



## Terms & Conditions

### PERSONAL LOAN CONTRACT

These Terms and Conditions do not contain all the information we must give you before you offer to enter into your Personal Loan Contract with us. The rest of that information is contained in the Loan Schedule and in the attached Information Statement, *Things You Should Know About Your Proposed Credit Contract*.

#### 1. The loan

- 1.1 We will lend you the total amount of credit that is set out in the Loan Schedule. This is the loan.
- 1.2 You authorise us to distribute the loan in the way set out in the Loan Schedule. You must repay the loan.
- 1.3 If there is more than one of you listed in the Loan Schedule, each of you is fully responsible for repaying the loan and may be required to pay the full amount owed under this Contract, even if your co-borrower cannot, or will not, help you.
- 1.4 We will advance and distribute the loan as directed by you only after we are satisfied that:
  - (a) any applicable cooling off period has lapsed or has been waived;
  - (b) insurance has been granted as required by this Contract;
  - (c) the Goods to be mortgaged, or the Land to be mortgaged or charged is, available to secure your obligations under this Contract; and
  - (d) you are not in default under any agreement with us or any other person.
- 1.5 If insurance is financed under this Contract, our only obligation will be to pay the premium as you direct.

#### 2. Interest on the loan

- 2.1 You must pay interest on the loan at the rate stated in the Schedule as the annual percentage rate. The annual percentage rate is divided by 365 to give a daily percentage rate.
- 2.2 Interest will accrue from the day the amount of credit is disbursed.
- 2.3 You must pay interest on the outstanding balance of the loan until it is repaid in full.
- 2.4 Once Credit calculates interest by applying the daily percentage rate to the unpaid daily balances of your account as at the end of each day. The unpaid daily balance is the amount you owe us on the close of each day. A day ends for this and all purposes under this Contract when Once Credit closes its New South Wales Head Office for that day.
- 2.5 Interest charges are debited to your loan account monthly in arrears on the last day of each calendar month. Once interest charges are debited they become part of the unpaid daily balance. Also, any accrued interest charges will be debited to your loan account immediately before payout of the loan.

#### 3. Repayments

- 3.1 The whole of the amount of credit and any other moneys you must pay under this Contract must be paid to Once Credit by the end of the term of your loan.
- 3.2 Your first payment is due on the same date of the month following the day the amount of credit is disbursed.
- 3.3 All subsequent monthly payments must be made by the same day of the month. If no such day exists in that month, then payment must be made on, or before, the next business day.
- 3.4 If a due date for payment is not a business day, the payment must be made on, or before, the next business day.
- 3.5 You need not pay us any amount that exceeds the unpaid balance under this Contract. However, if this Contract terminates early (whether because of voluntary payout, default in your obligations under this Contract or as otherwise provided in this Contract), the unpaid balance payable will include an early termination fee.
- 3.6 We may change the number, amount or frequency of your repayments, or the time for payment of your repayments. We will advise you of any change by giving you at least 20 days notice of it.
- 3.7 All payments by you shall be made without set-off or counterclaim and free of any other deductions.
- 3.8 Each payment under this Contract must be made to us in one of the following manners:
  - By direct debit to your nominated account;
  - Billpay or Bpay;
  - By cheque;
  - In such other manner as we notify you in writing;

#### 4. Application of payments and account balances

- 4.1 Payments received by us under this Contract may be applied to any amount you owe under this Contract in any order we decide. For example, if you owe collection action fees, default fees or enforcement expenses, we may pay them before your regular repayment.
- 4.2 If you hold other credit contracts with us and you make a payment which is insufficient to satisfy all your repayment obligations under each contract, we reserve the right to apply the payment to any, or all, of the credit contracts in any manner we decide unless you have notified us of the manner in which the payment is to be applied.

- 4.3 If you wish a payment to be paid to a specific contract, or split across contracts, you must tell us in writing before, or when, making the payment.
- 4.4 We will adjust debits, credits and the balance of your account under this Contract if there is a processing error or because a payment has been dishonoured.
- 4.5 We will also adjust the debits, credit and balance if there are refunds or corrections to your account to accurately reflect the legal obligations between you and us. This will occur regardless of the adjustment favouring either you or us.

## **5. Fees and charges**

- 5.1 You must pay the fees and charges set out in the Schedule. They are payable at the times and in the circumstances specified in the Schedule.
- 5.2 We may vary the fees and charges, with the exception of the early termination fee, or vary the Contract to introduce new fees and charges.
- 5.3 You will be given a minimum of 20 days notice of any changes to fees and charges.
- 5.4 Any fees and charges you must pay under this Contract will be debited to your account and form part of the daily balance outstanding. They will incur interest as part of the unpaid daily balance.
- 5.5 We may also debit to your loan account any government tax, duty, levy or fee we incur concerning this Contract. They will also incur interest.

## **6. Mortgages generally**

- 6.1 If the Loan Schedule specifies you are to give a mortgage over Goods to secure your obligations under this Contract, you agree to transfer by way of mortgage the whole of your right, title and interest in and to the specified Goods to us ("the Goods"). If you are using the amount of credit to purchase the Goods, you convey your interest as beneficial owner to us by taking possession of the Goods or by us paying any part of the purchase price for the Goods, whichever occurs first. Otherwise, you convey your interest as beneficial owner upon acceptance of your offer to enter this contract. You agree our security interest in the mortgage Goods is a legal interest.
- 6.2 You also grant a mortgage to us over any insurance policy financed under this Contract relating to the goods or land mortgaged to secure your obligations under this Contract.
- 6.3 If the Loan Schedule specifies you are to give a mortgage over land, you agree to do so to secure your performance of your obligations under this Contract. You agree to execute such mortgage documents as we require. You agree that, at our discretion, we may lodge a caveat or register the mortgage, or both, with the relevant land title registry.
- 6.4 If the loan schedule specifies you are to give a charge over land, you agree the specified land is charged to secure the performance of your obligations under this contract. You consent to us lodging with the relevant land title registry a caveat over that land in respect of the interest in the land created by any charge you give us.

## **7. Mortgage over Goods**

*This clause only applies if you have agreed to give Once Credit a mortgage over the Goods.*

- 7.1 You have given us a mortgage over the Goods as specified in the Schedule. This includes any additions or modifications made to the Goods and any money received from any insurance claim over the Goods.
- 7.2 If you pay us all amounts payable under this Contract, *Once Credit* will discharge the mortgage. You will then own the Goods.

## **8. Obligations over mortgaged Goods**

*This clause only applies if you have agreed to give Once Credit a mortgage over the Goods.*

- 8.1 You must keep the Goods in good condition and repair and registered in accordance with the law.
- 8.2 You must not sell or lease the Goods, or give anyone any security or other rights over the Goods, without our consent.
- 8.3 You must comply with all laws relating to the use or possession of the Goods and you must not use the Goods to provide commercial transport services, such as taxi, water-taxi, hire-car or hire-vessel purposes, as relevant to the Goods type.
- 8.4 You must not modify the Goods without our consent or alter any identifying number or mark on the Goods.
- 8.5 You must pay for repairs to the Goods immediately, to avoid a repairer's lien.
- 8.6 You must notify us immediately if the Goods are lost, stolen or damaged, or you part with possession.
- 8.7 If we ask, you must tell us where the Goods are located and where ordinarily garaged.
- 8.8 You must not take the Goods out of Australia without our permission.
- 8.9 If we give you reasonable notice (written or verbal), you must allow us access to inspect or test the Goods, or you must produce them for those purposes.
- 8.10 You must not use the Goods, or allow usage for any illegal or offensive purpose.
- 8.11 You will tell us about any accident or damage which occurs to the Goods, or if stolen.

## **9.1 Insurance**

*This clause only applies if you have agreed to give Once Credit a mortgage over the Goods.*

- 9.1 You must keep the Goods comprehensively insured in respect of any compulsory third party insurance and against fire, accidental damage, theft, storm and tempest and against such other risks as we may require. You must have Once Credit's interest as mortgagee noted on the policy.
- 9.2 You must provide us with evidence of insurance each year, pay all premiums and permit us to receive all insurance money payable in respect of the Goods (which will be applied to your debt under this Contract).
- 9.3 If you do not take out and keep current all required insurance or, if you do not give us evidence of this on request, we may take out the insurance and debit the cost to your account, but we have no duty to do so.
- 9.4 You must ensure any Goods insurance cannot be defeated or avoided by any non-disclosure, misrepresentation, breach of warranty or other cause whatsoever, or do or permit anything which may prejudice such insurance.

## 10. Insurance claims

*This clause only applies if you have agreed to give Once Credit a mortgage over the Goods.*

- 10.1 We may make, negotiate and settle any insurance claims concerning the Goods. You must accept any settlement we agree with the insurance company.
- 10.2 If you make a claim that the insurer refuses, then you must tell us. We can ask you to give us your rights to take further action against that insurer on your claim.
- 10.3 We are entitled to the money from an insurance claim over the Goods. We are not entitled to any amount (less any Goods and Services Tax ("GST") payable by us) that is in excess of the money owed. We can use the amount (less any GST payable by us) an insurance company pays to repair the Goods or repay the money owed under this Contract.

## 11. Once Credit's rights to protect its interest in the Goods

*This clause only applies if you have agreed to give Once Credit a mortgage over the Goods.*

- 11.1 We are irrevocably authorised until the loan is repaid in full to use your name and act on your behalf in the exercise of any right and in relation to any legal proceedings to protect our interest in the Goods.
- 11.2 For as long as any amount remains owing under this Contract, you appoint us as your attorney:
- (a) to do (at your cost and in your name) anything which you should do under this Contract; and
  - (b) to institute, conduct and settle any disputes concerning the Goods or any insurance in respect of it.
- 11.3 Subject to the Code, we may enter any premises to gain access to the Goods for any purpose permitted under this Contract.

## 12. Default

- 12.1 You will be in default of your obligations to us under this Contract if you:
- (a) fail to pay us on time any money you have to pay under this Contract or any mortgage which relates to it; or
  - (b) do not do what you have agreed to do under this Contract or any mortgage which relates to it; or
  - (c) do what you have agreed not to do under this Contract or any mortgage which relates to it; or
  - (d) are in breach of any warranty given by you in relation to this Contract or any mortgage to which it relates; or
  - (e) assign or attempt to assign your rights under this Contract without our written permission.
- 12.2 If you are in default under this Contract, we will give you a written default notice requiring you to correct the default. However, we need not give you that notice in circumstances where the law does not require it.
- 12.3 A default notice will tell you what you need to do to fix the default, if that can be done. You must do these things within 30 days, or any other time we tell you in the notice.
- 12.4 If, during the period of the default notice, you default a second time in the same way again, then you are still in default of this Contract, even if you have fixed the first default.
- 12.5 You must pay to us the full amount owed under this Contract, which may include the unpaid balance of the loan and any other interest, fees and charges, in the following circumstances:
- (a) if you have not fixed the default within the time specified in the default notice; or
  - (b) if the default cannot be fixed, after the time specified in the default notice has passed; or
  - (c) the circumstance of the default is of a kind where the law does not require us to give you a written default notice.
- 12.6 If you must pay to us under this clause the full amount owed under this Contract, and you have given a mortgage over the Goods, we are entitled to enforce the mortgage, which we may do by taking possession of the Goods. Where we take possession of the Goods, we may, subject to compliance with the Code:
- (a) sell the Goods by way of private sale, auction, or tender to a dealer in Goods of the same kind and for cash or on terms, as we see fit;
  - (b) exercise all other rights permitted by this Contract or the mortgage over the Goods, or which are authorised or permitted by law, including taking legal action against you;
  - (c) execute any transfer, assignment, discharge or other instrument we consider necessary for the enforcement or protection of our rights. For that purpose you irrevocably authorise us to sign all such transfers, assignments, discharges and other instruments in your name; and
  - (d) give valid discharges for any amounts payable in relation to the sale of the Goods.
- 12.7 Any sale of the Goods by us under this clause will be effected for the best price reasonably obtainable. The net proceeds we receive will be credited to your account under this contract.
- 12.8 If you must pay to us under this clause the full amount owed under this Contract, and you have given a mortgage over land, we are entitled to enforce the mortgage in accordance with its terms and the law.
- 12.9 If the Loan Schedule specifies you have given a mortgage over Goods or land, and indicates the cost of any premium for insurance of those Goods or that land is financed by this Contract, and we are entitled to enforce the mortgage:
- (a) we are entitled at our discretion to cancel that insurance; and
  - (b) the amount of any rebate or refund of the premium allowed by the insurer upon any early termination of that insurance contract may be recovered by us and set-off against the unpaid balance of the loan account under this Contract and any other amounts due under this Contract.

### **13. Enforcement expenses**

13.1 If you are in default, enforcement expenses may become payable under this Contract, or any mortgage which relates to it, or both. Enforcement expenses can include a range of costs such as mercantile agency fees, legal fees or fees for paying a repairer's lien over, taking possession of, storing and auctioning, the mortgaged Goods or land.

13.2 Enforcement expenses can also include the costs we reasonably incur in the use of our staff and facilities as well as all government charges, fees, taxes, duties or GST incurred in relation to those expenses.

13.3 You must reimburse us for all our reasonable expenses in enforcing this Contract, or mortgage relating to it, or incurred because you have defaulted in your obligations under this Contract or the mortgage.

### **14. Communication between us**

14.1 You must tell us if you change your name, your residential or postal address, your telephone or mobile number or your employment.

14.2 If you wish to use email for communication purposes, including the giving and receiving of documents or information, you must provide us with either a written or verbal authorisation to use a specific email address.

14.3 If you have to give us a document about this Contract then you can:

- (a) leave it at our office address as shown on the Schedule, or any other address we tell you; or
- (b) send it to our facsimile number as shown on the Schedule or such other facsimile number we tell you; or
- (c) email it to an email address we tell you.

14.4 Unless otherwise stated in this Contract, if we need to give you a document about this Contract then we can do so by:

- (a) delivering it to you personally; or
- (b) leaving it at, or sending it by post or facsimile to, your residential or postal address or your facsimile number last known to us; or
- (c) emailing it, where the Code allows, to the email address you have authorised and only if you have agreed to receive notices this way.

### **15. Financial difficulties**

15.1 You should tell us immediately if you cannot make any repayments under this Contract. If you do, we will discuss alternative payment arrangements with you. However, we do not have to agree to any alternative arrangements.

15.2 You may also have rights at law to ask a Court or tribunal for help in some circumstances.

### **16. Variations**

16.1 We can vary the terms of this Contract by giving you the written notice required (for any regulated loan) under the Code. Nothing in clauses 3 or 5 limits our rights under this clause.

### **17. Assignment**

17.1 You agree we may transfer, or assign, our rights under this Contract. In doing so, you consent to us giving any information (including documents) about you to the assignee or to anyone who is considering becoming the assignee.

### **18. No waiver of Once Credit's rights**

18.1 We do not waive any of our rights under this Contract, except in writing.

18.2 If we waive our rights, this does not change or reduce our rights under this Contract unless the law says it does or unless we tell you in writing it does.

### **19. Co-borrowers**

19.1 If there is more than one borrower, each one separately and all of you together are liable under this Contract and a reference to "you" shall be a reference to each named borrower, jointly and severally.

### **20. Governing law and interpretation**

20.1 This Contract is governed by the laws of the Australian State or Territory in which you reside at the time of entry into this Contract.

20.2 If there is more than one of you and you do not all reside in the same State or Territory, the laws of the State or Territory where the credit is first advanced will apply.

20.3 You and Once Credit submit to the non-exclusive jurisdiction of the courts, or any relevant tribunal, of that State or Territory. This Contract is to be interpreted so as to be consistent with the Code. If any provision of this Contract is invalid or otherwise in breach of the Code, in whole or in part, that provision will be severed and the validity of the remainder of this Contract will not be affected.

20.4 In this Contract, unless the context requires otherwise:

- (a) References to contracts, procedures and laws include amendments made to them from time to time and laws in substitution for them.
- (b) References to a party to this Contract include that party's executors, administrators, successors and assignees.
- (c) The "Code" means any applicable consumer credit legislation and includes the Consumer Credit Code.

The Consumer Credit Code says that, as a credit provider, Once Credit must give you this information before you agree to take a loan. Please read it carefully.

## INFORMATION STATEMENT

### THINGS YOU SHOULD KNOW ABOUT YOUR PROPOSED CREDIT CONTRACT

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

If you have any concerns about your contract, contact your credit provider and, if you still have concerns, your Government Consumer Agency, or get legal advice.

## THE CONTRACT

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

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

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

whichever happens first.

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

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

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

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

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

### 3. Can I terminate the contract?

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

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

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

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

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

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

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

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

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

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

Yes, but only if your contract says so.

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

That depends on the type of change. For example:

- you get at least same day notice for a change to an annual percentage rate. That notice may be a written notice to you or a notice published in a newspaper.
- you get 20 days advance written notice for:
  - a change in the way in which interest is calculated; or
  - a change in credit fees and charges; or
  - any other changes by your credit provider;

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

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

Yes. You should first talk to your credit provider. Discuss the matter and see if you can come to some arrangement. If that is not successful, you could apply to the court or tribunal. Contact the Government Consumer Agency or get legal advice on how to go about this.

## **INSURANCE**

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

Your credit provider can insist you take out or pay the cost of types of insurance specifically allowed by law. These are compulsory third party personal injury insurance, mortgage indemnity insurance or insurance over property covered by any mortgage. Otherwise, you can decide if you want to take out insurance or not.

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

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

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

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

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

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

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

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

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

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

## **MORTGAGES**

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

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

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

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

However, you need not be given a copy if the credit provider has previously given you a copy of the mortgage document to keep.

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

The law says you cannot assign or dispose of the property unless you have your credit provider's, or the court's, permission. You must also look after the property. Read the mortgage documents as well. It will usually have other terms and conditions about what you can or cannot do with the property.

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

See the answers to questions 22 and 23.

Otherwise you may:

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

OR

- sell the property, but only if your credit provider gives permission first;

OR

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

If your credit provider won't give permission contact your Government Consumer Agency for help.

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

You should understand that you may owe money to your credit provider even after mortgaged property is sold.

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

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

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

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

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

Your credit provider can only do so if it has the court's approval or the written consent of the occupier which is given after the occupier is informed in writing of the relevant section in the Consumer Credit Code.

**GENERAL**

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

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

- to extend the term of the contract and either reduce the amount of each payment accordingly or defer payments for a specified period; or
- to simply defer payments for a specified period.

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

If you have been unemployed, sick or there is another good reason why you are having problems with your contract, then your contract may be able to be changed to meet your situation.

You may be able to apply to the court. Contact your Government Consumer Agency or get legal advice on how to go about this.

There are other people, such as financial counsellors, who may be able to help.

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

Yes, if you are in default under your contract. But the law says that you cannot be unduly harassed or threatened for repayments. If you think you are being unduly harassed or threatened, contact your Government Consumer Agency or the Australian Competition and Consumer Commission, or get legal advice.

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

Yes. The law will give you other rights and obligations. You should also **READ YOUR CONTRACT** carefully.

**IF YOU HAVE ANY DOUBTS, OR WANT MORE INFORMATION, CONTACT YOUR GOVERNMENT CONSUMER AGENCY OR GET LEGAL ADVICE. PLEASE KEEP THIS INFORMATION STATEMENT. YOU MAY WANT SOME INFORMATION FROM IT AT A LATER DATE.**