

TERMS AND CONDITIONS - (Which will apply if and only if Pacific accepts the Application).

1. **Definitions**

In this Application:
Application means this written application (including these terms and conditions), any addendum or annexure to this Application and all documents and information provided by the Borrower as a part of this Application
Attorney means Pacific as attorney pursuant to Clause 6 of this Application
Borrower means the borrower specified in Section A and the insured under the Insurance Policy jointly and severally (if only a trading name is specified, the Borrower is the legal entity that owns and/or trades under that name)
Encumbrance means any of the following, or any agreement to create any of the following or allow them to exist: (a) security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement; or (b) right, interest or arrangement which has the effect of giving another person a preference, priority or advantage over creditors including any right of set-off; or (c) third party right or interest or any right arising as a consequence of the enforcement of a judgement.
Event of Default means any of the events of default described in Clause 10.1.
Guarantor means any person who guarantees the Borrower obligations under the Loan Agreement and/or any other agreement to which Pacific and the Borrowers are parties.
Insurer means the insurer of the relevant Insurance Policy;
Insurance Policy means the insurance policy or policies specified in Section B and any invoices and/or attached lists to this Application and any right, title and interest in the insurance policy as well as any other insurance policy which Pacific agrees to make the subject of the Loan Agreement;
Intermediary means the Borrower's intermediary specified in the Application or as otherwise notified by the Borrower to Pacific;
Loan Agreement means any loan agreement entered into in accordance with this Application and any written amendments to the terms of this Application agreed by the parties, including any change in Total Premium, Total Premium Loan and Insurance Policies funded by Pacific (whether in electronic form or not);
Overdue Interest Rate means the interest rate specified from time to time under section 2 of the Penalty Interest Rates Act 1983
Pacific means Pacific Premium Funding Pty Ltd ABN 57 109 849 872)
Premium Refund means any refund paid or payable in respect of an Insurance Policy
Related Body Corporate has the same meaning as "related body corporate" in section 50 of the Corporations Act
Secured Money means all amounts due for payment under the Loan Agreement (including the Total Premium Loan) and any other agreement to which Pacific and the Borrower are parties; and all costs, charges, fees, commissions, disbursements, losses and/or liabilities arising from clause 9.
Secured Property means all the Borrower's right, title and interest in respect of the Insurance Policy and the Premium Refund. Total Premium means the total premium specified in Item 1 (Section C) of this Application and such other premium amounts that Pacific agrees to loan to the Borrower from time to time; and
Total Premium Loan means the amount specified in Item 4 (Section C) of this Application and any subsequent loan amount agreed.
2. **Total Premium Loan:**
 - 2.1 The Borrower agrees to borrow from Pacific, and Pacific agrees to lend to the Borrower the Total Premium Loan.
 - 2.2 The Borrower hereby directs Pacific to pay to the Insurer or the Intermediary the Total Premium.
 - 2.3 The Borrower acknowledges and agrees that:
 - (a) the Borrower remains solely liable for payment of the Total Premium to the Insurer and nothing in this Application or the Loan Agreement is to be taken as rendering Pacific liable to pay the Total Premium or any part thereof; and
 - (b) Pacific will not be liable to the Borrower for any fines, penalties, interest, loss or damage arising out of, or in any way related to, any delay or failure in payment of the Total Premium, any instalment thereof, any interest thereon or any fine or penalty relating thereto.
3. **Repayment**
 - 3.1 The Borrower will repay the Secured Money, including the Total Premium Loan to Pacific in accordance with and in the manner set out in Section C of this Application.
 - 3.2 If the due date for an instalment falls on a non business day, Pacific will draw the due amount on the previous business day.
4. **Overdue Interest (minimum \$10)**

If any amount payable by the Borrower to Pacific (or as directed by Pacific) is not paid on time in accordance with the Loan Agreement, the Borrower will pay to Pacific a minimum late payment fee, or interest at the Overdue Interest Rate (whichever is greater) and such interest will: (a) accrue on any outstanding amount or amounts from and including the day after its due date up to but excluding the date of payment; and (b) be computed on a daily basis for actual days elapsed
5. **Security**
 - 5.1 The Borrower assigns (to the extent allowed by law) to Pacific the Secured Property to pay:
 - (a) to Pacific, any monies owing to it under the Loan Agreement or under any other agreement to which Pacific and Borrower are parties; and
 - (b) to the Borrower, any surplus.
 - 5.2 The Borrower charges the Secured Property to Pacific for the purpose of securing to Pacific payment of the Secured Money. This charge is fixed over all present and future Secured Property.
 - 5.3 Without the written consent of Pacific, the Borrower may not, and may not agree, attempt of take any step to, do any of the following:
 - (a) create or allow to exist another Encumbrance in connection with the Secured Property, other than any encumbrance created with Pacific's consent or arising by operation of law;
 - (b) deal in any way with this charge or any interest in it, or allow any interest in it to arise or be varied;
 - (c) sell, dispose of, change the nature of, lease or licence or part with possession of, the Secured Property;
 - (d) waive any of Pacific's rights or release any person from its obligations in connection with the Secured Property; or
 - (e) deal in any other way with the Secured Property or any interest in it, or allow any interest in it to arise or be varied.
 - 5.4 The Borrower irrevocably directs the Insurer and the Intermediary to pay to Pacific any monies payable under the Insurance Policy and Premium Refund to Pacific.
 - 5.5 The Guarantor unconditionally and irrevocably guarantees and indemnifies Pacific in respect of all the Borrower's obligations under this Application.
6. **Power of Attorney**
 - 6.1 From the date this Application is accepted by Pacific, the Borrower irrevocably appoints Pacific its attorney with the right:
 - (a) at any time;
 - (i) to comply with the obligations of the Borrower under this Application;
 - (ii) to do everything which in Pacific's reasonable opinion is necessary or expedient to enable Pacific to exercise any of its rights under or relating to this Application;
 - (iii) to complete any information or details missing from this Application;
 - (iv) to appoint substitutes and otherwise delegate its rights (including this right of delegation); and
 - (b) after any Event of Default, to do anything that the Borrower may lawfully authorise an agent to do in relation to this Application; and
 - (c) after any Event of Default (to the extent allowable by law) to cancel any or all Insurance Policies, to receive any Premium Refund and receive any sums payable to the Borrower pursuant to a claim under any Insurance Policy.
 - 6.2 The Borrower acknowledges that if a Premium Refund is paid by the Insurer, Pacific is entitled to receive the gross premium refund without any deductions and may set off any such refund against any amount owing by the Borrower under this Application.
7. **Application of Payments**

The Borrower agrees that if a Premium Refund or claim payment is made by an Insurer under any Insurance Policy (which payments are assigned to Pacific) then that refund or claim payment will be made on a gross basis, and Pacific may apply those monies to repay the Secured Money without deduction.
8. **Borrower Warranties**
 - 8.1 The Borrower covenants with, and warrants to, Pacific that, until the Secured Money is repaid in full, the Borrower:
 - (a) will promptly give to Pacific full particulars of any notice issued in relation to an Insurance Policy which comes into the Borrower's possession or which the Borrower is entitled to receive;
 - (b) will not cancel or vary an Insurance Policy (unless previously disclosed to Pacific in writing);
 - (c) will not make any claim under an Insurance Policy or otherwise deal with an Insurance Policy except through the Intermediary or Pacific; and
 - (d) is the only insured/under the Insurance Policies and is the only party entitled to receive any Premium Refund or make any claim or receive any claim proceeds under them (unless otherwise disclosed and agreed to by Pacific in writing).
 - 8.2 The Borrower warrants to Pacific that until the Secured Money is repaid in full the Total Premium Loan is to be used predominantly for or in connection with the purpose of carrying on or establishing a trade, business or profession.
 - 8.3 The Borrower warrants to Pacific that where providing details or information of a third party in respect to the Loan Agreement, that it has done so with the consent of the third party.
9. **Fees, Costs and Indemnity**
 - 9.1 The Borrower will pay or indemnify Pacific (as the case may be) on demand for all costs, stamp duty and other taxes (including any fines and penalties) payable on or levied in respect of the Loan Agreement
 - 9.2 The Borrower will pay or indemnify Pacific for all costs, charges, fees, commissions, disbursements, losses and/or liabilities (on a full indemnity basis) arising from, incurred in, or caused or contributed by:
 - (a) the enforcement of the Loan Agreement and/or any security granted pursuant to it (including guarantee);
 - (b) the collection of the Secured Money;
 - (c) the management of the Loan Agreement (including but not limited to) cancellation, dishonour, restructure, or late payment fees;
 - (d) any Event of Default
 - (e) the exercise or attempted exercise by Pacific of any of its rights under the Loan Agreement; and/or
 - (f) any act or omission by Pacific in reliance on any communication purporting to be from the Borrower or given on behalf of the Borrower.
10. **Default**
 - 10.1 The Events of Default are as follows:
 - (a) the Borrower fails to pay any money due to Pacific within 7 days of the due date;
 - (b) if an Insurance Policy is cancelled, surrendered or varied for any reason;
 - (c) the Borrower or Guarantor becomes insolvent, ceases or is likely to cease trading, has or is likely to have a receiver, manager, administrator, or liquidator or trustee in bankruptcy appointed (or a resolution is proposed or passed or any preliminary step occurs relating to such an appointment) or is subject to an uncontested statutory demand, bankruptcy notice or winding-up application, commits an act of bankruptcy; a warrant of distress is issued or levied against the Borrower or any of its property;
 - (d) the Borrower is in breach of any of the terms and conditions of the Loan Agreement or has caused a payment default on an Insurance Policy; or
 - (e) there is a claim for a total or substantial loss of the property the subject of an Insurance Policy.
 - (f) if the Borrower or any other Related Body Corporate or any Guarantor is in default of any other arrangement to which Pacific or its Related Body Corporate and the Borrower are parties for the provision of financial accommodation.
 - (g) (if the Borrower is a company), there is change in the persons controlling the composition of the board of directors of the Borrower, or there is a change in at least half of the shareholding in the Borrower.
 - 10.2 If an Event of Default occurs:
 - (a) all Secured Monies (together with all accrued interest and costs) will notwithstanding any delay or previous waiver of any of Pacific's rights under the Loan Agreement, immediately become due and payable without the necessity for any demand or notice to the Borrower or Guarantor; and
 - (b) Pacific may, without notice to the Borrower, terminate the Loan Agreement and exercise all of its rights and remedies against the Borrower and/or Guarantor under the Loan Agreement and under any securities, including issuing court proceedings against the Borrower and/or Guarantor.
11. **Intermediary**
 - 11.1 The Borrower (unless otherwise notified to Pacific in writing) authorises the Intermediary to apply as agent for the Borrower to Pacific to vary the Total Premium Loan or Insurance Policies funded by the Loan Agreement, and to vary any Direct Debit Authority provided by the Borrower under this Loan Agreement. Any such variation (including the provision of its signature) can be done on its behalf electronically by the Intermediary.
 - 11.2 Pacific may pay the Intermediary, its representatives and/or associates, a commission on the amount loaned and/or other forms of remuneration, benefits and incentives. By applying for a loan with Pacific the Borrower consents to this, and may ask the Intermediary or Pacific for more details.
12. **Miscellaneous**
 - 12.1 In the interpretation of this Loan Agreement, words importing the singular include the plural and vice versa, words importing persons include corporations, and any covenant or agreement on the part of one or more persons shall bind them jointly and severally.
 - 12.2 Pacific may in its absolute discretion vary in writing, the terms of this Application
 - 12.3 Time is of the essence for payment of all amounts payable under this Application.
 - 12.4 Where no time is specified for payment of any amount, that amount is payable on demand.
 - 12.5 Any communication by or to the Intermediary will be regarded as having been given by or to the Borrower.
 - 12.6 The Loan Agreement shall be governed by and construed pursuant with the law of Victoria.
 - 12.7 Pacific may assign at any time any or all of its rights or interests under the Loan Agreement.
 - 12.8 If the Borrower has applied as a trustee, then the Borrower will be bound as trustee of the trust and in its own capacity.
13. **Certificate**

A statement in writing signed by a director, secretary or officer of Pacific stating any amount due or owing by the Borrower to Pacific or any other act, matter or thing arising under this Application as at any date or dates set out in that statement will be conclusive evidence of the fact so stated.
14. **Privacy**
 - 14.1 By signing this application (or any future application) for insurance premium funding with Pacific (the "Application"), the Borrower (referred to as I, me, we or my) acknowledges that Pacific may collect personal information about me (or other relevant persons associated with me) (which may include "sensitive information" as defined in the Privacy Act 2001 (Cwlth)(Privacy Act)) in order to assess my application.
 - 14.2 I consent to Pacific and its related companies collecting, using or disclosing my personal information for assessing the Application, and if the Application is approved, for the administration of the Loan Agreement, performing administrative tasks and managing business operations, providing services to me in relation to the Loan Agreement (if granted) risk assessment, loan management, modelling, and fraud and crime prevention and complying with legislative and regulatory requirements
 - 14.3 I consent to Pacific disclosing my personal information to its related companies, and each of them disclosing my personal information (regardless of how or when that information is collected) to credit reporting agencies, other financial institutions and credit providers, and service providers, to governmental and regulatory organisations and to any person authorised by me to operate the Loan Agreement, any organisation through whom I choose to make payments to Pacific or its related companies, and to any other entity to whom Pacific or any of its related companies is required by law, or authorised by me, to disclose my personal information.
 - 14.4 I agree to the transfer of my personal information by Pacific and its related companies to organisations overseas for use in connection with any of the purposes authorised by this consent or the Privacy Act.
 - 14.5 I agree to Pacific giving to and receiving from any credit reporting agency or other organisation information about my or the Borrower's credit arrangements and credit worthiness, provided that the information is given or received to assess an application for credit made to Pacific or any related companies , to assess my or the Borrower's credit worthiness, in the review of such limits or in the collection of any overdue payments in respect of any credit provided to me.
 - 14.6 Subject to the Privacy Act, I acknowledge that I can seek access to my personal information collected and held by Pacific and its related companies, and that I can enquire as to the identity of each related company of Pacific, by contacting the Privacy Officer of Pacific at the address shown on my Application.
 - 14.7 I confirm that if I have provided any personal information about another person they have provided their consent to this and have been or will be informed of the above by me.