrorism financing

- 16.5 Notwithstanding any other rights we have, if you are in default in the circumstances described in clause 16.1(l) we may be required under anti-money laundering and counter-terrorism laws to:
- (a) collect further information about you;
  - (b) disclose information relating to you or your *loan account* to Australian and overseas regulators and others;
  - (c) stop, prohibit, delay, block or freeze transactions;
  - (d) close your *home loan account* or deal with it in any way required by *law*; and
  - (e) take other action required by *law*.

### If we hold more than one security

- 16.6 If we hold more than one *security*, we can enforce any one or all of the securities, at different times or the same time.

## Enforcement expenses

- 16.7 Enforcement expenses may become payable under this *contract* or any *security* (or both) in the event of a breach. You must pay us all reasonable enforcement expenses we reasonably incur or expend arising from any default under this *contract* or under any *security*. We can debit these amounts to the *loan account* and they are payable when they are debited.
- 16.8 If you are in default we may apply any money in any other account you may have with us, *including a security deposit* account against the amount you owe us.

# 17. Things change

- Changes to this contract
- When we'll notify you

## Changes to this contract

17.1 We can change this *contract* (such as by varying an existing provision or adding a new provision) at any time without your consent for one or more of the following reasons:

- (a) to comply with any change or anticipated change in any relevant *law*, code of practice, guidance or general banking practice;
- (b) to reflect any decision of a court, ombudsman or regulator;
- (c) to reflect a change in our systems or procedures, *including* for security reasons;
- (d) as a result of changed circumstances (including adding benefits or new features);
- (e) to respond proportionately to changes in the cost of providing the *loan* (including by changing *interest rates*); or
- (f) to make them clearer.

17.1.2 The types of changes we may make *include*:

- (a) imposing a new credit fee or charge or changing the amount or frequency of payment of a credit fee or charge;
- (b) changing the amount of repayments, the way in which repayments are calculated or when they're due;
- (c) changing the way interest is calculated or applied; and/or
- (d) changing any *interest rate* (other than fixed rates during a *fixed interest period*).

If any *law* regulates a change we decide to make, we can only make the change to the extent permitted by *law*.

## When we'll notify you

17.2 We will notify you when we make a change described in clause 17.1.2(a) to (c):

- (a) that doesn't reduce your obligations or extend the time for payment by at least 30 days notice in writing to you (unless the change relates to an amount of a credit fee or charge or introducing a new credit fee or charge, in which case we may notify you in writing or by advertisement in a newspaper which we will confirm before or when we give your next statement of account); and
- (b) that reduces your obligations or extends the time for payment, in your next statement of account after the change is made.

17.3 Where we:

- (a) increase your liability for losses relating to transactions made using the *Interactive Service* or your *Visa Credit Card* and *PIN* (subject to any liability limits in the *ePayments Code*); or
- (b) impose, remove or adjust a daily transaction or other periodic limit applying to an *Interactive Service* or your use of your *Visa Credit Card* and *PIN*;

We'll give you at least 30 days notice in writing. However, if we need to make a change immediately in order to restore or maintain the security of the system or individual accounts, we don't have to give you any advance notice.

17.4 Where we change an *interest rate* or a *reference rate* and the change doesn't reduce your obligations, we'll notify you no later than the day the change takes effect either in writing or by advertisement in the newspaper which we will confirm before or when we give your next statement of account.

17.5 Where we terminate or vary the *Offset*, we'll notify you at least 30 days in advance in writing.

17.6 We may change the *Terms and Conditions* of this contract in a way other than as set out in 17.2 to 17.5 if the change is not adverse to you. In this case we'll notify you at least 30 days in advance in writing.

## 18. Some housekeeping notes for each loan under this contract

### What happens when there is more than one loan under this contract

If you have more than one *loan* under this *contract* (that is, if there's more than one *loan* described in the 'Financial Information' section of the *Loan Offer*):

- (a) we'll open a *loan account* in your name for each *loan* to which amounts under this *contract* will be debited and credited as appropriate;
- (b) each *loan account* will have its own *credit limit or amount of credit* (as the case may be) and *balance*. We'll send you separate statements of account for each *loan account*;
- (c) each *loan* will have its own *settlement date*;
- (d) interest charges for each *loan* will be calculated on the *balance* of the *loan account* for that *loan* using the *interest rate* applicable to that *loan*;
- (e) the terms of this *contract* apply separately to each *loan*; and
- (f) you can tell us how you would like us to apply any payment or other credit you make. If you do not tell us, we will apply such payment or credit to any one or more *loan account(s)* in any order, that we determine.

# 19. When we can review your loan

## What happens when we review your loan

We may review any *loan* at any time. Usually this will occur every five years. On a review of your *loan*, you must provide us with any document or information we reasonably require, within 14 days of our request for it. We may require this information to be certified or audited at your expense.

## 20. Just checking you know everything about the cheque facility

- The cheque facility
- Authorised signatories
- All about cheques

In this section we describe the cheque facility, explain the different parts of a cheque, and advise how to complete a cheque and other related matters. It may seem like a lot of detail, but it's there for your protection.

This clause 20 applies if we make a cheque facility available to you under a *line of credit*.

### The cheque facility

#### 20.1 When you can use the cheque facility

- 20.1.1 If you have a *line of credit*, you may ask us at any time to make a cheque facility available to you under that *line of credit*.
- 20.1.2 After we've agreed to make the cheque facility available to you, we'll mail your cheque book to you as soon as practicable. If any stamp duty is payable for the cheques, we will debit this to your *loan account* when we send the cheque book.
- 20.1.3 Your right to use cheques drawn on us and the cheque book is at our discretion. We may at any time suspend or withdraw those rights and facilities, or refuse to pay any cheque if:
- (a) we consider it reasonably necessary for security purposes; or
  - (b) you breach any of clauses 1.3, 1.4, 4.2.1, 4.3.1, 9.1, 12, 13 or 16.7 of these *Terms and Conditions*.

Except where it is necessary to act immediately for security purposes, we'll give you notice before doing so. The cheque book and all unused cheques remain our property and, if we ask, must be destroyed or returned to us.



## Authorised signatories

### 20.2 Authorised Signatories

- 20.2.1 If you are a company, you may nominate any director of the company to be an *authorised signatory* for your cheque facility. By nominating the *authorised signatory*, you authorise that *authorised signatory* to sign and issue cheques on your *loan account* in accordance with this *contract*. This authority does not allow the *authorised signatory* to amend the authority or to authorise others to operate the *loan account*.
- 20.2.2 You must ensure that the *authorised signatory* complies with any relevant provision of this *contract* as though the *authorised signatory* was you.
- 20.2.3 You are responsible for the *authorised signatory's* use of the cheque facility under this *contract*. In particular you are liable to pay us any amounts paid by us to, or at the direction of, the *authorised signatory*. You consent to us giving the *authorised signatory* information about your *loan account*.
- 20.2.4 You may ask us to cancel the authority of the *authorised signatory* by sending us a request in writing. We'll send you written confirmation of the cancellation of the authority.
- 20.2.5 You must ensure that any *authorised signatory* complies with this *contract* as if that *authorised signatory* was you. You'll be liable for any transactions on your *loan account*, even if you didn't authorise the transaction. You'll be responsible for all transactions by that *authorised signatory* as though you made them yourself.
- 20.2.6 You agree to indemnify us against all losses, liabilities and damages incurred by us as a result of us acting in accordance with an *authorised signatory's* instructions. We don't have to verify the identity of an *authorised signatory*, or ascertain whether they're authorised to transact on your *loan account*.

## All about cheques

### 20.3 Completing cheques

- 20.3.1 You may only write cheques on the cheque books we give you. To complete a cheque you must write:
- the name of the *person* or company the cheque is made out to;
  - the amount (in words and numbers);
  - the date on which the cheque is written; and
  - the signature of *authorised signatories*.

If the cheque isn't completed correctly we may dishonour the cheque.

20.3.2 When filling out a cheque never write with pencil or erasable ink. Always write the amount of the cheque in words as well as figures (as words are more difficult to alter). To help reduce the risk of cheques being altered in an unauthorised way:

- (a) don't leave any gaps between the words or figures;
- (b) begin the amount in words with a capital letter as close as possible to the words 'The sum of' adding the word 'only' after that amount and drawing a line from the end of the amount in words to the printed '\$'; and
- (c) begin the amount in figures as close as possible to the printed '\$'.

### ■ When signing cheques

20.3.3 If you have a *line of credit* and there's more than one *authorised signatory*, you need to tell us the minimum number of *persons* you want to sign a cheque. If it's not signed by the required number it's not valid.

If you have a *line of credit* and there's more than one of you, any one of you can sign a cheque.

20.3.4 If you postdate a cheque, we'll pay the cheque as soon as we receive it (subject to this *contract*). We won't wait until the date of the cheque.

### 20.4 What's the effect of crossing a cheque?

If you draw two transverse parallel lines from top to bottom on the face of the cheque, you're crossing the cheque. By doing this, you're telling the Bank you want that cheque paid into an account with a financial institution and not cashed.

### 20.5 What does 'not negotiable' and 'account payee only' mean?

20.5.1 The words 'not negotiable' between two parallel lines across the face of a cheque mean that the ultimate holder of the cheque who presents it for payment gets no better title to the money than the *person* who transferred it to them.

20.5.2 The words 'account payee only' on a cheque tell the Bank that the cheque should be paid only to the *person* named as payee in the cheque.

### 20.6 What is the significance of deleting 'or bearer'?

20.6.1 The words 'or bearer' mean that whoever is holding the cheque can bank it.

20.6.2 If you delete these words, the cheque is an 'order' cheque and the Bank on which the cheque is drawn should only pay it to the named payee or to any other *person* to whom the cheque has been endorsed.

## ■ Stopping a cheque

20.7 You may cancel or stop payment on a cheque (as long as it hasn't already been cleared) by calling our Contact Centre or writing to us at the address in the *Loan Offer*.

If you write to us you need to give the following information:

- (a) your *loan account* number;
- (b) the cheque number;
- (c) the cheque amount;
- (d) who the cheque is payable to; and
- (e) the reason for stopping the cheque.

## 20.8 Dishonouring cheques

We may at our discretion, dishonour a cheque if:

- (a) there's insufficient credit in your *loan account* to cover the cheque, or
- (b) the cheque is completed incorrectly, incomplete, stale, has no payee stated or has been materially altered or you haven't authorised the alteration.

## 20.9 Lost cheques and clearing cheques

20.9.1 You must keep your cheque book and all unused cheques in a safe place at all times. Never leave signed blank cheques in your cheque book. You must let us know immediately if:

- (a) your cheque book is lost;
- (b) your cheque book is stolen; or
- (c) there's been unauthorised use of your cheque book.

You can contact us by calling our Contact Centre, writing to us at the address in the *Loan Offer* or sending us a fax. If any of these things happen and you don't tell us immediately, other people may be able to borrow money on your *loan account* without your permission.

## ■ Clearing cheques

20.9.2 Clearing cheques involves several steps that can take a number of days. Under normal circumstances, you can't withdraw the value of a deposited cheque until it's been cleared, even though the proceeds of the cheque may be credited to the account. It's the same for cheques made payable to 'cash'.

20.9.3 If you want us to clear a cheque quickly you can ask us for a special clearance. A fee may apply. You cannot get a special clearance for overseas cheques.

## 20.10 Cancelling the cheque facility

20.10.1 We can cancel the cheque facility at any time if:

- (a) we consider it reasonably necessary for security purposes; or

(b) you breach any of clauses 1.3, 1.4, 4.2.1, 4.3.1, 9.1, 12, 13 or 16.7 of these *Terms and Conditions*.

If we do, we'll notify you beforehand or, where it is necessary to cancel the facility immediately for security purposes, as soon as possible afterwards.

20.10.2 If your cheque facility is cancelled, you must immediately destroy or return all unused cheques to us immediately.

20.10.3 Any cheque presented afterwards may be dishonoured, unless you make other arrangements with us. You'll be liable for any dishonoured cheques.

## **20.11 Liability**

Subject to the requirements of any *law*, we are not responsible or liable for; any transaction processed by us on your behalf, the dishonour or failure to dishonour any cheque drawn by you or any other actions taken or not taken in relation to your cheque facility.

# 21. The nitty gritty of our Interactive Service

- Using our Interactive Service
- Enhanced security measures
- Joint accounts and third parties
- Keeping your Codes and security device secure
- Fees, charges and limits
- Accessing the website

To understand the nuts and bolts and the inner workings of our *Interactive Service*, read on.

## Using our Interactive Service

- 21.1.1 You can only use our *Interactive Service* (*phone banking* or *online banking*) with your *loan account* if we give our consent.
- 21.1.2 To access the *Interactive Service* you need:
- (a) your *Client Number*; and
  - (b) an *Access Code*.
- 21.1.3 We'll give you a *Client Number* when you first open an account with us. You'll also need to select a personal *Access Code*. To select your *Access Code* and register for *phone* and *online banking*, simply contact one of our Customer Care Specialists and they will guide you through the process.
- 21.1.4 You can change your *Access Code* at any time subject to correctly quoting the current *Access Code*. You can do this using our *Interactive Service* or by speaking with a Customer Care Specialist.
- 21.1.5 Be aware that anyone supplying a valid *Client Number* and *Codes* will be able to access your *loan account* and process transactions. We are not required to verify or authenticate the identity of a *person* supplying a valid *Client Number* and *Codes* before giving that *person* access to the *loan account* or processing a transaction on the *loan account*. That's why it's important to keep all your *Codes* secure and confidential.

- 21.1.6 We can extend or reduce the information and range of services for our *Interactive Service* at any time without providing notice to you.
- 21.1.7 Whenever you use *online banking*, don't leave the terminal you're using unattended and always exit from the service as soon as you've finished.

## Enhanced security measures

- 21.2.1 When you're using our *Interactive Service* and/or contact us to initiate a transaction, there may be times when you need to use our *enhanced security measures*. These measures are in place for both your protection and ours.
- 21.2.2 If you don't use the *enhanced security measures* when asked, you:
  - (a) may be denied access to our *Interactive Service*; and/or
  - (b) may need to conduct certain transactions with one of our Customer Care Specialists.
- 21.2.3 Any *security device* we provide you, as part of our *enhanced security measures*, remains our property and must be returned to us when requested. Only one *security device* will be issued per *Client Number*. If you lose any *security device* your access to our *Interactive Service* may be denied.
- 21.2.4 If you hold or have authority to transact on any other ING product, these *enhanced security measures* will apply to those products.
- 21.2.5 Where we hold an email address for you we may also send an email confirming certain transactions.
- 21.2.6 If you're unable to use our *enhanced security measures*, please call one of our Customer Care Specialists to discuss alternative options.

## Joint accounts and third parties

- **Which joint accounts can use our Interactive Service**
- 21.3.1 If:
  - (a) the *loan account* is in more than one name; and
  - (b) the account is set up so that any account holder can use the account (each of you can use our *Interactive Service* independently). Similarly, if one of you instructs us to block access to the accounts via the *Interactive Service*, we are authorised by all of you to act on those instructions.

## ■ Which joint accounts cannot use our Interactive Service

21.3.2 If:

- (a) a *loan account* is in more than one name; and
- (b) the account is set up so that all account holders must authorise transactions on the account, our *Interactive Service* is not available to you. If you wish to change the way you operate your *loan account* so you can access our *Interactive Service*, simply contact us.

### 21.4 Third party account access

- (a) You agree that any *authorised user* can access information about your *loan account*.

## Keeping your Codes and security device secure

21.5.1 It's important to take all reasonable precautions to ensure your *Codes*, *Client Number*, and *security device* are not misused, and remain secure and confidential. The precautions we require you to take (*Code Security Requirements*) are set out below.

21.5.2 You must not:

- (a) tell anyone your *Codes*, including any member of your family or your attorney;
- (b) let anyone else, whether acting as your agent or not, access our *Interactive Service* using your *Client Number* and *Codes*;
- (c) select an *Access Code* or *PIN* that consists of repeated, ascending or descending numbers, or numbers that are associated with your birth date, *Client Number* or an alphabetic code which is a recognisable part of your name;
- (d) give your *Visa Credit Card* or *security device* to anyone else or let them use it;
- (e) keep a record of any *Code* (without making a reasonable attempt to protect the security of the *Code*) on your *Visa Credit Card*, a *security device*, or in or on anything you usually carry with your *Visa Credit Card* or your *security device*, as it could be lost or stolen at the same time as the *Visa Credit Card* or *security device*;
- (f) be careless about protecting the security of the *PIN*; or
- (g) let anyone else see you entering your *PIN* at an *ATM* or *EFTPOS* terminal.

21.5.3 As soon as you realise or suspect anyone else knows any of your *Codes* (including your *Access Code* or *PIN*), or your *Visa Credit Card* or *security device* is lost,

stolen or used without your permission, **contact us immediately** by calling 133 464 or writing to us at the address on the back page of these *Terms and Conditions*. We'll give you reference details to confirm you've alerted us to the situation.

- 21.5.4 If you realise or suspect anyone else knows your *Access Code* or *PIN*, we'll ask you to select a new *Access Code* or *PIN* using our *Interactive Service* (new *PINs* require us to send you a new *Visa Credit Card*). If you don't select a new *Access Code* or *PIN* when asked, a stop will be placed on the relevant service until you do so.
- 21.5.5 If we know or suspect that anyone else knows any of your *Codes*, we may place a stop on the relevant service. In that event, you can contact us for a new *Access Code* or *PIN* and have the stop removed.
- 21.5.6 You must:
- (a) sign your *Visa Credit Card* as soon as you receive it; and
  - (b) regularly check to make sure you still have your *Visa Credit Card*.
- 21.5.7 Your *PIN* will be automatically de-activated after three unsuccessful attempts to enter your *PIN*. If this happens, we can re-activate your *PIN* or send you a reminder of your *PIN*, as long as the *Visa Credit Card* is in your possession.
- 21.5.8 We can cancel any *access method* at any time any without notice if we believe its being used in a way that can cause loss to you or us.

**Warning: Account Aggregation Services**

Some companies provide account aggregation services that allow you to view account information from different institutions on the one web page. To use an account aggregation services, you're usually required to give the service provider your account details and your *access method*. We don't endorse, promote or authorise the use of account aggregation services in connection with your *loan* account or our *Interactive Service*. Please remember, if you disclose your *Access Code* to another person, you'll be liable for any transactions on your *loan* account(s) they make using that *access method*.

**21.6 Your instructions**

- 21.6.1 When using the *Interactive Service* your instructions will be carried out if:
- (a) they're permitted by this *contract*; and
  - (b) they comply with the directions we give you on



how to use the *Interactive Service*. We can give you these directions orally or in writing for *phone banking* or *online banking*.

- 21.6.2 We have the authority to act on your instructions in relation to any transaction. If it's not possible to carry out the instructions, the transaction may not be processed, we may defer processing the transaction or we may seek further information from you before carrying out those instructions. When you give us instructions using the *Interactive Service*, those instructions cannot be altered or stopped. You're responsible for ensuring that you provide us with the correct instructions.

## 21.7 Transaction receipts

When using the *Interactive Service*, we'll provide you with an electronic receipt (for *online banking* transactions), or receipt information by voice communication (for *phone banking* transactions). Save your receipt details for your records and check them against the relevant statement. If you believe there is an error, or if you have any other concerns, let us know straight away (see clause 27.1 "**What to do if you have a concern**").

## 21.8 Availability of our Interactive Service and accuracy of information

- 21.8.1 We'll try to ensure our *Interactive Service* is available to you as follows, for:
- (a) *phone banking*, 24 hours a day, 7 days a week; and
  - (b) *online banking*, 24 hours a day, 7 days a week.
- 21.8.2 We may temporarily withdraw or deny access to the *Interactive Service* without prior notice to you for repairs, maintenance or reasons of security. Your access to the *Interactive Service* will be automatically denied after three unsuccessful attempts to enter your *Client Number* and *Access Code*. If this happens, you must contact us to get access to the *Interactive Service*.
- 21.8.3 If there's an error, inaccuracy or omission in relation to the *Interactive Service* and you advise us in writing, we'll try to correct the error, inaccuracy or omission. We'll contact you to let you know when the problem is fixed.
- 21.8.4 If you instruct us to transfer money from your *loan account*, the transfer will generally take place:
- (a) the *business day* after you give us the instructions (if the instructions are given before our *cut-off time* on a *business day*);
  - (b) two *business days* after you give us the instructions (if the instructions are given after our *cut-off time* on a *business day*).

## Fees, charges and limits

### 21.9 Fees and charges

Fees and charges may apply to the *loan* accounts which you access through an *Interactive Service*. These fees and charges are stated in the *Loan Offer*.

### 21.10 Withdrawal limits

The maximum amount you can instruct us to transfer to other accounts per day using the *Interactive Service* is \$5,000.

## Accessing the website

21.10.1 When you use the *website*, we grant you a limited licence to display on your computer, print, download and use the underlying HTML, text, hyperlinks, information, content and transaction facilities made available on this site for your personal use and records only. You are not permitted to modify, alter, transfer, interfere with the working of, reverse engineer, remove, create, distribute, or pass onto or link to or from another *website*.

21.10.2 Copyright in the *website* is owned by us and all rights are reserved. Except as provided in the limited licence and any use permitted by the Copyright Act 1968 (Cth), no part of the material may be reproduced or provided to the public, in any form or by any means, without our written permission.

21.10.3 The ING Bank or *ING* trade marks and devices are trade marks owned by ING Group N.V. except as provided in the limited licence, no permission is given for the reproduction or publication of any trade marks on the *website* by any *person*.

21.10.4 For the purpose of any email communications which are sent to us via the *website*, an email communication is not taken to be received by us until the email message enters our electronic mail box and is able to be opened in a readable form by us.

### 21.11 Termination of use

(a) You can terminate using our *Interactive Service* at any time by letting us know in writing.

(b) We can terminate your access to any *Interactive Service* at any time if:

(i) we suspect fraudulent use of the *Interactive Service*;

(ii) termination is, in our view, necessary for compliance with anti-money laundering obligations; or

(iii) you fail to comply with clause 21 of these *Terms and Conditions*.

#### **21.12 Recorded transactions**

For accuracy, security and quality monitoring purposes, we can, at our discretion, record *phone banking* transactions and make electronic copies or monitor any *online banking* transactions. If we monitor transactions for security reasons we'll let you know before the transaction starts.

## 22. The whole kit and caboodle of the Visa Credit Card Facility

- The card
- How you can use your card
- Transactions outside of Australia
- Expiry date and replacement cards
- Cancelling your Visa Credit Card
- De-activating your Visa Credit Card or PIN

This section gives you the whole kit and caboodle about using the *Visa Credit Card* facility.

### The card

The provisions of this clause 22 only apply to a *loan* described in the *Loan Offer* as a *line of credit* that also includes a *nil Interest Visa* account.

#### 22.1 Visa Credit Card

- (a) As part of your *loan*, you have access to a *Visa Credit Card*.
- (b) The *Visa Credit Card* entitles you to access the *nil interest Visa* account and cannot be linked to any other account.
- (c) We'll send your *Visa Credit Card* to you by post as soon as practicable after the *settlement date*. You have to sign your card as soon as you receive it and phone us on 133 464 to activate it. Your *Visa Credit Card* remains our property.
- (d) We'll forward a *PIN* to you separately and each card has its own *PIN*.

### How you can use your card

22.2.1 The table on the next page sets out the different ways in which you can use your *Visa Credit Card* and the *loan* account to which the purchase will be initially debited.

How you can use your Visa Credit Card	To debit to line of credit account	To debit to nil interest Visa account
At a merchant who displays the Visa symbol - to buy goods or services	(various - see below)	Either: <ul style="list-style-type: none"> <li>• use the credit button on the card machine and enter a <i>PIN</i> or sign; or</li> <li>• if the card machine displays the <i>Visa payWave</i> symbol, use <i>Visa payWave</i> (without a <i>PIN</i> or signature) for purchases within Australia under AU\$100 (other limits may apply outside of Australia)</li> </ul>
Via <i>EFTPOS</i> - to buy goods or services	Use the cheque button on the card machine and enter <i>PIN</i>	Use the savings or credit button on the card machine and enter <i>PIN</i>
Via <i>EFTPOS</i> - to get cash	Use the cheque button on the card machine and enter <i>PIN</i>	Use the savings button on the card machine and enter <i>PIN</i>
At an ATM - to get cash	Use the cheque button and enter <i>PIN</i>	Use the savings or credit button and enter <i>PIN</i>
Over the counter at any financial institution displaying the Visa logo - to get cash		Without the <i>PIN</i> and with photo identification

22.2.2 When a merchant displays the 'Visa', 'EFTPOS' or 'Visa payWave' symbol, they're not promising all their goods and services may be purchased with the *Visa Credit Card*.

22.2.3 We're not responsible if the merchant refuses to accept or honour a *Visa Credit Card*.

22.2.4 The price merchants charge for goods or services purchased with the *Visa Credit Card* may be different from the price the merchant charges for the same goods or services purchased with cash.

22.2.5 We do not accept any responsibility for the goods or services purchased with the *Visa Credit Card*, unless required to do so by *law*. If you have a complaint about the goods or services, you must resolve this directly with the merchant. Any refund a merchant gives you is a matter between you and the merchant only. We're not responsible for any refund, unless the *law* says we are. If any merchant agrees to give you a refund, we'll credit your *loan account* once we've received confirmation of the refund from the merchant.

22.2.6 Subject to this clause 22, you can use your *Visa Credit Card* to get a cash advance from your *nil interest Visa account* in the following ways:

- (a) at a branch counter of any financial institution displaying the 'Visa' symbol;

- (b) through most *EFTPOS* outlets; or
- (c) from any *ATM* with the Cashcard logo, as shown on your *Visa Credit Card*.

22.2.7 Some *ATMs* may not have money available for withdrawals and some merchants, financial institutions and/or *ATMs* may not accept *Visa Credit Card*. If the *ATM* doesn't return your *Visa Credit Card*, contact us immediately, not the financial institution that owns the *ATM*.

### ■ **Withdrawal limits**

22.2.8 The maximum you can withdraw per day using your *Visa Credit Card* is \$1,000.00. However, the minimum or maximum amount of cash you can withdraw will depend on the financial institution or merchant. You may be required to produce additional identification.

22.2.9 Depending on how you use your *Visa Credit Card*, we'll debit the amount of any purchase or cash advance made using your *Visa Credit Card* to either your *nil interest Visa account* or your *loan account*. See the table at clause 22.2.1 for details.

### ■ **Warning:**

22.2.10 Your *Visa Credit Card* must not be used for any unlawful purpose, including buying goods or services prohibited by Australian law. We may refuse to authorise a transaction using your *Visa Credit Card* if it's been reported lost or stolen, or we have any other good reason to do so.

22.2.11 You may not make a deposit into your *loan account* at an *ATM*.

### ■ **ATM fees**

22.2.12 When using your *Visa Credit Card* you may incur *ATM* fees from the owner of the *ATM*. To find out whether any fees apply, read the *ATM* fee disclosure statement that appears on the *ATM* when making your transaction. Before you can complete the transaction you'll be asked whether the *ATM* owner can debit the fee from the account you're making the withdrawal from. At this point you can either agree to go ahead or opt out.

### ■ **ATM rebates**

22.2.13 We may rebate some or all of these *ATM* operator fees (for details, please refer to the Post-Settlement Fees and Charges booklet on our website). We rebate eligible *ATM* operator fees based on the information we receive from Visa and *ATM* owners. If we don't rebate a fee you believe is eligible, call us on 133 464. We may modify, introduce a cap, or discontinue *ATM* fee rebates at any time.

## ■ Regular Payments

- 22.2.14 You should maintain a record of any *Regular Payment* you enter into with a merchant.
- 22.2.15 To change or cancel any *Regular Payment* you should contact the merchant at least 15 days prior to the next scheduled payment. Until you cancel the *Regular Payment* we must accept the merchant's transaction. If possible you should retain a copy of the change/cancellation request. Should the merchant fail to act in accordance with these instructions you should contact the merchant first.
- 22.2.16 If your *Visa Credit Card* has the *Visa payWave* symbol on the front of the card, it can be used to authorise purchases at merchants displaying the contactless symbol, simply by waving the card at the merchant's point of sale reader.
- 22.2.17 Before authorising transactions using *Visa payWave*, you must check that the transaction amount on the merchant's reader or cash register is correct.
- 22.2.18 There is no need for a *Visa payWave* transaction in Australia to be authorised by a *PIN* or signature, provided that the amount of the transaction is less than AU\$100 (other limits may apply outside of Australia).
- 22.2.19 Note that you cannot use *Visa payWave* to withdraw cash.

## Transactions outside of Australia

- 22.3 (a) When using your *Visa Credit Card* overseas, foreign currency amounts will be converted into Australian dollars as at the date they are processed by Visa International. The conversion rate is determined by Visa International.
- (b) You can use your *Visa Credit Card* at any *ATM* overseas carrying the *Visa* logo using the credit button.

## Expiry date and replacement cards

- 22.4 (a) Your *Visa Credit Card* is only valid during the period stated on the card and must not be used after this date. We may automatically issue you with a new *Visa Credit Card* before the expiry date without notifying you first.
- (b) We may issue a replacement *Visa Credit Card* to you at any time. If you wish to order a replacement card, call our Contact Centre on 133 464 during business hours. There may be a fee for this.
- (c) If your card number has changed you should request the merchant to change the details of your existing

*Regular Payment* to ensure arrangements continue. If you do not do this your *Regular Payment* may not be honoured by us and the merchant may stop providing the goods and/or services.

## Cancelling your Visa Credit Card

- 22.5.1 You can cancel your *Visa Credit Card* at any time by letting us know in writing. We may cancel your *Visa Credit Card* at any time in circumstances where:
- (a) we suspect fraudulent use of your *Visa Credit Card*;
  - (b) termination is, in our view, necessary for compliance with anti-money laundering obligations; or
  - (c) you fail to comply with clause 22 of these *Terms and Conditions*.
- even if:
- (d) you're not in default; or
  - (e) we haven't cancelled your *line of credit*
- 22.5.2 If you or we cancel your *Visa Credit Card*:
- (a) you must cut your *Visa Credit Card(s)* in half and let us know you've done so; and
  - (b) you must cancel any payment, using your *Visa Credit Card*, scheduled to be made after the *Visa Credit Card* is cancelled; and
  - (c) we may not honour any transactions that happen after the *Visa Credit Card* is cancelled.
- 22.5.3 You'll still be liable for any *Visa Credit Card* transactions processed before and after your *Visa Credit Card* is cancelled.

## De-activating your Visa Credit Card or PIN

- 22.6
- (a) If you breach clauses 1.3, 1.4, 2.3.2, 4.2.1, 4.3.1, 9.1, 12, 13, 16.7 or 22 of these *Terms and Conditions* we may de-activate your *Visa Credit Card*. Once your *Visa Credit Card* is de-activated you may not use your card to make purchases or get cash advances.
  - (b) If you remedy the default we may reactivate your *Visa Credit Card*. This does not limit our right to cancel the *Visa* facility at any time.
  - (c) Your *PIN* will be automatically de-activated after three unsuccessful attempts to enter your *PIN*. If this happens, you can ask us to re-set or re-activate your *PIN*. For us to do this, you'll need to have the *Visa Credit Card* in your possession.



## 22.7 Resolving complaints under the Visa card scheme

- (a) If we decide to resolve a complaint by exercising our rights under the rules of the Visa card scheme, then the following clauses under 22.7 apply, and clause 27.2 of the *Terms and Conditions* does not apply.
- (b) If we cannot immediately solve the problem, we will give you details, in writing, of our procedures for investigating and resolving problems.
- (c) We will try to complete our investigations and tell you the result in writing within the time limits specified in the rules of the Visa card scheme. If we cannot do so we will let you know in writing that we need more time.
- (d) We will then complete our investigations and tell you the result in writing (*including reasons*) within the time limits specified in the rules of the Visa card scheme unless there are exceptional circumstances.
- (e) If we are unable to complete our investigations within that time we will (unless we are awaiting a response we have requested from you) inform you of the reasons for the delay, provide you with reports every two months on the progress of the complaint and tell you the date when a decision can be reasonably expected.
- (f) We will suspend your obligation to pay any amount related to the complaint until the complaint is resolved, and inform you of that suspension.

## 23. Who's responsible?

- When you're not liable
- When you'll have limited liability
- When you'll be liable
- Liability for unreasonably delaying notification
- Liability caused by equipment malfunctions
- Liability when using a Visa Credit Card without a PIN
- Liability for BPAY® payments
- Mistaken Internet Payments

If things don't go according to plan it's good to be prepared for what happens next. By the time you've read this section, at least you'll know what happens if someone accesses your *loan* account without authority.

Please be very careful when you're handling cash at an *ATM*, *Bank@Post*, merchant or any financial institution. Once cash is in your possession, it's at your risk and your responsibility.

23.1 Your liability for losses resulting from unauthorised transactions carried out using an *access method* is determined under the *ePayments Code* and not under clause 21.5 of this *contract*.

The following clauses 23.2 to 23.17 apply to all transactions carried out under this *contract* using an *access method*.

### When you're not liable

- 23.2 You're not liable for losses you incur or suffer that:
- (a) relate to any of your original or reissued *Codes*, identifiers, *Visa Credit Cards* or *security devices* that are forged, faulty, expired or cancelled;
  - (b) arise from transactions made through our *Interactive Service* or with your *Visa Credit Card* that require your *Codes* or *security devices*, before you've received your *Codes*, *security devices* or *Visa Credit Card* (including a reissued *Code*, *security device* or *Visa Credit Card*);
  - (c) are caused by the fraudulent or negligent conduct of our employees, agents, those of companies involved in networking arrangements with us, or merchants linked to the electronic funds transfer system or their employees or agents;

- (d) result from the same transaction being incorrectly debited more than once to the same *loan* account by us;
- (e) result from an unauthorised transaction that occurs after you've notified us that the security of your *Codes* has been breached or your *Visa Credit Card* or *security device* has been lost, stolen or used without your permission;
- (f) result from an unauthorised transaction if it's clear you haven't contributed to the losses; or
- (g) result from an unauthorised transaction that can be made using an identifier without a *Visa Credit Card*, *Code* or *security device*.

## When you'll have limited liability

- 23.3 If it's not clear whether you've contributed to the loss caused by an unauthorised transaction that required one or more *Codes*, the amount of your liability will be limited to the least of:
- (a) \$150;
  - (b) the actual loss at the time we're notified that the security of your *Codes* was breached or your *Visa Credit Card* or *security device* has been lost, stolen or used without your permission (limited by the applicable daily or period transaction limits over the relevant timeframe); and
  - (c) the *credit limit* of the *loan account* from which value was transferred in the unauthorised transaction.

## When you'll be liable

- 23.4 If we can prove on the balance of probability that you contributed to the loss caused by the unauthorised transaction:
- (a) through your fraud;
  - (b) by failing to comply with the *Code Security Requirements*;
  - (c) where more than one *Code* is required to perform a transaction and we prove:
    - (i) that the security of a *Code* for one or more *Codes* has been breached, but not all of the required *Codes*; and
    - (ii) we can prove on the balance of probability that a breach of security of a *Code* was more than 50% responsible for the losses when assessed together with all the contributing causes,
 then you are liable for the actual losses which occur before we are notified of the loss, theft or misuse

of your *Code*, *Visa Credit Card* or *security device* or a breach of the *Code Security Requirements*. However, you will not be liable for any loss on any day, or in any period, exceeding any applicable daily transaction limit for that day or period and you will not be liable for loss in excess of the *credit limit* of the *loan account*.

- 23.5 If you leave your *Visa Credit Card* in an *ATM*, you will be liable for **all losses** arising from unauthorised transactions as long as the *ATM* incorporates reasonable safety standards that lessen the risk of your *Visa Credit Card* being left in the *ATM* (e.g. *ATMs* that capture cards that aren't removed or which require a user to swipe and then remove a card before commencing the transaction).

### Liability for unreasonably delaying notification

- 23.6 If we can prove on the balance of probability that you've contributed to a loss caused by an unauthorised transaction by unreasonably delaying notification that the security of your *Codes*, *Visa Credit Card* or *security device* has been compromised after you become aware of the loss, theft or breach, you will be liable to us for the actual losses incurred between:
- (a) the time you first became aware (or should reasonably have become aware) of any of these events; and
  - (b) the time we are actually notified of the relevant event,
- however, you will not be liable for any loss on any day, or in any period which exceeds any applicable daily transaction limit, for that day or period, and you will not be liable for loss in excess of the *credit limit* of the *loan account*.

### Liability caused by equipment malfunctions

- 23.7 You are not liable for any loss caused by an *EFT* institution's equipment accepting your transaction but failing to complete the transaction in accordance with your instructions. However, if you were aware, or should have been aware, that the *EFT* institution's equipment was unavailable or malfunctioning, our responsibility will be limited to:
- (a) correcting errors in the *loan account*; and
  - (b) refunding any charges or fees imposed as a result.
- 23.8 We're not responsible for:
- (a) errors, inaccuracies, interruptions, viruses or defects due to any system or equipment failing to complete a transaction;

- (b) delays resulting from any network, system or equipment failing to support the *Interactive Service*, *Visa Credit Card* or security device; or
  - (c) any *Interactive Service* or *Visa Credit Card* system or equipment failing to complete your transaction instructions.
- 23.9 If we're responsible, our liability is limited to the cost of re-supplying the service.

### Liability when using a Visa Credit Card without a PIN

- 23.10 For *Visa Credit Card* transactions that don't need a *PIN*, you're not liable for any unauthorised transactions unless you have:
- (a) contributed to the loss by letting someone else use your *Visa Credit Card*; or
  - (b) unreasonably delaying notifying us of the loss, theft or unauthorised use of your *Visa Credit Card*.
- Otherwise, we may hold you liable for all such transactions up to the time you notify us of the loss, theft or unauthorised use of your *Visa Credit Card*.

### Liability for BPAY® payments

- 23.11 If a BPAY® payment is unauthorised or is made from your *loan* account otherwise than in accordance with your instructions, we'll credit your account for the amount of the payment. However, if you told us to pay the wrong person, or we determine that an unauthorised payment has resulted from a failure to comply with the *Code Security Requirements*, and we can't recover the amount of the payment from them within 20 *business days*, we will debit your *loan* account for that amount.
- 23.12 If a BPAY® payment is fraudulently induced by someone involved in the BPAY® Scheme, then that person should refund you that payment.
- 23.13 If that person doesn't refund the payment you have to bear the loss. That is unless some other person in the BPAY® Scheme:
- (a) knew of the fraud; or
  - (b) would have detected it with reasonable diligence.
- In this case that person must refund you the payment.
- 23.14 No charge back rights are available in respect of a BPAY® payment from your *loan* account.
- 23.15 We're not liable for any indirect loss or damage you may suffer as a result of using the BPAY® Scheme, unless we:

- (a) acted negligently; or
- (b) breached any condition or warranty in regard to the supply of goods and services, which can't be excluded or limited under *law*.

In this case that person must refund you the payment.

23.16 You indemnify us against any loss or damage we may suffer due to any action of any kind brought against us because you:

- (a) didn't observe any of your obligations; or
- (b) acted negligently or fraudulently in regard this *contract*.

BPAY® is a registered trademark of BPAY Pty Ltd ABN 69 079 137 518.

## Mistaken Internet payments

23.17 If you report to us that a withdrawal to one or more *Other Bank Accounts* made by you was a *mistaken internet payment*, here's what will happen depending upon when you report the payment to us:

- (a) **Report within 10 business days of making the payment:** if there are sufficient credit funds available in the account of the unintended recipient and both we and the other financial institution (which holds the account to which the reported mistaken payment was made) are satisfied that a *mistaken internet payment* occurred, then the other financial institution must return the funds to us within 5 to 10 *business days* of receiving our request. We will then return the funds to your account as soon as practicable.
- (b) **Report between 10 business days and 7 months of making the payment:** if there are sufficient credit funds available in the account of the unintended recipient and we are satisfied that a *mistaken internet payment* occurred, we'll ask the other financial institution to investigate (which must be completed within 10 *business days* of receiving our request). If, after the investigation is completed, the other financial institution is satisfied that a mistaken payment occurred, it must prevent the unintended recipient from withdrawing the funds mistakenly paid for a further 10 *business days*. The other financial institution must notify the unintended recipient that the funds will be withdrawn from their account unless they can establish that they're entitled to the funds within this 10 *business day* period. If the unintended recipient doesn't establish that they're entitled to the funds within this timeframe, the other financial institution must return the funds to us within a further 2 *business days*. We will then return the funds to your account as soon as practicable.

- (c) **Report after 7 months of making the payment:** if there are sufficient funds available in the account of the unintended recipient and both we and the other financial institution are satisfied that a *mistaken internet payment* was made, the other financial institution must seek the consent of the unintended recipient to return the funds mistakenly paid. If the unintended recipient consents, the other financial institution must return the funds to us. We will then return the funds to your account as soon as practicable.
- (d) **Report at any time but other financial institution not satisfied that a *mistaken internet payment* was made:** if we are satisfied that a *mistaken internet payment* occurred, but the other financial institution is not satisfied, but there are sufficient credit funds available in the account of the unintended recipient, the other financial institution may seek the consent of the unintended recipient to return the funds. If the unintended recipient consents, the other financial institution must return the funds to us. We will then return the funds to your account as soon as practicable.
- (e) **Report at any time but insufficient credit funds:** if there aren't sufficient credit funds available in the account of the unintended recipient to the full value of the mistaken payment—yet both we and the other financial institution are satisfied that a *mistaken internet payment* was made—the other financial institution must use reasonable endeavours to retrieve the funds from the unintended recipient (e.g. by facilitating repayments in instalments).
- (f) **Report at any time but we aren't satisfied that a *mistaken internet payment* occurred:** you are liable for the loss arising from the *mistaken internet payment*, and we won't take any further action.

In all instances, we will advise you of the outcome of a reported *mistaken internet payment* in writing within 30 *business days* of the day on which the report was made.

23.18 If, in our view, you're liable under the *ePayments Code* for at least part of the amount of the transaction that is subject to dispute, we'll:

- (a) make available to you copies of any documents or other evidence relevant to the result of the investigation; and
- (b) let you know in writing whether our investigations revealed any systems or equipment malfunction.

## 24. All about BPAY®

- How to use BPAY®
- Payments
- Processing times

Here's everything you need to know about the BPAY® Scheme.

This clause 24 will apply to you if you ask us to make a payment through the BPAY® Scheme. We're a member of the BPAY® Scheme, an electronic payments scheme where you may instruct us to make payments on your behalf to a *biller*. We'll let you know if we're no longer a member of the BPAY® Scheme.

### How to use BPAY®

#### 24.1 How to use the BPAY® Scheme

- (a) You can make a BPAY® payment by accessing our *Interactive Service* (*phone banking* or *online banking*). The payment can be made by withdrawing cleared funds from any *loan account* for a type of *loan* that we indicate on our *website* has BPAY® available. We'll treat an instruction to make a BPAY® payment as authorised by you when you give us your *Access Code*.
- (b) To make a BPAY® payment you need to give us the number of your *loan account* from which you want us to deduct the BPAY® payment, the amount of the payment, the *biller code* and customer reference number, and the date you want the payment made. We don't have to process a BPAY® payment if you don't give us all of this information, or if any of the information you give us is wrong. We'll debit your *loan account* with the amount of the BPAY® payment. In order for us to make the BPAY® payment you need to make sure the information you provide is correct and there are sufficient funds in your *loan account* for any BPAY® payments. We are not acting as your agent or the agent of the *biller* when we make a BPAY® payment on your behalf.
- (c) Currently, we don't allow you to use a credit card to pay bills through the BPAY® Scheme. If we ever do, we'll treat that payment as a credit card purchase transaction.



- (d) We may suspend your right to participate in the BPAY® Scheme at any time if we suspect that you are acting in a fraudulent manner.

## Payments

- 24.2.1 We may impose limits on the amount of BPAY® payments. If we do, we'll notify you either by advertisement in the newspaper or in writing no later than the day the change takes effect. We can also decide the order in which payments will be processed.
- 24.2.2 Once you've instructed us to make a BPAY® payment, we cannot stop the payment except for future-dated payments, which can be cancelled before the payment due date. You can cancel a future dated BPAY® payment by notifying us in writing or by visiting our *website*.

## Processing times

- 24.2.3 *Billers* who participate in the BPAY® Scheme agree that generally they'll treat a BPAY® payment as received:
- (a) on the day you make the BPAY® payment, if you tell us to make that payment before the *cut-off time* on a *business day* (for *cut-off times*, please refer to the FAQ section on our *website*); or
  - (b) on the next *business day*, if you tell us to make that payment either after the *cut-off time* on a *business day* or on a day that is not a *business day*.
- 24.2.4 There may be additional processing time of one day or more when there's a public or bank holiday the day after you tell us to make a BPAY® payment, you tell us to make a BPAY® payment either after the *cut-off time* on a *business day* or on a *non-business day*, or the *biller* or another financial institution involved in the BPAY® payment doesn't meet their obligations under the BPAY® Scheme.

### ■ It pays to check

- 24.2.5 You need to make sure you tell us the correct amount you wish to pay. If you instruct us to make a payment to a *biller* and discover that:
- (a) the amount you told us to pay is greater than the amount you needed to pay, contact the *biller* for a refund; or

(b) the amount is less than the amount you needed to pay, you should pay the difference (using the BPAY® Scheme or another method).

- 24.2.6 Make sure you check your *loan account* records carefully and contact us immediately if you become aware:
- (a) you've made a mistake when instructing us to make a BPAY® payment, or there are any delays or mistakes in processing your BPAY® payment;
  - (b) you didn't authorise a BPAY® payment from your *loan account*; or
  - (c) you think you've been fraudulently induced to make a BPAY® payment.
- 24.2.7 The longer the delay between the date of the BPAY® payment and when you inform us of the error, the more difficult it may be to correct the error. You may need to liaise directly with the *biller* to correct the error if, for example, because of the delay, we no longer have sufficient information to investigate it.
- 24.2.8 For us to investigate an unauthorised BPAY® payment from your *loan account*, you must first give us your written consent, addressed to the *biller* who received that BPAY® payment, authorising us to obtain information about your account with that *biller*, or the BPAY® payment. You will need to include your customer reference number and any other information we require. If you do not give us the consent, the *biller* may not be permitted under *law* to disclose to us the information we need to investigate or rectify that BPAY® payment.
- 24.2.9 A mistaken or incorrect BPAY® payment does not constitute under any circumstances part or whole satisfaction of any underlying debt owed between you and that *biller*.

### ■ If a payment cannot be processed

- 24.2.10 If we're notified that a *biller* cannot process your BPAY® payment, we'll let you know, credit your *loan account* with the amount of the BPAY® payment and if you wish, help you make a BPAY® payment to that *biller* as soon as possible.

# 25. Do not disturb

- **Privacy Statement**
- **Credit Information**

This is all about something very important - your privacy, something we respect greatly. It may sound a bit formal, but we have your best interests in mind.

## Privacy Statement

We have a general duty under the Privacy Act and the Code of Banking Practice to keep information we hold about you confidential except in certain circumstances (for example, where the *law* requires us to disclose information about you or where you agree to us disclosing your information).

At *ING*, we are committed to ensuring the confidentiality and security of your personal information. We are bound by the Privacy Act 1988, including the Australian Privacy Principles (APPs) set out in that Act, to guide us in our responsible handling of your personal information.

This Privacy Statement provides an overview of the key aspects of our Privacy Policy.

You can review the *ING* Privacy Policy on our *website* or request a copy by either calling or writing to us.

### ■ **Collection of your personal information from you or other sources**

Ordinarily, we'll collect most personal information about you directly from you.

Occasionally we may need to obtain personal information about you from a third party, but only if you've consented to us collecting the information in this way or you would reasonably expect us to collect the information about you in this way.

We'll collect personal information to provide you with information about a financial product or service; to assess your application and eligibility for a financial product or service; to provide you with the financial products and services that you've requested; to administer our relationship with you; and to communicate with you about *ING* and the products and services we offer, and then only when it's necessary for, or related to, these purposes.

We'll also need to collect personal information necessary to comply with our legal and regulatory obligations, including to identify customers for the purposes of the *Anti-Money*

*Laundering and Counter-Terrorism Financing Act 2006*, to determine and report in respect of your *Foreign Tax Residency Statu*, and to satisfy our responsible lending obligations under the *National Consumer Credit Protection Act 2009*.

If you don't provide the personal information that we request, we will generally not be able to provide you with *ING* products or services.

## ■ Use and disclosure of your personal information

The general rule is that we will not use or disclose your personal information other than for the purposes stated at the time of the collection. If we want to use your personal information for another purpose, we will seek further consent from you, unless that other purpose is related to one of the original purposes of collection and you would reasonably expect us to use your personal information for that other purpose.

It may be necessary for *ING* to disclose your personal information to certain third parties in order to assist us in providing, managing and administering your products or services or for other related purposes. These include:

### i Other financial institutions

Other financial institutions, *such as* banks, credit unions and building societies, in order to set up and manage your account and manage banking transactions.

### ii Other organisations

Other *ING* Group entities and third parties, *such as*:

- *ING* Group companies in order to service other *ING* products you may have within the Group and portfolio analysis;
- *ING* Group entities located in the countries specified on our *website* for account administration, security purposes or to comply with Australian and global regulatory requirements that apply to us or the *ING* Group;
- government bodies and agencies, *such as* the Australian Taxation Office, in order to satisfy legal and regulatory requirements;
- any third party product and service supplier that we have an arrangement with (so that either us or they may provide you with the product or service you have requested or in which you have expressed an interest);
- organisations undertaking reviews of the integrity of our operations, including the completeness of our information;
- authorised organisations providing services or functions on our behalf (including mailing services, document storage services, direct marketing, data verification services, information technology support and printing our standard documents and correspondence);

- our solicitors, valuers and insurers (for *loan* products);
- credit reporting or information verification bodies (or their affiliated entities) in order to obtain and provide details about your credit history or status, to verify other information about you including your identity, to carry out your request to correct your credit information or to resolve your complaint about the handling, use or disclosure of your credit information; and
- any person acting on your behalf *including* mortgage intermediaries, your financial adviser, power of attorney, solicitor or accountant.

Any example used above to indicate when we might disclose personal information may not be limited to those examples (or examples of a similar kind).

Personal information will only be disclosed to third parties other than those listed above if you have consented; if you would reasonably expect us to disclose information of that kind to those third parties; if we are authorised or required to do so by *law*; or it is necessary to assist with *law* enforcement.

### ■ Access to your personal information

You may request access to limited amounts of personal information that we hold about you - *such as* your address - by calling us on 133 464. For a more detailed request for access to information that we hold about you, you will need to write to the ING Privacy Officer at GPO Box 4094, Sydney NSW 2001. Please note that requests for access to your personal information may only be made by you and we will require you to verify your identity to our reasonable satisfaction. Depending on the nature and/or volume of the information that you request, an access charge may apply, but not to your request for access itself.

### ■ Marketing

We, or other ING Group entities, may provide you with further information about ING Group products and services unless you tell us not to. You may elect not to receive further information about us or ING Group products and services by contacting us online, calling or writing to us. If you have provided an email address to us, we may contact you using that email address, *including* to provide you with information about *ING* or our products.

### ■ Updating your personal information

Although we take reasonable steps to ensure that your personal information is accurate, up-to-date, complete, relevant and not misleading, we primarily rely on the accuracy of information that you supply to us. If any of your personal information is incorrect, has changed or requires updating, please assist by either:

- updating your details by logging in to *online banking* followed by 'My Personal Details'; or
- contacting us by phone with your *Client Number* ready.

## ■ Complaints

ING is committed to resolving your privacy complaint as quickly as possible and has procedures in place to help resolve any problems or complaints efficiently. For more information on how to make a complaint, see our complete Privacy Policy under “Making a privacy complaint”.

## ■ How to contact us

If you have any further questions about privacy at ING please contact us by:

- calling 133 464
- emailing [customer.service@ing.com.au](mailto:customer.service@ing.com.au)
- writing to:  
ING Privacy Officer  
GPO Box 4094  
Sydney NSW 2001

Our privacy statement may be updated from time to time as we strive to improve the standard of service we provide to you.

## Credit information

You consent to our collection, retention, use and disclosure of your personal information as outlined in this privacy statement, you agree that ING and any other financier who at any time provides or has an interest in the credit, can, subject to that party’s obligations under the Privacy Act and the Privacy (Credit Reporting) Code, do any of the following at any time:

### i. Commercial credit information

Collect and use any commercial credit information from a business that provides commercial credit worthiness information and use that information to assess an application for consumer credit or commercial credit.

### ii. Consumer credit information

Collect and use any consumer credit information from credit reporting bodies and use that information to assess an application for consumer credit or commercial credit.

### iii. Collection of overdue payments

Collect and use a credit report provided by a credit reporting body to collect overdue payments.

### iv. Provide information to mortgage insurer

Disclose information to a mortgage insurer to assess the risk of providing mortgage insurance or to assess the risk of default.

### v. Exchange of information between credit providers

Collect, use or disclose to another credit provider (including without limitation any other credit provider who has lent money on the same *security*) any information or opinion

about credit worthiness, credit standing, credit history or credit capacity.

**vi. Exchange of information with introducers**

Collect any consumer or commercial credit information from, or disclose that information to; any introducer, financial consultant, accountant, lawyer, or intermediary (*including* any introducer mentioned on the front page of the application form) acting in connection with any financing provided.

**vii. Provide information to credit reporting bodies**

Disclose to a credit reporting body personal or commercial credit-related information as permitted by the Privacy Act and the Privacy (Credit Reporting) Code. The information may include, but is not limited to, identity particulars; the fact that credit has been applied for and the date on which the account is opened, the amount and type of credit and the applicable *terms and conditions*; repayment history information; the fact that the lender is a current credit provider; in specified circumstances payments which become overdue more than 60 days, and for which action has been commenced; advice that payments are no longer overdue; in specified circumstances our opinion that there has been a serious credit infringement; and the credit provided has been paid, discharged or the account is otherwise closed and the date on which this occurs.

**viii. Provide information for securitisation**

Disclose any report or personal information to another *person* in connection with funding financial accommodation by means of an arrangement involving securitisation.

**ix. Provide information to guarantors**

Disclose information to any *person* who proposes to guarantee or has guaranteed repayment of any credit provided.

**x. Provide information in relation to disputes and enquiries**

Disclose consumer credit information, commercial credit information and personal information to any industry body, tribunal, or court or otherwise in connection with any complaint regarding the approval or management of your *loan* - for example if a complaint is lodged about any mortgage broker or lender who dealt with your *loan*.

**xi. Authority in relation to a mortgage insurer**

You also agree that this authority applies to any mortgage insurer, who may have to use, hold and disclose to third parties (including third parties located overseas) any personal information they collect about you from us in order to assess whether to insure the risk of providing mortgage insurance; to assess the risk of default; to assess the risk of a *guarantor* being unable to meet a liability arising under a guarantee; to administer and vary the insurance cover *including* for securitisation and hardship applications; to verify the information we collect about you; to deal with claims

and recovery of proceeds including, among other things, to enforce a *loan* in place of a lender if the mortgage insurer pays out a claim on your *loan*; for a mortgage insurance purpose relating to you; and for any other purpose under the insurance policy issued to us relating to your *loan*, as well as for other management and risk purposes.

Our *website* includes information about credit reporting, *including* details of the credit reporting bodies that we deal with, what information we provide to credit reporting bodies (including if you fail to meet your payment obligations or commit a serious credit infringement) and what information credit reporting bodies provide to other credit providers, your right to request credit reporting bodies not to use your credit reporting information for the purposes of direct marketing and information about your right to initiate a 'ban period' in cases of actual or suspected identity fraud. You can access this information at <http://www.ing.com.au/privacy.htm> or you can call us to obtain a hard copy.



## 26. For trustees only

- 26.1 If you or any *guarantor* is at any time a trustee of a trust, which is the borrower under this *loan*, you must let us know before we lend you any of the *loan*. Where you or any *guarantor* is at any time the trustee of any trust whether disclosed to us or not, you represent and warrant that:
- (a) the trustee of the trust is liable under your *contract* and any *security* to which it is a party in its personal capacity and as trustee of the trust;
  - (b) the trustee has free and full power to enter into your *contract* and any *security* to which it is a party in its capacity as trustee of the trust;
  - (c) it is to the commercial benefit of the trust that the trustee enters into your *contract* and any *security* to which it is a party in its capacity as trustee of the trust; and
  - (d) the trustee has the right to be indemnified fully out of the trust property for all liabilities that you incur under this agreement.
- 26.2 You must get our consent to:
- (a) a change of trustee; or
  - (b) terminate the trust; or
  - (c) change the terms of the trust.

## 27. R.E.S.P.E.C.T

- **What to do if you have a concern**
- **Details of your concern**
- **Escalating a concern**
- **Details of what we'll do**
- **Who else to contact**

We believe you're entitled to efficient, honest and fair treatment in your dealings with us, especially if something goes wrong.

If we can improve our service we welcome your feedback. If you have any issues, suspect an error, or have any concerns about your accounts, we genuinely want to help resolve them.

### What to do if you have a concern

- 27.1 If you believe that an error has occurred in relation to any transaction, or on the statement of your *loan account*, or an unauthorised transaction has occurred, contact us straightaway. You can contact the *person* or department that handled the transaction by calling or writing to us. Our details are on the back page of these *Terms and Conditions*.
- 27.2 When you first contact us in regards to a dispute, we will give you information about our internal and external processes of dispute resolution. You will again be provided with information of the external processes, when we inform you of the outcome of our investigations.

### Details of your concern

- 27.3 To help us resolve your concern or complaint it's important to give us all the information you have, *such as*:
- (a) your name, address and *loan account* details (and Visa card number if applicable);
  - (b) details of the particular transaction *including* the amount, type of transaction (cheque, Visa, periodical payment etc), date of the transaction (if known), cheque number (if any) and a copy of the receipt.

- 27.4 We may need to confirm some of the information in writing. Once we receive everything, we'll be able to investigate your concern or complaint and work towards a resolution.

## Escalating a concern

- 27.5 If we're unable to resolve your concern or complaint at the first point of contact you can escalate it for further review. Or we may need to escalate complaints that are complex or need more detailed investigation.
- 27.6 We have a formal process for managing escalated complaints. Once a complaint has been escalated, we'll keep you informed of its progress. We'll contact you if we need more information to help with our investigation.

## Details of what we'll do

- 27.7 Concerns regarding your Visa Credit Card**
- (a) If you dispute a transaction on your *Visa Credit Card*, we may claim a refund from the merchant's bank on your behalf in certain circumstances. This is known as a 'charge back'.
  - (b) If you believe a transaction wasn't authorised or processed more than once to your *loan account* let us know immediately. In certain circumstances where the *ePayments Code* applies, there may be no set time limit for reporting a disputed transaction.
  - (c) Our ability to claim a charge back is subject to the time limits imposed by the rules of the Visa card scheme. Depending on the type of transaction, these time limits are generally between 45 and 120 days from the transaction date. It's important to report any disputed transaction within the required timeframes, otherwise we may lose the right to claim a charge back.
- 27.8 If we're unable to resolve your concern or complaint we'll give you details in writing of our procedures for investigating and resolving problems. Within 21 days of receiving the relevant details of your complaint we'll let you know in writing the outcome of the investigation, that we need more time to complete our investigation or we're awaiting further information from you. If there are exceptional circumstances where we can't complete the

investigation within 45 days, we'll; inform you of the reasons for the delay, give you monthly updates and let you know when a decision can reasonably be expected, unless we're waiting on a response from you, which we have told you we require. Once we've completed our investigation we'll confirm the outcome and the reasons for that outcome.

- 27.9 If, as a result of our investigation, we discover that your *loan account* has been incorrectly debited or credited, we'll adjust the *loan account* (including appropriate adjustments for interest and/or fees and charges) and let you know of this amount in writing.
- 27.10 If in our view, you're liable under clause 5 or 6 of the *ePayments Code* for at least part of the amount of the transaction that is subject to dispute we'll:
- (a) make available to you copies of any documents or other evidence relevant to the result of the investigation; and
  - (b) let you know in writing whether our investigations revealed any systems or equipment malfunction.

## Who else to contact

- 27.11 In the unlikely event that your complaint cannot be resolved directly with *ING* you can seek assistance from the Australian Financial Complaints Authority (AFCA). AFCA provides a free and independent dispute resolution service. You can contact them by:
- (a) calling 1800 931 678;
  - (b) going to [afca.org.au](http://afca.org.au);
  - (c) emailing [info@afca.org.au](mailto:info@afca.org.au); or
  - (d) writing to:  
Australian Financial Complaints Authority  
GPO Box 3  
Melbourne VIC 3001

## 28. General (but still important) information

- Notices
- Governing Law
- Consumer Credit Legislation
- Assignment
- Inconsistency
- Stops on your loan account
- Your warranties
- Other

As the heading suggests, this information is of a general nature. Even so, it's still important information. If there's anything you don't understand, feel free to contact us.

### Notices

- 28.1 We may send you notice or any document by any means permitted by *law*, including by personal delivery, sending it by fax, sending it electronically (including email) or sending it by post to your:
- (a) address shown in the *Loan Offer*;
  - (b) registered office (if you are a company); or
  - (c) last address known to us.
- Electronic communication may include sending you the notice or document by email, or making it available for a reasonable period of time on our *website*.
- 28.2 If you agree, in writing, for us to send you notices electronically (including email):
- (a) we don't have to give you paper documents, unless required to do so by *law*;
  - (b) you should regularly check your emails for notices (if you've agreed to receive notices by email);
  - (c) you may withdraw your consent to the giving of notices electronically at any time; and
  - (d) you can change your nominated email address.
- 28.3 A notice may be signed by any of our employees, solicitors or agents on our behalf. The notice will be deemed to be validly served even if you don't receive it.

- 28.4 You may give us notice by email, personal delivery, fax or by post to the address stated in the *Loan Offer*.
- 28.5 If, in reliance on notices received by us from you, you or we suffer loss or damage because your instructions were:
- (a) in error;
  - (b) a result of fraud; or
  - (c) unclear, illegible or not accurate;
- you'll be liable for any such loss or damage.

## Governing Law

- 28.6 If, when this *contract* is entered into, each of you reside in the same Australian State or Territory then this *contract* is subject to the *laws* of that State or Territory. Otherwise, this *contract* is subject to the *laws* of the Australian State or Territory in which we first provide the *loan*.
- 28.7 You submit to the jurisdiction of the courts of the Australian State or Territory whose *laws* apply to this *contract* and the proper jurisdiction of any other court.

## Consumer Credit Legislation

- 28.8 If:
- (a) the National Credit Code would otherwise make a provision of this *contract* illegal, void, or unenforceable; or
  - (b) a provision of this *contract* would otherwise contravene a requirement of the National Credit Code or impose an obligation or liability which is prohibited by that Code, this *contract* is to be read as if that provision were carried to the extent necessary to comply with that Code or, if necessary, omitted.
- 28.9 If the National Credit Code is inconsistent with this *contract* that Code overrides this *contract* to the extent of the inconsistency.
- 28.10 Clauses 28.8 and 28.9 only apply to the extent that the National Credit Code applies to this *contract*.
- 28.11 Subject to clauses 28.8 and 28.9, any provision of this *contract* that is illegal, void or unenforceable shall be ineffective only to the extent of such illegality, voidness or unenforceability without invalidating the remaining provisions of this *contract*.

## Assignment

- 28.12 We may assign or otherwise deal with our rights under this *contract* in any way we consider appropriate. You must sign or do anything we reasonably require to enable us to do this. You agree that we may disclose any information or documents we consider desirable to help us exercise this right.
- 28.13 Your rights are personal to you and may not be assigned without our written consent.

## Inconsistency

- 28.14 If there is any conflict or inconsistency between the *Loan Offer*, the *Fee Schedule*, these *Terms and Conditions* and any *security*, those documents will prevail in that order to the extent of the inconsistency.
- 28.15 To the extent allowed by *law* and subject to clauses 28.8, 28.9 and 28.11 this *contract* prevails to the extent it is inconsistent with any *law*.

## Stops on your loan account

- 28.16 Subject to the requirements of any *law*, we may place a stop on your *loan account* if:
- (a) you're in breach of clauses 1.3, 1.4, 2.3.2, 3.4, 4.2.1, 4.3.1, 9.1, 12, 13 or 16.7 of these *Terms and Conditions*;
  - (b) we become aware of any dispute or potential dispute which in our opinion has a bearing on the account. This *includes*, who owns or may operate the *loan account*, and whether we've received authorised or valid instructions. We may place a stop on the account until the dispute has been resolved in a manner acceptable to us; or
  - (c) we're required to do so by *law*.

## Your warranties

- 28.17 You warrant that all representations you make and all information and documents you, or another *person* acting with your knowledge or permission, give to us in connection with this *contract* are true and correct. You acknowledge that we have relied upon the accuracy of those representations, information and documents in entering into this *contract* and will continue to do so in dealing with you.

- 28.18 You undertake and agree:
- (a) that you will not materially default under, or withdraw from, any *security*;
  - (b) to ensure that any other *security provider* does not materially default under, or withdraw from, any *security*;
  - (c) that you will not materially default under any other *credit contract* you have entered into with us;
  - (d) that you will not materially default under any other *security interest* you have given to us which is not a *security*;
  - (e) to ensure that any other *security provider*, in relation to any other *credit contract* you have entered into with us, does not materially default under that *security interest*;
  - (f) that you must not commit an act of bankruptcy; and
  - (g) that you must not be convicted of a criminal offence.

## Other

- 28.19 You must let us know if you change your name, residential or postal address or if anything affects your ability to comply with this *contract*.
- 28.20 If you believe that there has been a change to your *Foreign Tax Residency Status*, you need to let us know within 30 days.
- We may require you to provide additional information, documentation and certification regarding your *Foreign Tax Residency Status*. If you don't provide any information we reasonably request by the time we require it, we may seek the information from a third party.
- 28.21 You agree that we may fill in any blanks in any document related to this *contract*.
- 28.22 We and other *persons* may pay or receive commissions, fees or benefits in connection with your *loan*. Any *person* who introduces you to us is not acting as our agent. Nor are they authorised to make any representations or warranties to you about your *loan*, this *contract* or any of our obligations.
- 28.23 This *contract* may be signed in a number of counterparts and all of the counterparts will be taken to be one agreement.
- 28.24 At any time, we may exercise a right, or remedy or refuse to give our consent in any way we consider appropriate *including* by imposing conditions.
- 28.25 Our rights and remedies under this *contract* are in addition to other rights and remedies provided by *law* independently of it.
- 28.26 Our rights and remedies under this *contract* may be exercised by any of our employees or any other *person* we authorise.



- 28.27 We may give you a certificate about a matter or about an amount payable in connection with this *contract*. The certificate is sufficient evidence of the matter or amount unless you show evidence proving it is incorrect.
- 28.28 We are not liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising, a right or remedy.
- 28.29 If there's more than one of you, we'll accept instructions to operate your *loan account* from a minimum of:
- (a) any one of you (if your *loan* includes a *nil Interest Visa account*); and
  - (b) all of you (in any other case, unless we agree otherwise in writing).
- 28.30 If there's more than one of you under this *contract*, each of you is jointly and severally liable under this *contract* and liable for the full amount owed under this *contract*. We will allow any one of you to terminate your liability in respect of future advances or financial accommodations under this *contract* if you ask us, in writing, to do so, provided that we can terminate any obligation we have to provide further credit to any other one or more of you under this *contract*.
- 28.31 We subscribe to the Code of Banking Practice. If you are an individual, or a small business at the time this banking service is provided, that Code will apply to the *contract*. You can ask us for a copy of the Code of Banking Practice, or download it at [www.bankers.asn.au](http://www.bankers.asn.au)
- 28.32 To the extent that the *ePayments Code* applies to transactions made under this *contract*, we warrant that will comply with the requirements of the *ePayments Code*.
- 28.33 We'll give you, on request general descriptive information concerning our banking services, *including* information about account opening procedures, our obligations regarding the confidentiality of your information, complaint handling procedures, bank cheques, the advisability of you informing us promptly when you're in financial difficulty and the advisability of you reading the *Terms and Conditions* that apply to your *loan*. We will also give you, on request and when *you* open an account with cheque access (if applicable), general descriptive information on cheques and cheque access.
- 28.34 You must provide us with any document or information we reasonably require in relation to this *contract* or any *security* as soon as possible after we ask for it.
- 28.35 If you have another account with us, provided no amount is the subject of any dispute between you and us, we can combine your accounts. If one account is in debit and the other in credit and we combined the accounts, the positive balance would reduce the negative balance.
- 28.36 We may waive any of our rights under this *contract*.

## 29. Explaining words in plain English

To make the following words, names and terminology easier to reference, we've italicised them throughout this booklet.

29.1 In this *contract*:

**Access Code** the password you use to access your account(s) using an *Interactive Service*.

**access method**

- (a) the use of:
  - your *Access Code* and *Client Number*; or
  - your *Visa Credit Card* and *PIN*; or
- (b) any other method authorised by us for use by you as an authority for us to act on an instruction given through *electronic equipment* to debit or credit your *loan account*.

It doesn't include any method that needs your signature for verification.

**additional payments** repayments in addition to those required under clause 12.1 of these *Terms and Conditions*.

**amount of credit** or **loan amount** as at the *disclosure date*, the amount stated in the *Loan Offer* and described as the *amount of credit* or *loan amount* as varied from time to time.

**ATM** automatic teller machines of selected financial institutions as we advise you from time to time.

**authorised signatory** any *person* you authorise to operate on your *loan account*.

**authorised user** any *person* you authorise to access information on your *loan account*.

**balance** in relation to a *loan account*, means the difference between all amounts credited and all amounts debited to that *loan account* where the amounts debited exceed the amounts credited.

**biller** an entity that issues you a bill which you can pay using the BPAY® Scheme.

**break costs fee method** means the method of calculating break costs described in clause 2.2.5.

**builder** the licensed *builder* you choose to complete the *construction*.

**business day** means a day other than a Saturday or Sunday or public holiday when we are open for general banking business in your State or Territory.

**chip** the electronic microchip embedded in a *Visa Credit Card* used as an additional security, and information storage, device.

**Client Number** the number we give you to use with your *Access Code* in order to use an *Interactive Service*. We generally only allocate one *Client Number*, regardless of the number of accounts you hold with ING.

**Codes** your *Access Code*, *PIN* and any additional *Security Code* as a result of our *enhanced security measures*.

**Code Security Requirements** means the *code security requirements* detailed in clause 21.5. on page 53.

**construction** the *construction* of a residential dwelling on the *mortgaged property*.

**Construction Loan** the *loan* described in your *Loan Offer*, or in a subsequent communication from us, as a *Construction Loan*.

**Construction Loan Valuation** a written *valuation* from a valuer, approved by us, which:

- (a) estimates the value of the *mortgaged property* upon completion;
- (b) estimates the value of the *mortgaged property* prior to completion; and
- (c) details the status of *construction* before each progress payment.

**construction period** the period which begins on the *disclosure date* of your *Construction Loan* and ends 12 months after that *settlement date* or any other date we agree with you in writing.

**contract** this is the *contract* (as varied from time to time) you make with us when you accept our *Loan Offer*. It consists of the *Loan Offer*, the *Fee Schedule* and these *Terms and Conditions*.

**costs** includes charges, expenses and costs in connection with legal and other advisers.

**credit limit** the amount we determine to be the *credit limit* or *credit limits* applying to a *loan account* from time to time. As at the *disclosure date*, the *credit limit* is described in the *Loan Offer*.

**customer eligibility criteria** means the criteria we require you and all *security providers* to meet in order for us to lend to you, being you and any *security provider* must be:

- (a) aged 18 years or over; and
- (b) Australian citizens or permanent residents of Australia with a current Australian residential address.

**cut-off time** the time by which transactions, instructions and payments need to be made (for *cut-off times*, please refer to the FAQ section on our *website*).

## **daily balance**

- for a day on which an interest charge is debited to your *loan account* and where the debit made on that day includes the interest charge for that day, the *balance* of that *loan account* immediately before the end of that day; and
- for any other day, the *balance* of your *loan account* at the end of that day.

**Daily Percentage Rate** the *interest rate* determined by dividing the annual percentage rate by 365.

**daily default rate** the rate described as the current default *interest rate* in the *Loan Offer* divided by 365.

**disclosure date** the date described as that in the *Loan Offer*.

**EFTPOS** Electronic Funds Transfer at Point of Sale.

**electronic equipment** electronic terminal, computer and telephone.

**enhanced security measure** any additional security measure that we may register you for or require you to register for and use when transacting on your *loan account(s)*. This may include a method that requires additional means of authentication including but not limited to the use of a *Security Code*.

**ePayments Code** the *ePayments Code* issued by the Australian Securities and Investments Commission in September 2011 (as amended from time to time) which regulates consumer electronic payments.

**Fee Schedule** the document entitled *Fee Schedule* in the *Loan Offer*.

**Fixed Rate Loan** a *loan* where the *interest rate* is fixed for a *fixed interest period*.

**fixed interest period** any period described as that in the *Loan Offer*, any other period for which your *interest rate* is fixed, or such other *fixed interest period* which we may agree.

**Foreign Tax Residency Status** refers to your status as a resident of a foreign country for tax purposes, in light of ING's obligations under:

- (a) the global standard for the collection, reporting and exchange of financial account information of foreign tax residents; and
- (b) the withholding tax and reporting regime in relation to tax residents of the United States of America, known as Foreign Account Tax Compliance Act imposed by the United States Hiring Incentives to Restore Employment Act 2010, which is incorporated into Australian law in Schedule 1 of the *Taxation Administration Act 1953 (Cth)*.

**guarantor** any person who gives us a guarantee for your *loan*.

**home loan** a *loan* of an amount of credit as described in the *Loan Offer*, or any *loan* we agree in writing is a *home loan*.

**including** or *such as* not limited to the examples given.

**ING** ING Bank (Australia) Limited (ABN 24 000 893 292) (AFSL 229823) of 140 Sussex Street, Sydney, New South Wales.

**Interactive Service** any service where you can access your accounts electronically using a secret code, *such as an Access Code* and/or personal identifiers. It also includes our interactive phone service and the *ING website*.

**interest rate** each rate described as an annual percentage rate or an *interest rate* in the *Loan Offer* and any other annual percentage rate or *interest rate* that applies under your *contract*.

**law** means common *law*, principles of equity, and *laws* made by parliament (and *laws* made by parliament include regulations and other instruments under them and consolidations, amendments, re-enactments or replacements of them).

**line of credit** a *loan* that your *Loan Offer*, under the heading FINANCIAL INFORMATION, indicates has a *credit limit* or any *loan* that we agree has a *credit limit*.

**loan** any credit facility provided or to be provided under your *contract* and, where applicable, includes any part of the credit provided under that credit facility.

**loan account** the account(s) we establish in your name for the purposes of this *contract* and includes the *nil interest Visa account*.

**Loan Offer** the document entitled *Loan Offer*.

**loan term** or **term** the period described as the *loan term* or *term of the loan* in the *Loan Offer*. If the *loan term* is varied, the *loan term* will be the *term* as varied.

**loan purpose** means the *loan purpose* specified in the *Loan Offer* or the *loan purpose* as changed under clause 2.2.2(e) of these *Terms and Conditions* and which determines the *reference rate* that applies to your *loan*.

**mistaken internet payment** a withdrawal made by you to one or more *Other Bank Accounts* where funds are paid into an account of an unintended recipient because you enter or select a Bank/State/Branch (BSB) number - and/or Identifier - that doesn't belong to the named and/or intended recipient (as a result of your error, or of you being advised the wrong BSB number and/or Identifier).

**mortgaged property** the property the subject of any *security*.

**nil interest Visa account** an account we establish in your name for the purpose of this *contract*.

**nominated account** a deposit account you hold in Australia, with us or another financial institution, acceptable to us and nominated by you.

**non-Australian source** means an entity, merchant or financial institution located outside of Australia (and includes an account with a financial institution located outside of Australia).

**online banking** our *online banking* system which we may from time to time operate and which you access from our *website* transaction facility.

**Orange Advantage** the *loan* described in your *Loan Offer*, which has an Orange Everyday account linked to it.

**Other Bank Account** an account other people hold with us, or an account at another financial institution.

**person** *includes* an individual, the estate of an individual, a corporation, an authority, an association or joint venture (whether incorporated or not), a partnership and a trust.

**phone banking** our automated banking system that you can access using a touch tone phone.

**PIN** the confidential personal identification number we issue or you select when accessing your *loan account* electronically with your *Visa Credit Card*. This number must be kept secret.

**politically exposed person** has the meaning to given to that term in the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)* (Cth).

**reference rate** is the *reference rate* used to determine the annual percentage rate as specified in your *Loan Offer*.

**principal and interest repayment calculation** is a repayment calculation for a *loan* (rounded up to the next cent), based on the balance of the *loan account* for that *loan* on the date of calculation. This will result in that *loan* being paid out at the end of the *loan term*, on the assumption that the *interest rate* that applies on the day of calculation does not change and repayments and all credit fees and charges are paid when they are due.

**Regular Payment** is a pre-arranged automatic debit from your *Visa Credit Card* to a specific third party.

**scheduled balance** on any day, the amount which would have been the *balance* of your *loan account* on that day (as determined by us) if you had paid all amounts payable by you under this *contract* in respect of that *loan account* on their respective due dates and you had not repaid any part of the *balance* early.

**security** each *security interest* described in the *Loan Offer* under *Security*, *Guarantee* or *Additional Security* and any substitute or additional *security interest* given to us in connection with this *contract* and includes the *security deposit*, if any.

**Security Code** an additional code that we provide you with to conduct certain transactions as a result of our *enhanced security measures*.

**security deposit** has the meaning given to it by clause 14.

**Security device** a physical device used as part of our *enhanced security measures*.

**security interest** any mortgage, charge, lien, pledge, trust, power or other rights given or to be given as or in effect as *security* for the payment of money or performance of obligations. It also includes a guarantee and indemnity.

**security provider** each *person* (other than yourself) who gives *security* over the *mortgaged property*.

**settlement date** the date any credit under this *contract* is first debited to your *loan account*.

**Terms and Conditions** means this document.

**valuation** and **Construction Loan Valuation** a written *valuation* from a valuer, approved by us, which estimates the value of the *mortgaged property*.

**Visa Credit Card** the card you use to access your *nil interest visa account*, which is issued by *ING*.

**Visa payWave** allows you to authorise purchases using a *Visa Credit Card* embedded with *Visa payWave* contactless technology by waving your card at point of sale readers displaying the contactless symbol.

**website** our *website* at [ing.com.au](http://ing.com.au) or any other internet *website* we advise you in writing is a *website* under this *contract*.

29.2 In this *contract*:

- (a) the singular includes the plural and vice versa;
- (b) where any word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (c) a reference to a document (*including* this document) is to that document as varied, ratified or replaced from time to time; and
- (d) a reference to you *includes* your successors and assigns.

# 30. Information statement

## Things you should know about your proposed credit contract

This statement tells you about some of the rights and obligations of yourself and your credit provider. It does not state the terms and conditions of your contract.

If you have any concerns about your contract, contact the credit provider and, if you still have concerns, the Australian Financial Complaints Authority (AFCA) scheme, or get legal advice.

- The contract
- Insurance
- Mortgages
- General

## The contract

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

Your credit provider must give you a precontractual statement containing certain information about your *contract*. The precontractual statement, and this document, must be given to *you* before;

- your *contract* is entered into; or
- you make an offer to enter into the *contract*;

whichever happens first.

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

If the *contract* document is to be signed by you and returned to your credit provider, *you* must be given a copy to keep.

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

If you want another copy of your *contract*, write to your credit provider and ask for one. Your credit provider may charge you a fee. Your credit provider has to give you a copy -



- within 14 days of your written request if the original *contract* came into existence 1 year or less before your request; or
- otherwise within 30 days of your written request.

### 3. Can I terminate the contract?

Yes. You can terminate the *contract* by writing to the credit provider so long as -

- you have not obtained any credit under the *contract*;  
or
- a card or other means of obtaining credit given to you by your credit provider has not been used to acquire goods or services for which credit is to be provided under the *contract*.

However, you will still have to pay any fees or charges incurred before you terminated the *contract*.

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

Yes. Pay your credit provider the amount required to pay out your credit *contract* on the day you wish to end your *contract*.

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

You can write to your credit provider at any time and ask for a statement of the pay out figure as at any date you specify. You can also ask for details of how the amount is made up.

Your credit provider must give you the statement within 7 days after you give your request to the credit provider. You may be charged a fee for the statement.

### 6. Will I pay less interest if I pay out my 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 *contract* permits your credit provider to charge one) and other fees.

### 7. Can my contract be changed by my credit provider?

Yes, but only if your *contract* says so.

### 8. Will I be told in advance if my credit provider is going to make a change in the contract?

That depends on the type of change. For example -

- 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.
- you get 20 days advance written notice for -
  - a change in the way in which interest is calculated; or
  - a change in credit fees and charges; or
  - any other changes by your credit provider;

except where the change reduces what you have to pay or the change happens automatically under the *contract*.

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

Yes. You should first talk to your credit provider. Discuss the matter and see if you can come to some arrangement.

If that is not successful, you may contact the AFCA scheme. The AFCA scheme is a free service established to provide you with an independent mechanism to resolve specific complaints. The AFCA scheme can be contacted by:

- a) calling 1800 931 678;
- b) going to [afca.org.au](http://afca.org.au);
- c) emailing [info@afca.org.au](mailto:info@afca.org.au); or
- d) writing to:

Australian Financial Complaints Authority  
GPO Box 3  
Melbourne VIC 3001

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 <http://www.asic.gov.au>.

## Insurance

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

Your credit provider 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, the credit provider cannot 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 your credit provider. 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 your credit provider then, within 14 days of that happening, your credit provider 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 credit *contract*. The insurer will inform you if the proposal is rejected.

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

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

**14. What happens if my credit 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 contract says I have to give a mortgage, what does this mean?**

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

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

Yes. It can be part of your credit *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 the credit provider has 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 your credit provider's, 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 -

- if the *mortgaged property* is goods - give the property back to your credit provider, together with a letter saying you want the credit provider to sell the property for you;
- sell the property, but only if your credit provider gives permission first;

OR

- give the property to someone who may then take over the repayments, but only if your credit provider gives permission first.

If your credit provider 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 your credit provider even after the *mortgaged property* is sold.

### **19. Can my credit provider take or sell the mortgaged property?**

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

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

Yes. You have 7 days after receiving your credit provider's request to tell your credit provider. If you do not have the goods you must give your credit provider all the information you have so they can be traced.

### **21. When can my credit provider or its agent come into a residence to take possession of mortgaged goods?**

Your credit provider can only do so if it has 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 National Credit Code.

## General

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

Get in touch with your credit provider immediately. Discuss the matter and see if you can come to some arrangement. You can ask your credit provider to change your *contract* in a number of ways -

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

### **23. What if my credit provider and I cannot agree on a suitable arrangement?**

If the credit provider refuses your request to change repayments, you can ask the credit provider to review this decision if you think it is wrong.

If the credit provider still refuses your request you can complain to the AFCA scheme. Further details about this scheme are set out below in question 25.

#### 24. Can my credit provider take action against me?

Yes, if you are in default under your *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 CONTRACT carefully.

**IF YOU HAVE ANY COMPLAINTS ABOUT YOUR CREDIT CONTRACT, OR WANT MORE INFORMATION, CONTACT YOUR CREDIT PROVIDER. YOU MUST ATTEMPT TO RESOLVE YOUR COMPLAINT WITH YOUR CREDIT PROVIDER BEFORE CONTACTING THE AFCA SCHEME. IF YOU HAVE A COMPLAINT WHICH REMAINS UNRESOLVED AFTER SPEAKING TO YOUR CREDIT PROVIDER YOU CAN CONTACT THE AFCA SCHEME OR GET LEGAL ADVICE.**

**THE AFCA SCHEME IS A FREE SERVICE ESTABLISHED TO PROVIDE YOU WITH AN INDEPENDENT MECHANISM TO RESOLVE SPECIFIC COMPLAINTS. THE AFCA SCHEME CAN BE CONTACTED:**

- (A) BY CALLING 1800 931 678;**
- (B) BY GOING TO AFCA.ORG.AU;**
- (C) BY EMAILING INFO@AFCA.ORG.AU; OR**
- (D) IN WRITING TO:**

**AUSTRALIAN FINANCIAL COMPLAINTS AUTHORITY,  
GPO BOX 3,  
MELBOURNE VIC 3001**

**PLEASE KEEP THIS INFORMATION STATEMENT. YOU MAY WANT SOME INFORMATION FROM IT AT A LATER DATE.**

**Hey, you made it to the end. Well done!  
Here is some space in case you want to make any notes.  
Remember, if you have any questions we're here to help.  
You can call us on 133 464, 24 hours a day, 7 days a week.**

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