

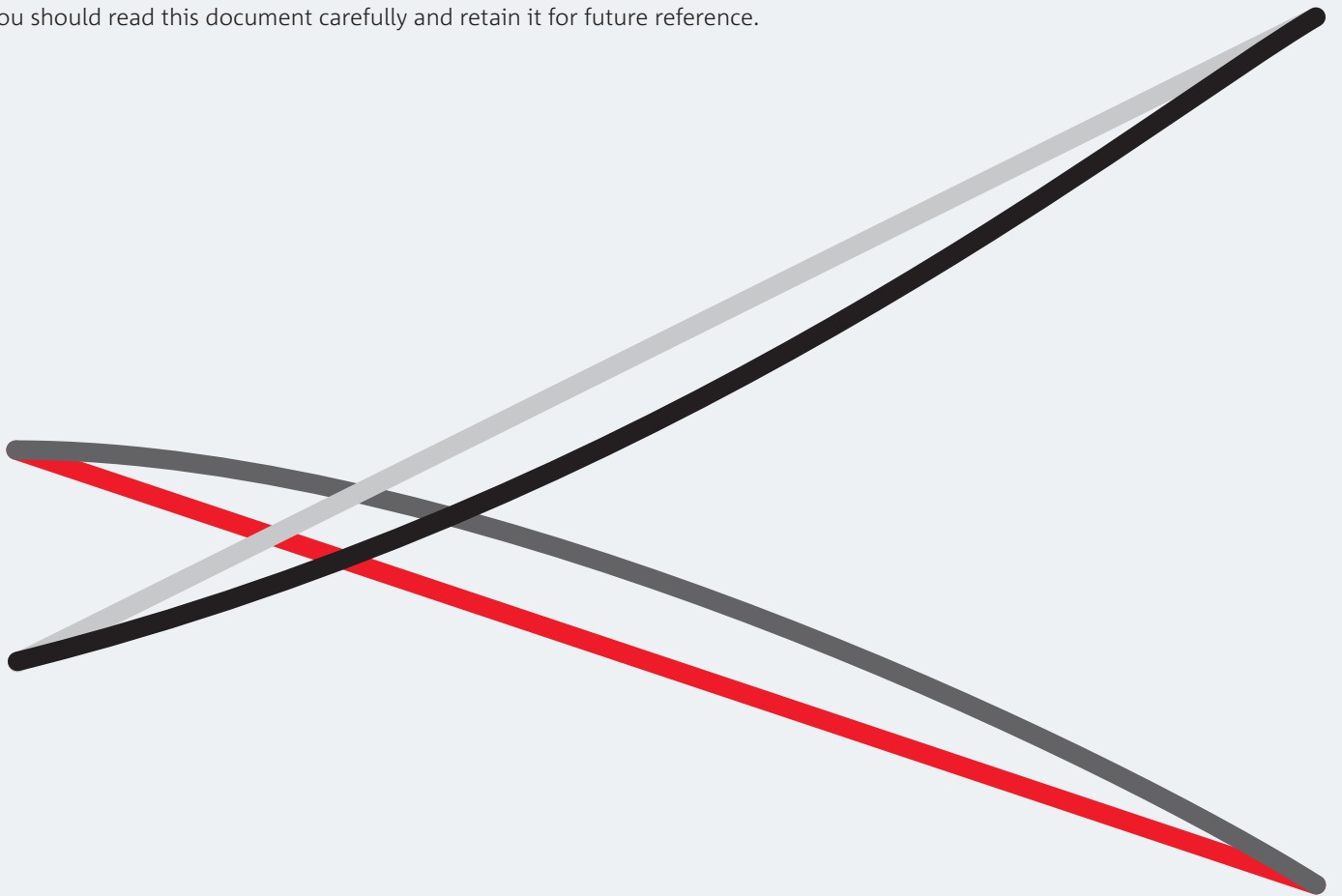


NAB

EQUITY BUILDER

Guarantee Terms

You should read this document carefully and retain it for future reference.



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Part 1 Guarantee Terms

1 Reason for giving a *guarantee*

- 1.1 You give us this *guarantee* in return for us, at your request, entering into, or continuing, the *facility* with the *client*.
- 1.2 By signing this *guarantee*, you incur certain obligations. You also give us rights concerning your *secured property*. However, the maximum amount we can recover from you is described in clause 11.

2 Guarantee applies to entire *facility*

This *guarantee* applies to the *facility* made available under the *agreement*.

3 Guarantee

- 3.1 You unconditionally and irrevocably *guarantee* the *client's* compliance with its obligations under the *agreement*, including each obligation to pay money.
- 3.2 You *guarantee* that the *client* will pay us when they become due for payment under the *agreement* all the amounts which may be payable now or in the future under the *agreement* or otherwise are the *guarantor's secured liabilities*.
- 3.3 Subject to clause 11, the *guarantor's secured liabilities* can increase at any time without your consent. We are not obliged to tell you if the amount increases or otherwise changes. However, you may, by written notice to us, limit the amount or nature of the liabilities *guaranteed* under this *guarantee* in the circumstances set out in section 31.9 of the Code of Banking Practice where that Code applies to you and this *guarantee*.
- 3.4 You agree to pay us, within 2 *business days* from when we demand payment, any amounts which the *client* does not pay on time or in accordance with any arrangement under which it is expressed to be owing, as at the time we demand that you pay them to us.
- 3.5 You agree to pay or reimburse us, within 2 *business days* from when we demand payment, for all fees in connection with the *guarantee*, including those payable to us, *NMS* or *Nominees* and any fee *NMS* or *Nominees* may charge us. We may require you to pay within 2 *business days* from when we demand payment any *enforcement expenses* incurred in enforcing the *guarantee*.
- 3.6 You must reimburse, within 2 *business days* from when we demand payment, us, *NMS* and *Nominees* for any costs, fees and charges incurred on your behalf in accordance with the terms of the *guarantee*.
- 3.7 Your liabilities under clauses 3.5 and 3.6 include stamp duty, registration or other fees and charges associated with *CHESS*.

3.8 On giving you at least 30 days' notice in writing we may impose any new fee, vary the amount of a fee, vary the frequency of interest and fee charging or the basis of the calculation and charging of interest, in each case in relation to the *guarantee*.

3.9 Except to the extent you have a right conferred by the Code of Banking Practice, you cannot otherwise withdraw from, end or limit the *guarantee*.

4 Related indemnity

As a separate undertaking, you unconditionally and irrevocably indemnify us against, and you must pay us for, the loss we suffer if this *guarantee* or the *agreement* is unenforceable solely because of the *client's* death, insolvency or incapacity or any act or omission by, or other circumstances affecting, the *client*.

5 You give up certain rights

5.1 As long as you or the *client* has any liability to us for any reason, you may not, without our prior written consent:

- (a) recover any amount in competition with us against any *co-guarantor* in an insolvency, under any right of contribution or indemnity, or in any other way;
- (b) claim the benefit, or seek the *transfer*, of any security, *guarantee* or indemnity from any *co-guarantor*;
- (c) take over any of our rights as creditor; or
- (d) require us to resort to any security or our rights before or when we resort to you.

5.2 You waive in our favour any right you have against us, any *co-guarantor* or any other person, or their estates or assets which would reduce your liability to us or the amount we can recover from you or any of them.

6 Payments need not reduce specific parts of your liability

6.1 You agree that we can treat payments received by us under the *facility* or the *guarantee* in any way permitted by the *transaction documents*.

6.2 We may place and keep in a suspense account any payments we receive from you under this *guarantee* and appropriate them at our discretion (acting in a commercially reasonable manner).

7 Acknowledgments by guarantor

You acknowledge that:

- (a) all the terms and conditions of the *guarantee* are set out in the *transaction documents*;
- (b) in deciding to enter into the *guarantee* the only statements by us which you took into account are those contained in this document and related documents we have seen and approved, and you did not rely on any other statement, document or promise made by us or on our behalf;

(c) no other statement, document or promise can affect the operation of the *guarantee* (other than by any accompanying acknowledgment concerning existing securities and in any related documents we have seen and approved);

(d) no provision can be varied or waived by us except by written notice from us; and

(e) you are responsible for making, and for continuing to make, your own investigation of the creditworthiness financial position and honesty of the *client* and any other person who is a *co-guarantor*.

8 Guarantor is bound despite certain matters

8.1 You are liable to us even if any intended *co-guarantor* never is or ceases to be liable for any amounts payable under the *transaction documents* for any reason.

8.2 You are fully liable under the *transaction documents* both together with any one or more *co-guarantors* as well as separately.

8.3 Your liabilities under this *guarantee* are not affected by anything that might otherwise affect them at law or in equity *including*:

(a) the death, mental or physical disability, legal incapacity, or insolvency of you, a *co-guarantor* or any other person;

(b) the fact that we give up, release in whole or in part, vary or exchange, or fail to obtain, perfect, register or realise, or deal in any other way with any security, *guarantee* or indemnity or negotiable instrument;

(c) the fact that we grant time or any other concession to or compound or compromise with, or do or omit to do anything which affects your obligations or the obligations of a *co-guarantor* or any other person to us or to you; or

(d) the fact that we vary, increase, assign, end or replace the *facility*. We will provide you with notice if we vary, increase, assign, end or replace the *facility*.

8.4 The *guarantee* continues to cover liabilities incurred after your death or disability or if you become *insolvent*.

8.5 A payment by any person will not be taken as discharging any amounts you owe us to the extent that any part of the payment is claimed later to be void or voidable or a preference for any reason. You will continue to be liable as guarantor for such part.

8.6 The *guarantee* is a continuing security and extends to all of the *guarantor's secured liabilities*.

9 **Guarantor's cash management account**

- 9.1 If you wish to provide us with cash collateral, you authorise us to open one or more *guarantor's cash management accounts* in your name. If there is more than one of you each of you authorises us to open separate *guarantor's cash management accounts* in their name.
- 9.2 Any *guarantor's cash management account* may be used to receive and hold:
- (a) the net proceeds from the disposal of any of the *guarantor's secured property*; and
 - (b) any other funds you wish to deposit by way of cash collateral.
- 9.4 If a *guarantor's cash management account* has been opened for you as security for your obligations under this *guarantee*, you give us rights, at any time and from time to time, to set off any amount due by you to us, against the credit balance in that account. If there is more than one of you, each of you agrees to give us these rights in relation to each relevant *guarantor's cash management account*. We may do this without notice to you.
- 9.5 The operation of a *guarantor's cash management account* will be governed by the terms and conditions for that account, which we will provide separately to you.

10 **Limit of guarantee**

- 10.1 The *guarantee* is a security for the whole of the *secured liabilities*. However, the amount payable by you is limited to the sum of:
- (a) the *facility limit*; plus
 - (b) all other amounts payable under clause 3; plus
 - (c) all other amounts payable under clause 4; plus
 - (d) all other amounts payable for breach of an obligation owed by any of you (other than an obligation to pay money) under the *guarantee*; plus
 - (e) all other amounts forming part of the *guarantor's secured liabilities*.
- 10.2 This clause 11 does not limit the amount we can claim from you under the *guarantee*, but it limits the amount ultimately recoverable from you.

Part 2

Mortgage Terms

12 Agreement to mortgage

12.1 You agree to mortgage, and do mortgage, to us as security for the payment of the *guarantor's secured liabilities*:

- (a) all *guarantor's mortgaged investments* held in your name, or on your behalf, automatically and immediately that they become *guarantor's mortgaged investments*;
- (b) all *guarantor's new rights*, automatically and immediately that they are acquired by or on behalf of you; and
- (c) the credit balance held in each *guarantor's cash management account* created after the date of this *guarantee* in your name.

12.2 In enforcing our security under this *guarantee*, we are entitled to resort to any *guarantor's secured property* (or any property you are required to mortgage under this *guarantee*). This applies regardless of the fact that:

- (a) an item of *guarantor's secured property* was first provided as security in respect of the *client's* entry into a particular *loan*; or
- (b) an item of *guarantor's secured property* is shown on any online system, statement or other document as relating to a particular *loan* rather than the entire facility.

13 Registration

We may, at your expense, apply for any registration, or give any notification, in connection with a *security interest* created under this *guarantee*.

14 Power of sale

14.1 If a *default event* occurs, we may, in addition to any other powers conferred on us by this *guarantee*, do all or any of the following:

- (a) *dispose* of all or any of the *guarantor's secured property* either separately or together with other property of the same type belonging to other clients or their guarantors, in our absolute discretion and do all acts and things that we consider necessary to complete the disposal of the *guarantor's secured property*;
- (b) demand and recover all of the proceeds from the *guarantor's secured property* by action or otherwise in your name or our name to the full extent of the estate or interest which you could *dispose* of;
- (c) make any arrangement or compromise which we consider expedient in our interests; or
- (d) bring or defend any action, suit or legal proceedings in your name or otherwise, for all or any of the above purposes.

14.2 We may allocate the *disposal proceeds* of combined *disposals* under clause 14.1(a) according to the proportion which the number of *investments* comprised in the *guarantor's secured property* sold on your behalf bears to the overall number of *investments* of the same type in the combined *disposal*.

15 Investments

This clause 15, applies separately in respect of each and every guarantor.

15.1 In relation to any *investments*:

- (a) where a *sponsorship agreement* is required by us, you must at all times be a party to such an agreement which is in a form that is acceptable to us, covering those *investments*;
- (b) you must promptly inform us when any *investments* included in the *guarantor's secured property* are, or are proposed to be, converted into *CHESS-eligible investments* and at our request enter into a *sponsorship agreement* in respect of those *investments*; and
- (c) if any *CHESS-eligible investments* subject to this *guarantee* are replaced with *investments* that are not *CHESS-eligible investments*, you must ensure the relevant certificates are deposited immediately with us.

15.2 You must deposit with us or cause to be deposited with us by giving an irrevocable direction to any company, broker, share register or other person specified by us:

- (a) any documents or certificates evidencing title in relation to the *guarantor's secured property*; and
- (b) any transfers that we request.

16 Obligations in relation to guarantor's secured property

16.1 The *client* must ensure that a *default event* under this *guarantee* does not occur. You must ensure that you are not in default under the *guarantee*. You must also carry out on time all of your obligations *including* obligations to pay the *secured liabilities* or the *guarantor's secured liabilities* (as the case may be). Your obligations under this *guarantee* continue even if we release the *guarantor's secured property* from this *guarantee*.

16.2 You may request us to release the *guarantor's secured property* from this *guarantee* when there is no amount owing in respect of *secured liabilities* or *guarantor's secured liabilities*. However, even if the *secured liabilities* or the *guarantor's secured liabilities* are paid, the *guarantor's secured property* remains mortgaged to us until we actually release it from this *guarantee*. We will act reasonably in releasing the *guarantor's secured property*.

16.3 You are liable for all of the *guarantor's* obligations under this *guarantee* both separately on your own and jointly with any one or more other *guarantors*.

16.4 We may at any time require that *guarantor's secured property* held in your name be transferred into the name of *Nominees* as your nominee to allow us to perfect or register this mortgage or enforce our rights under this *guarantee* or protect the *value* of, or protect our interest in, the *guarantor's secured property* or to otherwise improve our position in relation to the *guarantor's secured property*. You authorise your attorney appointed under clause 46 to execute all documents and do all other things necessary to effect any such *transfer*.

16.5 We may require *NMS* to *transfer* any *guarantor's secured property* held in a *participant sponsored holding* in your name into a *participant sponsored holding* of *Nominees* as your nominee to allow us to perfect or register this mortgage or enforce our rights under this *guarantee* or protect the *value* of, or protect our interest in, the *guarantor's secured property* or to otherwise improve our position in relation to the *guarantor's secured property*.

17 Restrictions on dealing with the *guarantor's secured property*

17.1 You must not, without our consent:

- (a) *dispose* of, deal with or part with the possession of any interest in the *guarantor's secured property*; (or direct or allow *Nominees* or *NMS* to do the same)
- (b) create or allow to come into existence any *security interest* which affects the *guarantor's secured property* in favour of anyone other than us;
- (c) convert any *CHESSE-eligible investments* that form part of the *guarantor's secured property* to *investments* which are not *CHESSE-eligible investments*;
- (d) in relation to any *CHESSE-eligible investments* that form part of the *guarantor's secured property*, change the *controlling participant*, shareholder name or shareholder address;
- (e) abandon, settle, compromise or discontinue or become nonsuited in respect of any proceedings against any person (other than us) in respect of any of your rights in connection with the *guarantor's secured property*; or
- (f) waive any of your rights or release any person from their obligations in connection with the *guarantor's secured property*.

17.2 You must do anything we reasonably require in connection with the *guarantor's secured property* including obtaining consents, signing and producing documents, producing receipts, getting documents completed and signed and paying any duties, taxes and other imposts to allow us to perfect or register any *security interest* created under this *guarantee* or enforce our rights under this *guarantee* or protect the *value* of, or perfect our interest in, or to otherwise improve our position in relation to the *guarantor's secured property*.

17.3 You must do anything we reasonably consider necessary for the purpose of:

- (a) providing more effective security over the *guarantor's secured property* (or any other property you are required to mortgage under this *guarantee*) for the payment of the *secured liabilities* or the *guarantor's secured liabilities* (as the case may be) including:
 - (i) if it is possible under *CHESSE* for the *guarantor's secured property* to be subject to a reserved *subposition* or similar restriction in our favour or for our benefit you must execute any further documents that we ask you to so as to make the *guarantor's secured property* subject to such a *subposition* or similar restriction;
 - (ii) if for any reason any *CHESSE-eligible investment* that forms part of the *guarantor's secured property* becomes an *investment* that is not a *CHESSE-eligible investment* you must procure that all certificates issued in respect of those *investments* are deposited with us or a person nominated by us; and
 - (iii) if the *controlling participant* under the *sponsorship agreement* becomes unable or ineligible to continue to perform its obligations under the *sponsorship agreement* or the *controlling participant* resigns, you must enter into a *sponsorship agreement* on terms, and with another person, both reasonably acceptable to us;

- (b) ensuring that any *security interest* created under this *guarantee* is enforceable, perfected or otherwise effective;
- (c) ensuring that we have control (as that term is defined under the *PPSA*) of each item of *guarantor's secured property* at all times;
- (d) enabling us to apply for any registration, or give any notification, in connection with any *security interest* created under this *guarantee* so that the *security interest* has the priority we require;
- (e) enabling us to exercise our rights in connection with the *guarantor's secured property*;
- (f) enabling us to register the power of attorney described in clause 46 or a similar power; or
- (g) showing whether you are complying with this *guarantee*.

17.4 You must:

- (a) provide to us immediately after becoming aware of *new rights*, particulars and documentary evidence of *new rights*;
- (b) pay all instalments, calls or other moneys payable in respect of the *guarantor's secured property* if we determine that it is reasonably necessary to protect the *value* of the *guarantor's secured property*. If funds are not provided, we may, at our discretion, pay or authorise and direct the nominee to take up such calls, instalments and other amounts as may be

necessary and that payment will form part of the *secured liabilities*;

- (c) take up *new rights* if we ask you to (but you may decline to take up *new rights* for which you have a present or future obligation to make a payment to acquire the new right or in connection with that new right);
- (d) assist us in exercising any power of sale or disposal that we have in respect of the *guarantor's secured property*; and
- (e) without limiting anything in clause 17.1, enter into a priority agreement in a form acceptable to us if you create or allow to exist any *security interest* over the *guarantor's secured property* in favour of anyone other than us without our consent.

18 Preservation of our rights

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

- (a) another security or right or remedy to which we are entitled; or
- (b) a judgment or order which we obtain against you in respect of any amount owed to us by you.

Part 3

CHESs Sponsorship Terms

Explanation of CHESs Sponsorship Terms

The *CHESs Sponsorship Terms* set out the terms on which National Margin Services Pty Ltd will sponsor your *investments* which are able to be held in *CHESs*.

CHESs is a system of electronic registration of shareholders in listed companies. Under *CHESs* there are no share certificates and transfers are effected electronically. Only persons admitted as participants have access to *CHESs*. For you to have your *investments* registered on *CHESs* you must have your shareholding sponsored by a participant.

The *CHESs Sponsorship Terms* contain special provisions to better protect National Australia Bank Limited as mortgagee of the *investments*. In particular, National Margin Services Pty Ltd will only *transfer* or otherwise deal with the *investments* at the direction of National Australia Bank Limited or with its consent.

The *CHESs Sponsorship Terms* also contain the standard sponsorship provisions required by the *settlement rules* of ASX Settlement and Transfer Corporation Pty Ltd (one of the bodies responsible for the operation of *CHESs*). These include:

- a statement that the regulatory regime that applies to the participant is set out in the Corporations Act and the Settlement Rules of ASX Settlement and Transfer Corporation Pty Ltd. Accordingly, the participant is regulated by the Australian Securities and Investments Commission and ASX Settlement Pty Limited;
- a statement that if the participant breaches the *sponsorship agreement*, you may refer that breach to any regulatory body, *including* ASX Settlement Pty Limited;
- a statement that you may lodge a complaint against the participant with any appropriate regulatory authority or other body, *including* ASX Settlement Pty Limited and the Australian Financial Complaints Authority;
- the participant's obligations to give effect to your withdrawal instructions and not to initiate any *transfer* or *conversion* without the authority of National Australia Bank Limited;
- a statement that in some circumstances the participant may change your sponsor by giving you 20 *business days'* notice. You may terminate the *CHESs Sponsorship Terms* on receipt of such a notice;
- a statement that if you make a claim for compensation against the participant, the ability of the participant to satisfy that claim will depend on its financial circumstances. In certain circumstances you may make a claim on the ASX Settlement Pty Limited;
- a statement of your right to remove your *investments* from the *CHESs* subregister or from the control of the participant if the participant is suspended from participation in *CHESs*;

- each party's rights to terminate the *CHESs Sponsorship Terms*; and
- a statement outlining the procedures which are put in place in respect of the *investments* which are held in *CHESs* if you die or become *bankrupt*.

If you have any queries about the *CHESs Sponsorship Terms*, or you do not fully understand any of the terms, please contact National Margin Services Pty Ltd on 1300 135 145 before you sign this *guarantee*.

19 Appointment of NMS as your sponsor

- 19.1 You appoint NMS, and NMS agrees, to be your sponsoring participant for the *participant sponsored holdings* that have the Holder Identification Number(s) listed in the *HIN Schedule* on the *CHESs Sponsorship Terms*.
- 19.2 Subject to clauses 24 and 27, the appointment of NMS as your sponsor under clause 19.1 is irrevocable until we notify you otherwise in writing.
- 19.3 This appointment applies in relation to:
- (a) any *guarantor's secured property* which is not held in your name by Nominees; and
 - (b) any other *guarantor's secured property* as required by us.

20 Authority of NMS

- 20.1 NMS may:
- (a) do anything necessary to register the *CHESs-eligible investments* that form part of the *guarantor's secured property* as a *participant sponsored holding* with NMS as the *controlling participant*;
 - (b) on our instructions, do everything necessary to *transfer* and register the *CHESs-eligible investments* that form part of the *guarantor's secured property*; and
 - (c) do anything that is necessary or convenient for the purpose of acting as *controlling participant* in relation to the *CHESs-eligible investments* that form part of the *guarantor's secured property*. For example if the *settlement rules* require that any of the *CHESs-eligible investments* be converted from a *participant sponsored holding* (for example, because the issuer will no longer have uncertificated holdings) NMS will initiate the *conversion* as required by the *settlement rules*.
- 20.2 NMS will not initiate any *transfer* or *conversion* of *CHESs-eligible investments* into or out of your *participant sponsored holding*, or comply with any other instruction you give in relation to the *guarantor's secured property*, without our express authority.

20.3 *NMS* is under no duty to enquire whether we may validly give any consent or instruction.

20.4 *NMS* may refuse to take action in relation to the *CHESS-eligible investments* sponsored by it unless *NMS* is satisfied that to do so:

- (a) will not affect our *security interest*; and
- (b) will not cause or result in a *default event*.

20.5 Subject to clauses 20.3 and 20.4, *NMS* will initiate any action necessary to give effect to a request by you to withdraw your *CHESS-eligible investments* from sponsorship by *NMS*, within 2 *business days* of the date of the request.

20.6 *NMS* may dispose of *guarantor's secured property* in accordance with our instructions where we are acting as your attorney under clause 46. Without limiting this authorisation, *NMS* will act on our instructions in sending any messages or communications by which *guarantor's* secured property can be disposed of.

21 Your rights

Complaint procedures

21.4 If you wish to lodge a complaint against *NMS* you may refer that complaint to any appropriate regulatory authority or other body, including *ASTC* and the Australian Financial Complaints Authority.

21.5 If *NMS* breaches any of the provisions of the *CHESS Sponsorship Terms*, you may refer that breach to any regulatory authority, including *ASTC*.

Compensation arrangements

21.6 In accordance with the *settlement rules*, *NMS* has lodged a *sponsorship bond* with *ASTC*.

21.7 You may apply in writing to *ASTC* for compensation under the *sponsorship bond* if:

- (a) *NMS* breaches a provision of the *settlement rules*; and
- (b) you suffer loss, damage, costs or expense as a result of that breach; and
- (c) there is no real prospect of you obtaining adequate compensation other than by making an application to *ASTC*.

21.8 An application for compensation to *ASTC* must be made:

- (a) within the time specified in a notice published by *ASTC* advertising for claims;
- (b) if no notice is published, within 6 months of you becoming aware that you suffered or incurred any loss, damage, cost or expense; or
- (c) any later date that *ASTC* allows.

21.9 You are not entitled to make a claim on the National Guarantee Fund for compensation.

21.10 If you make a claim for compensation against *NMS*, the ability of *NMS* to satisfy that claim will depend on *NMS's* financial circumstances.

22 Your responsibilities and acknowledgements

Explanation of the effect of these Terms

22.1 You acknowledge that:

- (a) *NMS* provided you with an explanation of the effect of the *CHESS Sponsorship Terms*;
- (b) you have read and understood the *CHESS Sponsorship Terms* and *NMS's* explanation of the effect of the *CHESS Sponsorship Terms*; and
- (c) you have sought appropriate advice if you have any queries.

Copy of CHESS Sponsorship Terms

22.2 By signing this *guarantee* (as the case may be), you are taken to have expressly instructed *NMS* not to provide you with an executed copy of the *CHESS Sponsorship Terms* (although you reserve the right to make a request in writing to *NMS* for an executed copy at any time).

NMS must be controlling participant

22.3 If any of the *CHESS-eligible investments* that form, or that are proposed to form, part of the *guarantor's secured property*, are held in a *participant sponsored holding* and a person other than *NMS* is the *controlling participant*, you must take all steps necessary to effect a change in the *controlling participant* so that *NMS* becomes the *controlling participant* in relation to those *CHESS-eligible investments*.

Supply of information

22.4 You agree to supply all information and supporting documentation that is reasonably required by *NMS* to permit *NMS* to comply with the registration requirements under the *settlement rules*.

22.5 If any information that you have previously supplied changes, you must notify *NMS* of the change (and supply any necessary supporting documentation) as soon as possible.

22.6 You authorise *NMS* to obtain statements of the *CHESS-eligible investments* that form part of the *guarantor's secured property* and other information in relation to your *CHESS-eligible investments* from *ASTC* on your request, or at such times as *NMS* reasonably thinks necessary.

Subpositions

22.7 If, in accordance with this *guarantee* or our instructions, *NMS* initiates any action which has the effect of creating a *subposition* over any *CHESS-eligible investments* that form part of the *guarantor's secured property*, your right to transfer, convert or otherwise deal with those *CHESS-eligible investments* is restricted in accordance with the terms of the *settlement rules* relating to *subpositions*.

22.8 If we reasonably determine that under the *settlement rules* a *subposition* may be used to protect our *security interest*, on our request you must do all things to cause those *CHESS-eligible investments* that we identify, to be reserved in a *subposition* on the terms (if any) we specify.

22.9 Neither *NMS* nor you may initiate any action which has the effect of reserving or releasing *CHESS-eligible investments* in or out of a *subposition* without our prior consent, unless the *settlement rules* require *NMS* or you to initiate that action.

Section 9 transfers

22.10 If *NMS* effects a *transfer* under section 9 of the *settlement rules* then:

- (a) you may not assert or claim against *ASTC* or the relevant issuer that the *transfer* was not effected by *NMS* or that *NMS* was not authorised to effect the *transfer*; and
- (b) you have no claim arising out of the *transfer* against the National Guarantee Fund.

23 Death or bankruptcy

23.1 If you die or become *bankrupt* a *holder record lock* will be applied to your *CHESS-eligible investments* that are sponsored by *NMS* unless your legally appointed representative removes your *CHESS-eligible investments* from the *CHESS* Subregister.

23.2 If you die, the *CHESS Sponsorship Terms* will remain in operation, in respect of the legally appointed representative authorised to administer your estate, for a period of up to three calendar months after the removal of the *holder record lock* (unless your legally appointed representative removes the *CHESS-eligible investments* from the *CHESS* Subregister).

23.3 If a joint *participant sponsored holder* dies, all *CHESS-eligible investments* sponsored by *NMS* under the joint *holder record* will be transferred into new holdings under a new *holder record* in the name of the survivors (the *CHESS Sponsorship Terms* remain valid for the new holdings under the new *holder record*).

23.4 If a joint *participant sponsored holder* becomes *bankrupt*, *NMS* may:

- (a) establish a new *holder record* in the name of the *bankrupt*, transfer the interest of the *bankrupt* into the new holdings under the new *holder record* and request that *ASTC* apply a *holder record lock* to all holdings under that *holder record* (unless the *bankrupt's* legally appointed representative removes the *CHESS-eligible investments* from the *CHESS* Subregister); and
- (b) establish a new *holder record* in the name of the remaining joint *participant sponsored holders* and transfer the interest of the remaining joint *participant sponsored holders* into the new holdings under the new *holder record*.

24 Suspension of NMS

24.1 If *NMS* is suspended from the *settlement facility*, then subject to *NMS's* liquidator, receiver, administrator or trustee asserting an interest in the *CHESS-eligible investments* controlled by *NMS*:

- (a) you may, within 20 *business days* of *ASTC* giving *NMS* notice of its suspension, give notice to *ASTC* requesting that *ASTC* remove any *CHESS-eligible investments* that are sponsored by *NMS* from either:
 - (i) the *CHESS* Subregister; or
 - (ii) *NMS's* control to the control of another participant in the *settlement facility*; or
- (b) if you do not give the request specified in clause 24.1(a), then *ASTC* may change your sponsor and you will be taken to have entered into a new *sponsorship agreement* with that sponsor on the *CHESS Sponsorship Terms*.

25 Change of sponsor

25.1 *NMS* may give you notice of its intention to change the participant that sponsors your *CHESS-eligible investments* in *CHESS*.

25.2 You are under no obligation to agree to a change of sponsor and you may, within 20 *business days* of receiving a notice from *NMS* under clause 25.1, terminate the *CHESS Sponsorship Terms* in accordance with clause 27.1(d).

25.3 If you do not terminate the *CHESS Sponsorship Terms*:

- (a) your new sponsor will send you a notice confirming that they consent to act as your sponsor; and
- (b) *NMS's* rights under the *CHESS Sponsorship Terms* will be novated to the new sponsor on the date you receive a notice under clause 25.3(a).

25.4 If you do any act which is consistent with the novation of the *sponsorship agreement* (for example, by giving an instruction to the new sponsor) after receiving a notice under clause 25.3 (a) you will be taken to have consented to the novation of the *CHESS Sponsorship Terms*.

25.5 The *CHESS Sponsorship Terms* continue for the benefit of *NMS* in respect of any rights and obligations accruing before notice is given under clause 25.3(a).

25.6 To the extent that any law or provision of any agreement makes the novation in clause 25.3(b) not binding or effective, the *CHESS Sponsorship Terms* continue for *NMS's* benefit until such time as the novation is effective.

25.7 Nothing in this clause 25, prevents the completion of *transfers or conversions* by *NMS* where the obligation to complete those *transfers or conversions* arose before notice was given under clause 25.3(a) and the *CHESS Sponsorship Terms* will continue to apply to the completion of those *transfers or conversions*, notwithstanding the novation of the *CHESS Sponsorship Terms* to the new sponsor.

26 Indemnity

26.1 You indemnify *NMS* and us against any liability or loss arising from, and any costs, charges and expenses incurred in connection with *NMS* properly carrying out its duties or exercising its powers as *controlling participant* in relation to the *CHESS-eligible investments* or from carrying out any direction given by you or us. This is a continuing indemnity and it is not necessary for *NMS* or us to incur any expense or make any payment before enforcing it. The indemnity under this clause is reduced proportionally to the extent that we have acted fraudulently or with gross negligence and caused or contributed to foreseeable liabilities, losses, damages, costs or expenses.

27 Termination

27.1 The *CHESS Sponsorship Terms* terminate immediately:

- (a) by notice in writing from either you or *NMS* to the other;
- (b) if *NMS* becomes *insolvent*;
- (c) if *NMS* is suspended from the *settlement facility* or its rights under the *settlement facility* are terminated; or
- (d) if *NMS* gives you notice under clause 25.1, by you instructing *NMS* to *transfer* the *CHESS-eligible investments* sponsored by *NMS* from your *participant sponsored holding*.

27.2 If the *CHESS Sponsorship Terms* terminate under clause 27.1 you must, at our request, immediately enter into a *sponsorship agreement* in relation to the *CHESS-eligible investments* that form part of the *guarantor's secured property* on terms and with a *controlling participant* acceptable to us.

27.3 You may terminate the *CHESS Sponsorship Terms* in relation to any *CHESS-eligible investments* when we specify in writing that we no longer rely on the mortgage of those *CHESS-eligible investments* as security.

28 Variation

28.1 If any of the provisions in the *CHESS Sponsorship Terms* are inconsistent with the provisions in the *market rules*, the *clearing rules* or the *settlement rules*, *NMS* may, by giving you not less than 7 *business days'* written notice, vary the *CHESS Sponsorship Terms* to the extent which, in *NMS's* reasonable opinion, is necessary to remove any inconsistency.

29 General rights and obligations

29.1 The *sponsorship agreement* in the *CHESS Sponsorship Terms* replaces any prior *sponsorship agreement* between you and *NMS*, without affecting any rights or obligations that accrued under that prior agreement.

29.2 The *CHESS Sponsorship Terms* are subject to the *market rules*, the *clearing rules* and the *settlement rules*. You may not take any action that will prevent or impede *NMS* from complying with its obligations under the *market rules*, the *clearing rules* or the *settlement rules*.

29.3 *NMS* is:

- (a) an *ASTC* General Settlement Participant; and
- (b) a wholly owned subsidiary of National Australia Bank Limited.

29.4 *NMS* is not an Authorised Deposit Taking Institution and its obligations do not represent deposits or other liabilities of National Australia Bank Limited. National Australia Bank does not guarantee the obligations or performance of *NMS* or the services it offers.

29.5 Neither *ASX* nor its subsidiaries and controlled entities have any responsibility for supervising or regulating the relationship between you and *NMS* other than in relation to the *settlement rules* relating to *sponsorship agreements*.

29.6 The regulatory regime that applies to *NMS* is set out in the Corporations Act. Accordingly, *NMS* is regulated by the Australian Securities and Investments Commission. Information as to *NMS's* status may be obtained from the Australian Securities and Investments Commission. In addition, the regulatory regime established by the *settlement rules* applies to *NMS*. Accordingly, *NMS* is regulated by *ASTC*.

Part 4 Nominee Terms

30 Appointment (and replacement) of nominee

30.1 Subject to clause 30.3, you appoint *Nominees* to hold on your behalf:

- (a) *guarantor's secured property*; and
- (b) *guarantor's secured property* which was held in a *participant sponsored holding* but was transferred to *Nominees* under clause 16.4 or 16.5 or was converted to another mode of holding (whether required by us or the *settlement rules*).

30.2 The appointment will continue until we *transfer* the *guarantor's secured property* into your name where we consider it necessary or this *guarantee* terminates.

30.3 Nothing in this Agreement qualifies the investor's absolute entitlement at law, as against *Nominees*, to bring the relationship between it and *Nominees* to an end by requiring a transfer of *secured property*.

For the avoidance of doubt, the investor has separately undertaken in favour of NAB only not to seek a transfer of *secured property* from *Nominees* pursuant to that absolute entitlement, or to limit its exercise of that entitlement, prior to the discharge of all *secured liabilities*, only to provide additional security to NAB for satisfaction of those liabilities.

30.4 You expressly authorise your attorney appointed under clause 47, at any time we request it, to replace the nominee appointed under clause 30.1 by terminating on your behalf that appointment and instead appointing another person to act in that capacity, and the expression '*Nominees*' in this *guarantee* is interpreted accordingly. You authorise your attorney to do all things the attorney deems necessary or desirable on your behalf to effect that replacement, *including* directing the *transfer* of any *guarantor's secured property* held by the terminated nominee to the new nominee. We will notify you in writing after this has occurred.

31 Indemnity to *Nominees*

You agree to indemnify *Nominees* against all liabilities or loss whatsoever which *Nominees* may suffer or incur except if caused by the fraud or gross negligence of *Nominees*.

32 Authority to mortgage and *dispose*

32.1 You authorise *Nominees* to mortgage on terms we specify in our favour all interests in *future investments* and *new rights* which are held by *Nominees*, to secure the *secured liabilities*.

32.2 You authorise *Nominees* to pay the proceeds of disposal of any *guarantor's secured property* held on your behalf towards satisfaction of the *secured liabilities* or by way of deposit into a *guarantor's cash management account*, as we direct.

32.3 You authorise *Nominees* to *dispose* of *guarantor's secured property* in accordance with our *instructions* where we are acting as your attorney under clause 47. Without limiting this authorisation, *Nominees* will act on our instructions in sending any messages or communications by which *guarantor's secured property* can be *disposed* of.

32.4 You:

- (a) consent to *Nominees* complying with its obligations under (and, where applicable, executing) the *transaction documents*; and
- (b) waive any right you have to claim that *Nominees'* execution of, or compliance with obligations under, the *transaction documents* is in breach of any trust or duty *Nominees* owes to you.

32.5 *Nominees* may only exercise a power of sale it has in relation to *secured property*:

- (a) in accordance with our instructions in our capacity as *secured creditor*; and
- (b) at your discretion (but you agree not to give a direction in breach of clause 17.1).

32.6 *Nominees* waives any lien or other right it has to recover any amounts owed to it by you directly from *secured property* held by it.

Part 5 General Terms

33 Code of Banking Practice

33.1 We have adopted the Code of Banking Practice and relevant provisions of the Code apply to this *guarantee* if you are an individual, and the *client* is an individual or a small business customer (as defined by the Code).

33.2 You can obtain from us upon request:

- (a) information on current interest rates and fees;
- (b) general descriptive information concerning our banking services, *including*:
 - *account* opening procedures;
 - our obligations regarding the confidentiality of your information;
 - complaint handling procedures;
 - bank cheques;
 - the advisability of you informing us promptly when you are in financial difficulty; and
 - the advisability of you reading the terms and conditions applying to each banking service we provide to you;
- (c) general descriptive information about:
 - the identification requirements of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth); and
 - the options available to you under the tax file legislation; and
- (d) a copy of the Code of Banking Practice.

34 Declarations by you

34.1 You declare that:

- (a) you have told us about all rights that affect, or are proposed or likely to affect, the *guarantor's secured property*;
- (b) you have not breached any law or any obligation to any other person by becoming party to this *guarantee*;
- (c) all the information you have given us is correct and not misleading;
- (d) you have not withheld any information which might have caused us not to enter into this *guarantee*;
- (e) all amounts owing to any other person which could affect the *guarantor's secured property* have been paid or will be paid before or immediately after you sign this *guarantee*; and
- (f) a *default event* has not occurred.

35 How we may exercise our rights

- 35.1 We may exercise a right or remedy or give or refuse our consent or approval in any way we consider appropriate, *including* by imposing reasonable conditions, but we may not refuse our consent or approval unreasonably.
- 35.2 Subject to clause 10, we may enforce any part of this *guarantee* before we enforce other rights or remedies.
- 35.3 If we do not exercise a right or remedy fully or at a given time, we may still exercise it later.
- 35.4 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 except to the extent caused by our fraud or gross negligence.
- 35.5 Our rights and remedies under this *guarantee* are in addition to other rights and remedies provided by law independently of this *guarantee*.
- 35.6 Our rights and remedies under this *guarantee* may be exercised by any person we authorise.

36 Authorised representatives, and authorised brokers

- 36.1 You agree that each of the persons notified by you to us as your *authorised representative* is authorised in your name to:
 - (a) access all information, and receive statements of account, in relation to the *facility*, *including* electronically;
 - (b) give instructions to us, *Nominees*, and *NMS* in relation to the *guarantor's secured property*;
 - (c) direct us to deal with the proceeds from a dealing by us with the *guarantor's secured property*;
 - (d) gain, create or perfect security over any *approved investment* or other property of yours in favour of us *including* but not limited to, notifying particulars of *approved investments* to us as *future investments* for the purposes of this *guarantee* entered into by you; and
 - (e) any other actions necessary to give effect to this *guarantee*.
- 36.2 You agree that each of the persons notified by you to us as your *authorised broker* is authorised in your name to request us to provide funds or securities to enable us to settle transactions undertaken by the *authorised broker* on your behalf.
- 36.3 You agree to ratify (*including*, if we request, in writing) anything done by an *authorised representative* or an *authorised broker* or any actions taken by us on your behalf on the instructions of an *authorised broker* or *authorised representative*.
- 36.4 You agree to indemnify and hold harmless us, and our directors, officers, agents and employees from and against all liabilities, losses, damages, costs, expenses directly or indirectly incurred or suffered by us or

any of our directors, officers or employees as a result of complying with the instructions of an *authorised representative* or *authorised broker*. The indemnity under this clause is reduced proportionally to the extent that we have acted fraudulently or with gross negligence and caused or contributed to foreseeable liabilities, losses, damages, costs or expenses.

37 Notices and other communications

37.1 Unless otherwise specified in this *guarantee*, notices, certificates, consents, approvals, requests and other communications to us in connection with this *guarantee* must be in writing (unless we agree otherwise) and may be sent by post, facsimile, or electronic mail to the address indicated in the application form relating to this *guarantee*, or any other address we notify you in writing.

37.2 Unless otherwise specified in this *guarantee*, notices, certificates, consents, approvals, requests and other communications in connection with this *guarantee* for you may be given to you by:

- (a) delivering it personally;
- (b) leaving it at or sending it by post to the postal address nominated by you;
- (c) electronic communication to a device (*including* by way of SMS), electronic equipment or electronic address nominated by you;
- (d) displaying information on our *website* (after notifying you by electronic communication that the information is available for retrieval on the *website* and the nature of this information).

You may change your nominated electronic address or telephone number by giving us notice.

You may request a paper copy of any notice given to you by electronic means if you request the paper copy within 6 months of receipt of the electronic copy.

A communication given to your *authorised representative* is taken to be given to you.

37.3 Communications to us from a company must be signed by an *authorised representative* or a director.

37.4 For the purposes of this *guarantee* a communication is taken to be given:

- (a) in the case of a communication given personally – on the date it bears or the date it is received by the addressee, whichever is the later;
- (b) in the case of a communication sent by post – on the date it bears or the date when it would have been delivered in the ordinary course of post, whichever is the later;
- (c) in the case of a transmission sent by electronic means the date that it is sent unless the sender's machine received a report that indicates there was a failure in delivering the communication; or

(d) in the case of anything we publish in the metropolitan daily press, or on a *website*, on the date of publication.

37.5 Where there is more than one of you, each of you irrevocably authorises and directs us to act on instructions or accept notices from any of you and may assume without further enquiry that each of you has authorised and agreed to such instruction or notice.

37.6 At your request, we will send you statements of account for the *facility* every three months. Unless prevented from doing so by law or under the Code of Banking Practice, we may:

- (a) choose to vary the frequency of the statements we provide to you; or
- (b) vary the means by which we make statements available to you.

We will give you notice if we do either of these things. We may choose not to give you statements of account for the *facility* if not required by law or an industry code to give you a statement of account.

38 General indemnities, releases and disclaimers

38.1 We will only disclose information that we have about you, the *guarantor's secured property*, the *facility* and the *transaction documents* (*including this guarantee*):

- (a) to the extent specifically required by law;
- (b) for the purposes of this *guarantee* (*including* disclosing information in connection with any query or claim);
- (c) to the extent we decide, where disclosure to third parties without your consent is permitted by laws relating to privacy; or
- (d) with your consent.

You consent to us giving, from time to time, to:

- (a) any of our related entities;
- (b) another *guarantor*;
- (c) to any *client*;
- (d) an *authorised representative* or *authorised broker*; or
- (e) *NMS* and *Nominees*,

any information in our possession about you, the *guarantor's secured property*, the *facility* and the *transaction documents* (*including this guarantee*) which they may request from time to time. We may also give such information to fund managers, *ASX*, *ACH* and *ASTC* to the extent we deem necessary or desirable for effecting transactions in connection with the *transaction documents*. This information may be given in electronic, paper or spoken form. We are not in any way liable to you, and you release us, our directors and employees from any liability for, the unauthorised accessing or release of any such information (except to the extent, and only to the extent, arising from our gross negligence or fraud).

38.2 You release us, our directors and employees from any and all liability, costs, losses and expenses (*including* indirect and consequential losses) arising from this *guarantee* (except to the extent, and only to the extent, arising from our gross negligence or fraud).

38.3 You acknowledge that we are not responsible for any missed market opportunities or any loss or losses you may suffer or incur as a consequence of a missed market opportunity caused by us taking any action in accordance with any *transaction document*.

38.4 You acknowledge that there may be a delay between the time you give instructions and when they are effected. We are not in any way liable to you, and you release us, our directors and employees from, any liability for any movement in the *value* or price of any investment between:

- (a) on the one hand, the date you give instructions to effect a transaction; and
- (b) on the other hand, the date the instructed transaction is effected. The indemnity under this clause is reduced proportionally to the extent that we have acted fraudulently or with gross negligence and caused or contributed to any foreseeable loss.

38.5 If an error is made by us in relation to the recording, effecting or processing of any transaction in connection with this *guarantee*, we will not in any circumstances be liable, except to the extent caused by our fraud or gross negligence, for, and you expressly release us from any liability for, any tax consequences suffered by you, and any indirect or consequential damages or losses you may incur.

38.6 Where our officers or agents are acting on our behalf, they do not have our authority to recommend the purchase or sale of, or make a prediction or offer an opinion in relation to *investments*.

38.7 All indemnities in this *guarantee* are continuing indemnities and they survive termination of this *guarantee*.

39 Personal Property Securities Act

PPSA further steps

39.1 If we determine that a *transaction document* (or a transaction in connection with it) is or contains a security interest for the purposes of the *PPSA*, *NMS*, *Nominees*, and you agree to do anything (such as obtaining consents, signing and producing documents, getting documents completed and signed and supplying information) which we ask and consider necessary for the purposes of:

- (a) ensuring that the security interest is enforceable, perfected and otherwise effective;
- (b) enabling us to apply for any registration, or give any notification, in connection with the security interest so that the security interest has the priority required by us; or

- (c) enabling us to exercise rights in connection with the security interest.

Exclusion of PPSA provisions

39.2 If a *transaction document* (or a transaction in connection with it) is or contains a security interest for the purposes of the *PPSA*, each party agrees that to the extent the law permits them to be excluded:

- (a) sections 142 and 143 of the *PPSA* are excluded and the relevant secured party need not comply with the following provisions of the *PPSA*: sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4) and any other provision of the *PPSA* notified to the grantor by the relevant secured party after the date of this *guarantee*; and
- (b) we need not give any notice required under any provision of the *PPSA* (except section 135).

This clause applies despite any other clause in a *transaction document*.

40 Interpretation

40.1 In this *guarantee* unless the contrary intention appears:

- (a) a reference to this *guarantee* or another instrument includes any variation or replacement of any of them;
- (b) a reference to a statute, ordinance, code or other law, or business rules, includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) the singular includes the plural and vice versa;
- (d) a gender includes all genders;
- (e) the word 'person' includes a firm, body corporate, unincorporated association or an authority;
- (f) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes and assigns;
- (g) a reference to a party includes the party's successors and permitted substitutes or assigns;
- (h) a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually;
- (i) a requirement for us to give you a notice or any other information in writing may be done by means of an electronic communication or displaying information at our *website*;
- (j) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (k) a reference to writing includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form;
- (l) a reference to conduct includes an omission, statement or undertaking, whether or not in writing;

- (m) a reference to the Corporations Act means the *Corporations Act 2001* (Cth);
- (n) a word or phrase defined in the Corporations Act has the same meaning when used in this *guarantee* unless the context requires otherwise or unless otherwise defined in this *guaranty*;
- (o) ‘for example’ and cognate expressions indicate what is included without limiting what may be included;
- (p) anything to be done on a day that is not a *business day* may, at our discretion, be done on either the immediately preceding *business day* or the following *business day*;
- (q) references to a date or time are to dates and times in Melbourne; and
- (r) our obligations under this *guarantee* are several only and not joint.

40.2 Unless the contrary intention appears, in a *transaction document*, where the following terms are used in the context of the *PPSA*, they have the meanings they have in the *PPSA*: account, perfect, verification statement.

40.3 Headings are inserted for convenience and do not affect the interpretation of this *guarantee*.

41 Payments and effective date

- 41.1 If a day on which a payment must be made is not a *business day*, then the payment must be made no later than the next *business day*.
- 41.2 We will use and apply any payment or moneys we receive to pay fees, charges, interest and the unpaid balance of the *loan* or *loans* in any order we deem appropriate unless we have expressly agreed with you otherwise in relation to any particular payment.
- 41.3 For the purposes of payments under this *guarantee*, a day ends at 4.00 pm.
- 41.4 Payments made by you under this *guarantee* must be made without counterclaim or set off.
- 41.5 We may assign any date we reasonably consider appropriate to any payment you make (but in the case of a debit, that date must not be earlier than the date on which the relevant transaction occurred).

42 Giving and receiving instructions

42.1 We may act on the instructions of any person you notify to us as authorised to give us instructions (*including* your *authorised broker* or *authorised representative*) until you give us written notice not to do so. If you are a company, we may also act on the instructions of any one or more of your directors. You must notify us of any change in your directors.

42.2 We are authorised to act on any instructions which appear to have been properly created or communicated to us by you, your *authorised representative* or *authorised broker*, and we will not be liable to you for effecting those instructions. We are under no duty to enquire as to whether instructions are issued by you or with your authority if they reasonably appear to be issued with such authority. We will not be liable to you for instructions that we act upon which are a result of forgery, fraud or error unless we have acted fraudulently or with gross negligence.

42.3 We will not be liable to you for failing to act on any instructions which we reasonably consider to be communicated to us fraudulently, mistakenly, without authority or containing material omissions or errors.

43.Commission

You authorise us to pay commission to any person we choose (*including* to any financial adviser or planner, to any broker, and to any of our related entities). The payment of a commission to any person is not an endorsement or recommendation by us of them or their services.

44.Recovery of GST

If the *GST* has application to any supply made under or in connection with this *guarantee*, we may, in addition to any amount or consideration payable under this *guarantee*, recover from you an additional amount on account of *GST*, such amount to be calculated by multiplying the amount or consideration payable by you at the prevailing *GST* rate.

Any additional amount on account of *GST* recoverable from you under this clause shall be calculated without any deduction or set-off of any other amount and is payable by you upon demand by us, whether such demand is by means of an invoice or otherwise.

45.Amendments

- 45.1 We may amend this *guarantee* without the need to obtain your consent or your signature on any document:
 - (a) if and to the extent that the amendment is for the purposes of curing any ambiguity or typographical error, or correcting or supplementing any defective or inconsistent provision, so as to make more clear its intended effect;
 - (b) if and to the extent that the amendment enhances your rights or benefits in any way and/or does not adversely affect your rights or obligations in a material way;
 - (c) if and to the extent that this *guarantee* gives us the right to amend or vary a particular term (*including* by reducing or increasing an amount, adding or removing anything to a list, changing a percentage or *value* or rate or fee), or otherwise to vary the terms of the arrangement, so long as it is done in accordance with the requirements (if any) of the relevant term;

(d) if we consider that the amendment is necessary to establish or more effectively provide control (as that term is defined under the *PPSA*) over the *guarantor's secured property*: or

(e) in order to comply with any statutory or other requirement of law.

Unless otherwise specified in this *guarantee*, we will notify you of that amendment in writing or by newspaper advertisement, no later than the day the amendment takes effect, but the amendment is effective on its terms even if we do not.

45.2 In all other cases, we may vary or amend this *guarantee* at any time and from time to time by:

(a) sending to you in accordance with the notice provisions in this *guarantee* prior notification in writing describing the proposed amendments, and giving you a reasonable time to consider the proposal (consideration period); and

(b) if you do not notify us of any objection to the proposed amendment by the end of the consideration period, executing amending documentation on your behalf under the Power of Attorney you grant in this *guarantee* (and, to avoid doubt, you agree that your attorneys under that Power of Attorney have the power and authority to execute that amending documentation).

The amending documentation will be effective even if for any reason you do not actually receive the prior notification sent to you.

46 Assignment and novation

46.1 Your rights and obligations are personal and may not be assigned, transferred, novated or delegated by you without our prior written consent.

46.2 We may assign, novate, transfer or otherwise deal with any or all of our rights and/or obligations under the *guarantee* in whole or in part on one or more occasions, to one or more persons. Any person to whom our rights and/or obligations are assigned, novated or otherwise transferred (including a securitisation vehicle) will have to the extent of the assignment, novation or transfer, the same rights and/or obligations that we do under the *guarantee* and may exercise any such right or perform any such obligation as if that person had been named in the *guarantee* in place of us. You agree that we may disclose any information or documents we consider necessary to help us exercise this right.

46.3 While there is an amount outstanding, you irrevocably authorise each attorney appointed in the power of attorney contained in the application form relating to the *guarantee* to execute on your behalf any document necessary to give effect to an assignment, novation, transfer or other dealing with our rights and/or obligations in accordance with clause 46.2.

46.4 We will give you notice of any exercise of our rights under clauses 46.2 and 46.3 as soon as is practicable.

47 Power of attorney

47.1 You (and, if there are more than one of you, each of you severally) appoint us and our authorised officers and agents as your attorneys. If we ask, you must formally approve anything an attorney does under clause 47.2 (*including* in writing). You may not revoke these appointments until all the *guarantor's secured property* is released from this *guarantee*.

47.2 An attorney may do any act or thing and execute, sign or deliver any document which an attorney reasonably considers necessary or desirable for the purpose of:

(a) doing anything which you may authorise an attorney to do or request an attorney to do in connection with the *guarantor's secured property* (*including* executing a deed, disposing of or otherwise dealing with the *guarantor's secured property* or directing *Nominees* and *NMS* to do so, starting, conducting and defending legal proceedings, applying the proceeds or dealing with the *guarantor's secured property* to repay all or part of the *secured liabilities*, or sending messages or communications by which *guarantor's secured property* can be disposed of);

(b) delegating their powers (*including* this power and the power to revoke a delegation);

(c) exercising their powers even if this involves a conflict of duty or if they have a personal interest in doing so; and

(d) exercising their powers regardless of whether a *default event* has occurred.

47.3 Neither we nor an attorney are liable for any loss or penalty incurred by you as a result of:

(a) any delay by an attorney in exercising their powers; or

(b) an attorney not exercising their powers, except if caused by our fraud or gross negligence.

47.4 You indemnify each attorney against any reasonable loss or costs they suffer or incur in exercising powers under this power of attorney. We may debit any such loss or cost to:

(a) a *guarantor's cash management account*, if a fixed interest rate applies to all of your facility; or

(b) an account acceptable to us for which you have provided us with a *direct debit request*.

We will give you 2 *business days* prior notice of any amounts to be debited under this clause 47.4.

47.5 If we do not debit a *guarantor's cash management account* or other account we have agreed, in accordance with clause 47.4 you must pay us within 2 *business days* of receiving a request from us the amount of any loss or cost referred to in clause 47.4.

48 Benefit and entitlement

This *guarantee* is executed as a deed poll. Each *client* has the benefit of, and is entitled to enforce, this *guarantee* even if it is not a party to this *guarantee* or is not in existence at the time this *guarantee* is executed and delivered.

Each *client* who is expressed to have rights under this deed, even if the *client* is not a party to it, and any person claiming through such a *client*, who asserts a right under this deed is bound by it.

49 General

Obligation to provide information

49.1 You agree to provide information reasonably requested by us.

Other documents

49.2 A document does not become part of this *guarantee* by reason only of that document referring to this *guarantee* or vice versa, or any electronic link between them.

Serving documents

49.3 Without preventing any other method of service, any document in a court action may be served on a party by being delivered to or left at that party's address for service of notices under clause 37.

Counterparts

49.4 This *guarantee* may consist of a number of copies, each signed by one or more parties to the *guarantee*. If so, the signed copies are treated as making up the one document.

Time is of the essence

49.5 Time is of the essence in respect of your obligation to pay money.

Supervening legislation

49.6 Subject to clause 49.13, any present or future legislation which operates to vary your obligations in connection with this *guarantee* with the result that our rights, powers or remedies are adversely affected (including by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by law.

Inconsistent law

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

Conflict of interest

49.8 Our rights and remedies under this *guarantee* may be exercised even if this involves a conflict of duty or we have a personal interest in their exercise.

Prompt performance

49.9 Subject to clause 49.5:

- (a) if this *guarantee* specifies when you agree to perform an obligation, you agree to perform it by the time specified; and
- (b) you agree to perform all other obligations promptly.

Waiver

49.10 No failure to exercise and no delay in exercising any power, right, remedy or privilege operates as a waiver. Nor does any single or partial exercise of any power, right, remedy or privilege preclude any other or further exercise of that power, right, remedy or privilege or any other power, right, remedy or privilege. The powers in this *guarantee* are in addition to and do not exclude or limit any right, power or remedy provided by law.

Severability

49.11 Subject to clause 49.13, if the whole or any part of a provision of this *guarantee* is void, unenforceable or illegal in a jurisdiction, or would result in us being in breach of any industry code to which we have agreed to be bound, it is severed for that jurisdiction. The remainder of this *guarantee* has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of the document or is contrary to public policy.

Governing Law

49.12 This *guarantee* is governed by the laws applying in Victoria. Each of us and you irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria.

Saving provision

49.13 If a provision of this *guarantee*, or an exercise of a right under this *guarantee*, would otherwise be invalid in part or in whole because of the operation of the *SIS Act* or cause a *loan* not to comply with the *SIS Act*, then to the extent to which it causes such invalidity or non-compliance, that provision or exercise of a right is of no effect. This clause applies despite any other provision of any *transaction document*.

50 Meaning of words

Terms used but not defined in this *guarantee* have the meaning given to them in the *agreement*.

ACH means ASX Clear Pty Limited (ABN 48 001 314 503)

agreement means the agreement between us and the client (and others) relating to the *facility*.

CHES Sponsorship Terms means the terms set out in Part 4 of this *guarantee*.

clearing rules means the *clearing rules of ACH*.

controlling participant has the meaning it has in the *settlement rules*.

future investments means any *investments* held in the *guarantor's name* or held on behalf of the *guarantor* (as the case may be):

- (a) which are registered in a *participant sponsored* holding maintained with *NMS*; or
- (b) for which we hold the share certificate, unit certificate, other scrip or indicia of title; or

- (c) in relation to which we are recorded in a *Fund Register* as the mortgagee; or
- (d) which have been accepted by us as forming part of the *guarantor's secured property* by notice in writing to you.

HIN Schedule means the document provided by us to you (either before or after the date of this *guarantee*) listing the Holder Identification Number(s) for the *participant sponsored holdings* in respect of which you have appointed us as the sponsoring participant.

guarantor's cash management account means an account opened with us in the name of a *guarantor* forming part of the *guarantor's secured property*.

guarantor's mortgaged investments means any *investments* of you from time to time:

- (a) which are held in your name by *Nominees*; or
- (b) which are registered in a *participant sponsored holding* of yours maintained with *NMS*; or
- (c) for which we hold the share certificate, unit certificate, other scrip or indicia of title; or
- (d) in relation to which we are recorded in a *Fund Register* as the mortgagee; or
- (e) which have been accepted by us as forming part of the *secured property* by notice in writing to you.

guarantor's secured liabilities means all amounts which at any time for any reason or circumstance in connection with the *guarantee* or any transaction contemplated by the *guarantee* (including any transaction under or in connection with the *facility*) whether at law, in equity, under statute or otherwise:

- (a) are payable, are owing but not currently payable, are contingently owing, or remain unpaid by the *guarantor* or the *client* to us; or
- (b) have been advanced or paid by us on the *guarantor's* behalf or on behalf of the *client* or at the *guarantor* or *client's* express or implied request;
- (c) we are liable to pay by reason of any act or omission on the *guarantor* or *client's* part;
- (d) are reasonably foreseeable as likely, after that time, to fall within the above paragraphs (a) to (c).

A reference to "*guarantor's secured liabilities*" includes any part of it and the *secured liabilities*. This definition applies irrespective of the capacity in which the *guarantor* or the *client* are liable, or we are entitled, in respect of the amount concerned and whether the mortgagee under the mortgage given by the *guarantor* in this *guarantee* is

National Australia Bank Limited or an assignee and whether or not the *guarantor* or the *client* consented to or was aware of the assignment.

guarantor's secured property means:

- (a) *guarantor's mortgaged investments*, *new rights*, and any other property which we agree to *include* in the *secured property*;
- (b) any credit balance in a *guarantor's cash management account*; and
- (c) any other property which is subject to a *security interest* in our favour which secures obligations under the *transaction documents*.

holder record has the meaning it has under the *settlement rules*.

holder record lock has the meaning it has under the *settlement rules*.

market rules means the *market rules* of the *ASX*.

new rights means:

- (a) your right, title and interest in all money, dividends, interest, allotments, offers, benefits, privileges, rights, bonuses, shares, *stock*, debentures, distributions or rights to take up investments in connection with the *guarantor's secured property*; or
- (b) your rights consequent on any *conversion*, redemption, cancellation, reclassification, forfeiture, consolidation or subdivision in connection with the *guarantor's secured property*; or
- (c) your rights consequent on a reduction of capital, liquidation or scheme of arrangement in connection with the *guarantor's secured property*.

Nominees means *NMS Nominees Pty Limited* (ABN 62 088 233 792), or any replacement appointed under clause 30.3. *NMS Nominees Pty Limited* (ABN 62 088 233 792) is a wholly owned subsidiary of *National Australia Bank Limited* (ABN 12 004 044 937). *NMS Nominees Pty Limited* is not an Authorised Deposit Taking Institution and its obligations do not represent deposits or other liabilities of *National Australia Bank Limited*. *National Australia Bank Limited* does not *guarantee* the obligations or performance of *NMS Nominees Pty Limited* or the products or services this subsidiary offers.

settlement facility means the facility provided by *ASTC* in accordance with its Australian CS Facility licence.

sponsorship agreement has the meaning it has in the *settlement rules*.

sponsorship bond has the meaning it has in the *settlement rules*.

we or **us** means *National Australia Bank Limited* (ABN 12 004 044 937), its lawful assigns and successors.

you means each *guarantor*.

Part 6 Privacy Notification

This notification covers National Australia Bank Ltd ABN 12 004 044 937 and its related companies (the 'Group'). It includes all the banking, financing, funds management, financial planning, superannuation, insurance, broking and e-commerce organisations in the Group. We are grateful for the trust and confidence you have in us to safeguard your privacy. The notification tells you how we collect your information, what we use it for and who we share it with. It also points out some key features of our Privacy Policy available at www.nab.com.au/privacy. By providing personal information to us, you consent to the collection, use and disclosure of your information in accordance with this Notification and any other arrangements that apply between us.

How we collect information from you

We'll collect your personal information from you directly whenever we can, for example when you fill out a form with us, when you've given us a call, used our websites (including via cookies) or mobile applications or dropped into one of our branches. (See our Cookies Policy www.nab.com.au/cookies for more information). Sometimes we collect your personal information from third parties. You may not be aware that we have done so. If we collect information that can be used to identify you, we will take reasonable steps to notify you of that collection.

How we collect your information from other sources

Sometimes we collect information about you from other sources. We may collect information about you that is publicly available (for example from public registers or social media), or made available by third parties. We do this where:

- we distribute or arrange products on behalf of others, including our business partners;
- we can't get hold of you and need to update your contact details;
- we need information from third parties about an application you make through us;
- we need information for fraud prevention purposes;
- we are checking the security you are offering;
- we can learn insight about your financial needs, such as through property information;
- you have consented to third parties sharing it with us, such as organisations we have loyalty programs with or we sponsor;
- at your request, we exchange information with your legal or financial advisers or other representatives.

We may use or disclose information about you in order to combine the information that we hold with information collected from or held by external sources.

When the law authorises or requires us to collect information

We may collect information about you because we are required or authorised by law to collect it. There are laws that affect financial institutions, including company and tax law, which require us to collect personal information. For example, we require personal information to verify your identity under Commonwealth Anti-Money Laundering law.

NAB believes that by applying for this account, you're not a US citizen or tax resident. If you are a US citizen or tax resident, you'll need to advise NAB by calling 1300 550 316 between 9am and 5pm (AEST/ADST) Monday to Friday.

How we use your information

We use your information to provide you with the product or service you asked for, and for other purposes including:

- giving you information about a product or service including financial help, guidance and advice;
- considering whether you are eligible for a product or service, including identifying or verifying you or your authority to act on behalf of a customer;
- processing your application and providing you with a product or service;
- administering the product or service we provide you, which includes answering your requests and complaints, varying products and services, conducting market research, and managing our relevant product portfolios;
- telling you about other products or services that may be of interest to you, or running competitions and other promotions (this can be via email, telephone, SMS, iM, mail, or any other electronic means including via social networking forums), unless you tell us not to;
- identifying opportunities to improve our service to you and improving our service to you;
- determining whether a beneficiary will be paid a benefit;
- assisting in arrangements with other organisations (such as loyalty program partners) in relation to a product or service we make available to you;
- allowing us to run our business and perform administrative and operational tasks (such as training staff, risk management; developing and marketing products and services, undertaking planning, research and statistical analysis; and systems development and testing)
- preventing or investigating any fraud or crime, or any suspected fraud or crime;
- as required by law, regulation or codes binding us; and
- for any purpose for which you have given your consent.

You can let us know at any time if you no longer wish to receive direct marketing offers from the Group. We will process your request as soon as practicable. Where you have subscribed to something specific (like to hear from one of our sponsored organisations) then these subscriptions will be managed separately. If you no longer wish to receive these emails click the unsubscribe link included in the footer of our emails.

How we use your credit information

In addition to the ways for using personal information mentioned above, we may also use your credit information to:

- enable a mortgage insurer or title insurer to assess the risk of providing insurance to us or to address our contractual arrangements with the insurer;
- assess whether to accept a guarantor or the risk of a guarantor being unable to meet their obligations;
- consider hardship requests; and
- assess whether to securitise loans and to arrange the securitising of loans.

What happens if you don't provide your information to us?

If you don't provide your information to us, we may not be able to:

- provide you with the product or service you want;
- manage or administer your product or service;
- personalise your experience with us;
- verify your identity or protect against fraud; or
- let you know about other products or services from our Group that might better meet your financial, e-commerce and lifestyle needs.

Sharing your information

We may share your information with other organisations for any purposes for which we use your information.

Sharing with the Group

We may share your personal information with other Group members. This could depend on the product or service you have applied for and the Group member you are dealing with. Where appropriate we integrate the information we hold across the Group to provide us with a complete understanding of you and your needs, including giving you access to the Group or related products you hold via Internet Banking.

Sharing with MLC Limited

NAB acts for MLC Limited ABN 90 000 000 402 (described as MLC Life Insurance) in distributing their life insurance products. MLC Limited is no longer part of the NAB Group of companies. We may exchange personal information with MLC Limited or their service providers in order to administer and manage your life insurance products that are issued by them. We may also need to share information so as to ensure:

- your insurance premium is calculated correctly (balance information may be required to be shared so your insurance can be calculated) and where authorised, make payments on your behalf to MLC Limited;
- insurance claims and benefits are paid;
- insurance products are viewable to service customer contact (this includes showing your insurance products in NAB Internet Banking if you have a NAB Internet Banking ID);
- NAB and MLC Limited can both tell you about our respective marketing and products offers (including ensuring customers who hold MLC Limited products are excluded

from NAB Group campaigns marketing MLC Limited products);

- a smooth customer experience when you contact us, including;
- we can transfer you to the right service centre;
- where appropriate, NAB and MLC Limited can cooperate in order to handle your complaint;
- being able to provide assistance should you wish to speak about your MLC Limited products held (for example, where possible, we may assist by updating contact details on request).

Some of the information exchanged will be stored and visible within NAB Group customer databases; with some of these databases being accessible to MLC Limited for a transition period. All information stored in these databases is subject to this privacy policy as well as NAB Group's security procedures and controls.

Sharing at your request

We may need to share your personal information with your representative or any person acting on your behalf (for example, financial advisers, lawyers, settlement agents, accountants, executors, administrators, trustees, guardians, brokers or auditors) and your referee such as your employer (to confirm details about you).

Sharing with Credit Reporting bodies

When we're checking your credit worthiness and at other times, we might share information about you with credit reporting bodies. When we give your information to a credit reporting body, it may be included in reports that the credit reporting body gives other organisations (such as other lenders) to help them assess your credit worthiness.

Some of the information that we give to credit reporting bodies may reflect adversely on your credit worthiness, for example, if you fail to make payments or if you commit a serious credit infringement (like obtaining credit by fraud). That sort of information may affect your ability to get credit from other lenders.

With your consent, personal information may also be shared with credit reporting bodies or other approved third parties who are authorised to assess the validity of identification information. These checks help us verify whether your identity is real and are not a credit check.

Sharing with third parties

We may disclose your personal information to third parties outside of the Group, including:

- those involved in providing, managing or administering your product or service;
- authorised representatives of the NAB Group who sell products or services on our behalf;
- credit reporting bodies or other approved third parties who are authorised to assess the validity of identification information;
- insurance, investment, superannuation and managed funds organisations, and their advisers and service provider;
- medical professionals, medical facilities or health

authorities who verify any health information you may provide;

- real estate agents, valuers and insurers (including lenders' mortgage insurers and title insurers), re-insurers, claim assessors and investigators;
- brokers or referrers who refer your application or business to us;
- other financial institutions, such as banks, as well as guarantors and prospective guarantors of your facility;
- organisations involved in debt collecting, including purchasers of debt;
- fraud reporting agencies (including organisations that assist with fraud investigations and organisations established to identify, investigate and/or prevent any fraud, suspected fraud, crime, suspected crime, or misconduct of a serious nature);
- organisations involved in surveying or registering a security property or which otherwise have an interest in such property;
- organisations we sponsor and loyalty program partners, including organisations the NAB Group has an arrangement with to jointly offer products or has an alliance with to share information for marketing purposes;
- companies we arrange or distribute products for, such as insurance products;
- rating agencies to the extent necessary to allow the rating agency to rate particular investments;
- any party involved in securitising your facility, including the Reserve Bank of Australia (sometimes this information is de-identified), re-insurers and underwriters, loan servicers, trust managers, trustees and security trustees;
- service providers that maintain, review and develop our business systems, procedures and technology infrastructure, including testing or upgrading our computer systems;
- payments systems organisations including merchants, payment organisations and organisations that produce cards, cheque books or statements for us;
- our joint venture partners that conduct business with us;
- organisations involved in a corporate re-organisation or transfer of NAB Group assets or business;
- organisations that assist with our product planning, analytics, research and development;
- mailing houses and telemarketing agencies and media organisations who assist us to communicate with you, including media or social networking sites;
- other organisations involved in our normal business practices, including our agents and contractors, as well as our accountants, auditors or lawyers and other external advisers (e.g. consultants and any independent customer advocates);

- government or regulatory bodies (including the Australian Securities and Investment Commission and the Australian Tax Office) as required or authorised by law (in some instances these bodies may share it with relevant foreign authorities); and
- where you've given your consent or at your request, including to your representatives, or advisors.

Sharing outside of Australia

We run our business in Australia and overseas. We may need to share some of your information (including credit information) with organisations outside Australia. Sometimes, we may need to ask you before this happens. You can view a list of the countries in which those overseas organisations are located at www.nab.com.au/privacy/overseas-countries-list/

We may store your information in cloud or other types of networked or electronic storage. As electronic or networked storage can be accessed from various countries via an internet connection, it's not always practicable to know in which country your information may be held. If your information is stored in this way, disclosures may occur in countries other than those listed.

Overseas organisations may be required to disclose information we share with them under a foreign law. In those instances, we will not be responsible for that disclosure.

We will not share any of your credit information with a credit reporting body, unless it has a business operation in Australia. We are not likely to share credit eligibility information (that is, credit information we obtain about you from a credit reporting body or that we derive from that information) with organisations unless they have business operations in Australia. However in the event NAB seeks assistance from a related company to manage defaulting loans, we may need, as a consequence, to disclose credit eligibility information to the Bank of New Zealand, located in New Zealand. We are likely to share other credit information about you with organisations outside Australia. A list of countries in which those overseas organisations are located is set out above.

Accessing your information

You can ask us to access information that we hold about you. You have special rights to access credit information we obtain about you from a credit reporting body or that we derive from that information. You can find out how to access your information (including your credit eligibility information) by reading our Privacy Policy, available at www.nab.com.au/privacy or by calling 13 22 65 and asking us for a copy.

Correcting your information

You can ask us to correct information we hold about you. You have special rights to correct your credit information. You can find out how to correct your information (including your credit information) by reading our Privacy Policy, available at www.nab.com.au/privacy or by calling 13 22 65 and asking us for a copy.

Complaints

If you have a complaint about a privacy issue, please tell us about it. You can find out how to make a complaint (including special rights for credit information complaints) and how we will deal with these complaints, by reading our Privacy Policy, available at www.nab.com.au/privacy or by calling 13 22 65 and asking us for a copy.

Contact us

We care about your privacy. Please contact us if you have any questions or comments about our privacy policies and procedures. We welcome your feedback.

You can contact us by:

- submitting an online Compliments, Suggestions or Complaints form via www.nab.com.au
- calling our contact centre on 13 22 65 (Hearing impaired customers can call TTY 13 36 77)
- speaking to us in person at a branch

Contact details for credit reporting bodies

When we're checking your credit worthiness and at other times, we might share information about you with credit reporting bodies. The contact details of those credit reporting bodies are set out below. Each credit reporting body has a credit reporting policy about how they handle your information. You can obtain copies of these policies at their websites.

Dun & Bradstreet Australia **www.checkyourcredit.com.au**

- Dun & Bradstreet's credit reporting policy is set out at www.dnb.com.au/Header/About_Us/Legal/Privacy_policy/index.aspx

Phone: 1300 734 806

Mail: Public Access Centre Dun & Bradstreet Australia
PO Box 7405 St Kilda Rd VIC 3004

Experian Australia **www.experian.com.au**

- Experian's credit reporting policy is set out at www.experian.com.au/legal/credit-services-privacy.html

Phone: 1300 783 684

Mail: Consumer Support Experian Australia
PO Box 1969 North Sydney NSW 2060

Veda Advantage Business Information Services Ltd **www.mycreditfile.com.au**

- Veda Advantage's credit reporting policy is set out at www.veda.com.au/privacy

Contact credit reporting bodies if you think you have been the victim of a fraud

If you believe that you have been or are likely to be the victim of fraud (including identity fraud), you can request a credit reporting body not to use or disclose the information they hold about you. If you do this, the credit reporting body mustn't use or disclose the information during an initial 21 day period without your consent (unless the use or disclosure is required by law). This is known as a ban period.

If, after the initial 21 day ban period, the credit reporting body believes on reasonable grounds that you continue to be or are likely to be the victim of fraud, the credit reporting body must extend the ban period as they think reasonable in the circumstances. The credit reporting body must give you a written notice of the extension.

Contact credit reporting bodies if you don't want your information used by them for direct marketing/pre-screening purposes

Credit reporting bodies can use the personal information about you that they collect for a pre-screening assessment at the request of a credit provider unless you ask them not to. A pre-screening assessment is an assessment of individuals to see if they satisfy particular eligibility requirements of a credit provider to receive direct marketing. You have the right to contact a credit reporting body to say that you don't want your information used in pre-screening assessments. If you do this, the credit reporting body must not use your information for that purpose.

For more information call

1300 135 145

Email equity.lending@nab.com.au

or visit nab.com.au/equitylending