



Chattel Mortgage Terms and Conditions

Reference: CM551 ANZ

These are the Terms and Conditions by which I, the Mortgagor as my name appears on the **Chattel Mortgage** ("this Mortgage"), agree to be bound IN CONSIDERATION of the Principal Sum advanced or agreed to be advanced to me by ANZ. I, as beneficial owner, mortgage the Goods to ANZ to hold them absolutely. If I pay to ANZ all money payable under these Terms and Conditions, and if I perform all my obligations under this Mortgage, then ANZ will, at my expense, execute an appropriate reassignment of this Mortgage. I also agree with ANZ as follows:

1. Interpretation

- 1.1 In this Mortgage, the following terms have these special meanings, unless the context otherwise requires:
- 1.1.1 **"Approved Direct Payment Method"** means a payment method other than a cash payment, or a payment by cheque or money order which allows mortgage instalments to be credited direct to ANZ's account by a bank or financial institution acting upon my order or request.
 - 1.1.2 **"Business day"** means any day of the week (except Saturday or Sunday) on which ANZ is open for business in at least one location in Australia. For the purposes of this agreement a day ends at 4 p.m Melbourne time. **"Ordinary business hours"** are the hours of operation on any such day.
 - 1.1.3 **"Contract Rate"** means the rate of interest used to calculate the total amount of interest stated in the Table.
 - 1.1.4 **"Disbursement Date"** means the earliest date on which ANZ pays any amount of the Principle Sum in connection with this Mortgage.
 - 1.1.5 **"Early Payment Loss"** is the amount of any loss (other than the costs referred to in clause 7.8) or foregone profit suffered by ANZ as a result of the whole or part of the total amount repayable or the Recoverable Amount being paid, or becoming payable, prior to the times stated in the Table. I acknowledge that upon early payment ANZ will apply the amount paid against its own funding arrangements and will not seek to relend that amount. The amount of Early Payment Loss will therefore reflect the difference between the Contract Rate and the cost to ANZ of funding this Mortgage. I agree in any event to be bound by ANZ's calculation of the amount of any Early Payment Loss. I may obtain details of the method of calculation utilised by ANZ from time to time on request from ANZ's head office.
 - 1.1.6 **"ANZ"** means Australia and New Zealand Banking Group Limited ABN 11 005 357 522, and includes any person who is its successor or assignee or any person to whom it transfers any of its rights in connection with this Mortgage, including its rights to receive the Recoverable Amount.
 - 1.1.7 **"Esanda Finance Corporation Limited"** means Esanda Finance Corporation Limited ABN 64 004 346 043, and includes any person who is its successor or assignee or any person to whom it any of its rights in connection with this Mortgage.
 - 1.1.8 **"Goods"** means:
 - 1.1.8.1 the goods described in the Table;
 - 1.1.8.2 if the actual item in relation to which ANZ has made or agreed to make a payment is not the same as that item, the actual item; or
 - 1.1.8.3 all goods purchased with the assistance of the loan of the Principal Sum;and includes, when supplied with or fitted to the Goods, replacement parts, accessories and attachments. It is agreed that ANZ's interest in the Goods is a legal interest.
 - 1.1.9 **"Goods and Services Tax (GST)"** means any tax that is or becomes payable on or in connection with the supply of any thing under any law of the Commonwealth of Australia, or under the law of any State or Territory including a tax of the type contemplated in the *A New Tax System (Goods and Services Tax) Act 1999*.
 - 1.1.10 **"I"** and **"me"** means the Mortgagor(s) named in this agreement and includes:
 - 1.1.10.1 if I am an individual, my personal representatives; or
 - 1.1.10.2 if I am a company, my successors.

- 1.1.10.3 If there is more than one Mortgagor, “I” and “me” mean each of them separately and every two or more of them jointly and they are jointly and severally liable to ANZ.
- 1.1.11 “**Information Field Compliant**” means that all systems, applications and embedded chips used in, or in conjunction with, the Goods will correctly recognise and process information regardless of the number of digits or characters, or method, used to record the information.
- 1.1.12 “**Intermediary**” means any Dealer who carries on a business dealing with goods of the kind that are subject to this Mortgage, Financial Broker, ANZ representative or any other third party acceptable to the ANZ who has introduced me to the ANZ, or ANZ to me.
- 1.1.13 “**Monthly Actuarial Basis**” means the method under which interest is calculated on monthly outstanding balances. Monthly outstanding balances are calculated by applying instalments first to accrued interest and then in reduction of the Principal Sum. If the amount of an instalment is less than the amount of interest accrued on the due date of the instalment, the amount of the deficiency is added to the outstanding balance of the Principal Sum.
- 1.1.14 The “**Next Calculation Date**” means, in the case of an early completion or termination, the date one month after the early completion or termination or one month after the date of the sale of the Goods, whichever is the earlier.
- 1.1.15 “**Origination Fee**” means a fee that an Intermediary may charge me, in accordance with the terms of the agreement that is between me and the Intermediary.
- 1.1.16 “**Principal Sum**” is the amount stated as the Principal Sum in the Table and each and all sums of money in which I may now or in the future be liable or contingently liable to pay to ANZ on any account whatsoever.
- 1.1.17 “**Recoverable Amount**” is the total amount repayable set out in the Table and all other moneys payable under this Mortgage (including accrued default interest, any Early Payment Loss, prepayment costs and losses, and repossession, storage, maintenance and selling expenses), less:
- 1.1.17.1 all money received by ANZ by way of instalments;
- 1.1.17.2 a rebate of the total amount of interest, calculated in accordance with clause 11; and
- 1.1.17.3 any money received by ANZ in accordance with clause 4.
- 1.1.18 “**Table**” means the document that forms part of this Mortgage detailing the description of the Goods, amount payable, and any other terms or conditions that may apply to this Mortgage and also includes any annexure to the Table.

2. Acceptance

- 2.1 The payment by ANZ of any amount of the Principal Sum will constitute a binding acceptance of my offer without notice to me. The resulting agreement will be deemed to have been made on the earliest date on which ANZ pays any amount of the Principal Sum (the date is the Disbursement Date).
- 2.2 I assent to ANZ paying any commission, fee or other remuneration to any Intermediary who may introduce me to ANZ or ANZ to me.
- 2.3 If I make a payment to the Intermediary named in this Mortgage relating to any duty, fees, charges or instalment as required under this Mortgage and in particular clause 6, I authorize the Intermediary to accept payment and to account to ANZ for the amount that I have paid.

3. Principal Sum and its disbursement

- 3.1 I authorise ANZ to disburse the Principal Sum by payment to respective payees as directed by me. I agree that ANZ may, in its discretion, deduct and retain or pay (as the case may be) from the Principal Sum, amounts in satisfaction or reduction of any stamp duty, registration fees, Establishment Fee, Cash/Cheque Payment Charge or government charges, and any amounts required to obtain title to the Goods or to protect ANZ’s interests as Mortgagee of the Goods.

4. Payment

- 4.1 I agree that:
- 4.1.1 I will repay to ANZ the Principal Sum and pay the total amount of interest stated in the Table by the instalments stated in the Table. The total amount of interest stated in the Table has been calculated using the actuarial method. The rate of interest used in that calculation is the Contract Rate. The actuarial method assumes that the instalments stated in the Table will be paid on the respective dates on which they fall due and that

the whole of the Principal Sum will be advanced on the Disbursement Date. My instalments have been calculated inclusive of interest. Interest will be payable on the due date for each instalment, irrespective of whether I make my instalment payment on the due date;

- 4.1.2 if I fail to make an instalment payment or other payment on time, I will be charged additional interest on the amount due but unpaid by me calculated on a daily basis, using the Contract Rate. This additional interest must be paid whenever ANZ tells me. Any unpaid additional interest may be added to the overdue amount if ANZ decides. If unpaid additional interest is added, I must pay additional interest on it as well;
- 4.1.3 all payments will be made free and clear of exchange or any State or Federal Government stamp duty or duty on receipts. ANZ may, in its discretion, deduct any such duty paid or payable by ANZ from the amount of any instalment. The balance, net after such deduction, will be applied initially to enforcement expenses, then to any outstanding fees or charges payable under this Mortgage, then to default interest and then to instalments as provided for in clause 4.1.1 above. Enforcement expenses will include the amount of expenses incurred by ANZ in collecting any payment in arrears;
- 4.1.4 if I owe ANZ money under any other contract and I make a payment to ANZ which is insufficient to satisfy the repayment requirements of each contract, unless I specify to which contracts and in which proportions the payment is to be applied, ANZ may appropriate such payment to my contracts in proportions and at times that ANZ thinks fit;
- 4.1.5 where an instalment falls due for payment on the 29th, 30th or 31st day of a month which does not contain such a date, that instalment will fall due on the last day of that month;
- 4.1.6 All money will be paid to ANZ at ANZ's address disclosed in the Table or any other address that ANZ nominates to me. Unless paid by an Approved Direct Payment Method, each payment must be accompanied by details sufficient to identify the contract. No cheque, promissory note, negotiable instrument or bank order received by ANZ will be regarded as payment until the funds have been cleared;
- 4.1.7 if I elect to pay to ANZ the total amount repayable and fulfill my other obligations to ANZ before the expiration of the full period of this Mortgage, I will be entitled to a rebate of interest calculated in accordance with clause 11 but I will be liable to pay ANZ any Early Payment Loss and prepayment costs and losses calculated in accordance with clause 7.7 and 7.8.

Warning: If you prepay part or all of the Recoverable Amount on this Mortgage, the amount of costs or losses may be significant, particularly in the case of fixed rate facilities. If you wish to prepay part or all of the Recoverable Amount, you should discuss it with ANZ first and ANZ can calculate the costs or losses that you would have to pay if you made the prepayment. This will help you to decide whether you want to go ahead with the prepayment.

5. Anti-Money Laundering

- 5.1 I agree that ANZ may delay, block or refuse to process any transaction without incurring any liability if ANZ suspects that:
- 5.1.1 the transaction may breach any laws or regulations in Australia or any other country;
- 5.1.2 the transaction involves any person (natural, corporate or governmental) that is itself sanctioned or is connected, directly or indirectly, to any person that is sanctioned under economic and trade sanctions imposed by the United States, the European Union or any country; or
- 5.1.3 the transaction may directly or indirectly involve the proceeds of, or be applied for the purposes of, unlawful conduct.
- 5.2 I must provide all information to ANZ which ANZ reasonably requires in order to manage anti-money laundering or counter-terrorism financing and economic trade sanctions risk or to comply with any laws or regulations in Australia or any other country. I agree that ANZ may disclose any information concerning me to any law enforcement, regulatory agency or court where required by any such law or regulation in Australia or elsewhere.
- 5.3 Unless I have disclosed that I am acting in a trustee capacity or on behalf of another party, I warrant that I am acting on my own behalf in entering into this agreement.
- 5.4 I declare and undertake to ANZ that the processing of any transaction by ANZ in accordance with my instructions will not breach any laws or regulations in Australia or any other country.

6. Insurance

- 6.1 I will insure the Goods and keep them insured at all times during this Mortgage, with a licensed insurer under an enforceable policy for an amount equal to the full insurable value of the Goods against fire, accident and theft and such other risks as ANZ may require. The policy will be in my name as owner and in ANZ's name as mortgagee. It will be subject to such terms, conditions and exceptions as ANZ would require, as if ANZ was arranging the insurance. I request that ANZ pay the amount of insurance premium (if any) as set out in the Table to the insurer but agree that ANZ's obligations shall be limited only to the remittance of such moneys as I have directed.
- 6.2 I will pay all insurance premiums payable and produce proof of payment to ANZ on demand. I will prevent the Goods from being used, kept, located or dealt with in any manner which would permit the insurer to decline a claim, whether under any condition or exclusion contained in the insurance policy or otherwise.
- 6.3 I agree that ANZ will be entitled to receive all moneys payable to me and/or ANZ by an insurer under the relevant policy or by any other person in respect of partial or total damage to or loss of the Goods. ANZ may, at its discretion, apply some or all insurance or other moneys received by ANZ in respect of this clause towards reinstating or replacing the Goods or towards satisfaction of any amount secured by a mortgage over the Goods.

7. Fees and government charges

- 7.1 I agree to indemnify ANZ in respect of all stamp duty, duty on receipts or any other State or Federal government fees and charges paid by ANZ or payable now or in the future in respect of this Mortgage or this transaction.
- 7.2 I agree to pay ANZ the Establishment Fee and any Cash/Cheque Payment Charge stated in the Table by the Disbursement Date. If, after the Disbursement Date, I cease to make repayments under this Mortgage by an Approved Direct Payment Method I will then pay ANZ a Cash/Cheque Payment Charge in the amount stated in the Table, or as later varied by ANZ and applicable at the relevant time.
- 7.3 I agree to pay ANZ the fees or charges that become payable by me under this Mortgage.
- 7.4 In addition to any fees or charges that are separately provided for in this Mortgage, the following fees and charges may become payable by me when charged by ANZ during the term of this Mortgage:
- 7.4.1 an administration charge of \$0 will be charged;
 - 7.4.2 a balance review fee of \$35 will be charged for reviewing or ensuring the correctness of your account where a payment to the account has been dishonoured or may otherwise be ineffective;
 - 7.4.3 a late payment fee of \$35 will be charged if the whole or any part of an instalment has remained unpaid for seven (7) days and ANZ then incurs administrative costs in reviewing whether to continue to allow me to receive the benefit of this Mortgage or to recover the Recoverable Amount;
 - 7.4.4 an instruction fee of \$104 will be charged if ANZ elects to instruct agents to retake possession of the Goods when exercising its powers under this Mortgage;
 - 7.4.5 an administrative fee of \$35 will be charged to meet ANZ's internal costs incurred whenever ANZ:
 - 7.4.5.1 prepares and sends me a late payment notice or the like; or
 - 7.4.5.2 instructs or retains an external agent (to do something other than retaking possession of the Goods), and where I am in default under this Mortgage;
- 7.5 a variation fee of \$250 will be charged each time I request ANZ to vary the terms of this Mortgage;
- 7.6 a statement fee of \$20 will be charged each time I request ANZ to issue a statement on this Mortgage;
- 7.7 the amount of any Early Payment Loss, as calculated in accordance with clause 1.1.5, and
- 7.8 upon any early termination of this Mortgage or any pre-payment of the total amount repayable, a pre-determination fee comprising of:
- 7.8.1 ANZ's average administrative costs of that early termination or prepayment, plus
 - 7.8.2 the unrecouped portions of its average administrative costs of accepting this offer, plus
 - 7.8.3 the unrecouped portion of the cost of any commission, fee or any remuneration paid to any intermediary that is not otherwise recoverable by ANZ. I acknowledge that any such amounts paid by ANZ were paid in the expectation that this Mortgage would run for the entire contracted term and if it does not ANZ will suffer a loss. Where all or part of such payments made by ANZ are not directly attributable to this Mortgage (for example, if it was calculated by reference to the dollar amount of all business referred to ANZ over a particular period) ANZ may average that portion to calculate its loss. I acknowledge that

any such intermediary is not ANZ's agent and I agree to the payment by ANZ of a commission, fee or other remuneration to that intermediary should it choose to do so.

- 7.9 ANZ may, at any time and from time to time, waive on conditions its rights to receive fees under clause 7. If we do not, for any reason, collect a fee or charge to which we are entitled, we have not waived our rights to collect the fee or charge for future transactions of the same nature.

8. Mortgage covenants

- 8.1 I covenant and agree with ANZ as follows:

- 8.1.1 In the event of legal title to all or any of the Goods not having vested in me at or prior to the execution of this Mortgage, I will acquire the legal title and possession of the Goods free from all encumbrances. The legal title to the Goods will, at or after the acquisition by me, vest in ANZ as Mortgagee when I use the Goods or when I make any payment to ANZ, whichever occurs first;
- 8.1.2 I must satisfy myself as to the quality, suitability, safety and fitness for purpose of the Goods, including (but not limited to) the extent to which they are Information Field Compliant. To the extent permitted by law, I indemnify ANZ against all loss suffered or incurred by ANZ or claimed by any person directly or indirectly relating to the Goods or their use.
- 8.1.3 I will:
- 8.1.3.1 maintain and keep the Goods in good order, condition and repair, normal wear and tear excepted. However, in the event of the Goods being damaged or in need of service, repair or refurbishment, I will have the Goods repaired and/or serviced and/or refurbished and I will ensure that no right, lien, pledge or charge in favour of a person who conducted the repairs or service will arise under any circumstances. I do not have nor am I deemed to have any authority to pledge ANZ's credit or create any lien over the Goods for any reason;
- 8.1.3.2 notify ANZ in writing immediately upon the loss of or any damage to the Goods, however caused;
- 8.1.3.3 comply with all requirements of law relating to the Goods or their possession or use. If the goods are capable of being registered, I will register the Goods and ensure that third party Insurance relating to the Goods is paid;
- 8.1.3.4 not conceal the Goods or refuse to disclose their whereabouts nor part with personal possession or control of the Goods without ANZ's consent in writing nor alter them or any identifying number or mark;
- 8.1.3.5 not, without the prior written consent of ANZ, sell, hire, dispose or encumber the Goods or any of them nor attempt to do any of these things;
- 8.1.3.6 not, without the prior written consent of ANZ, change the usual location of the Goods. I will also produce the Goods for inspection or test on request by ANZ;
- 8.1.3.7 prior to any change of address, promptly notify ANZ in writing of my proposed new address;
- 8.1.3.8 irrevocably authorise ANZ, in its discretion, to use my name and act for me in exercising any of ANZ's or my rights or in starting, carrying on or enforcing any legal proceedings which ANZ may think desirable to protect its rights in the Goods;
- 8.1.3.9 pay ANZ on demand its expenses of and incidental to the stamping, lodging, registration and discharge of this Mortgage and in the recording of ANZ's interest as Mortgagee under any relevant law. I will repay to ANZ on demand any amount which ANZ may pay to make good any failure by me to comply with any obligation contained in this Mortgage, or which ANZ may incur in the enforcement of this Mortgage. ANZ may, if it thinks fit, remedy any default by me under this Mortgage, including any payment necessary to effect servicing repair or refurbishing of the Goods which I ought to have done under this clause. I agree to pay to ANZ on demand any sum expended or incurred to make good such default, including any expenses of satisfying any lien or pledge or prior mortgage created over the Goods, together with interest thereon at the Contract Rate, calculated from the time of payment by ANZ;
- 8.1.3.10 if ANZ incurs any liability for Goods and Services Tax in relation to any supply under or in connection with this Mortgage (and that liability is not otherwise recovered under another provision of this Mortgage), reimburse

ANZ if it incurs any liability for Goods and Services Tax in relation to the net cost to ANZ of that Goods and Services Tax liability by paying the net cost to ANZ on demand. The net cost of that Goods and Services Tax liability will be calculated by ANZ to allow for any Input Tax Credits (and the like) to which ANZ is entitled or which ANZ has received in respect of this original liability of ANZ for the relevant Goods and Services Tax.

- 8.1.4 I further agree that:
- 8.1.4.1 ANZ, its servants and its agents may, as my agent, enter any premises where ANZ believes the Goods or any of them may be located, to test, inspect or take possession of them, pursuant to the powers contained or implied in this Mortgage. I will indemnify ANZ against any liability and costs it may incur in the exercise of its powers under this paragraph;
 - 8.1.4.2 where any amount is payable by ANZ to me under this agreement or in relation to the Goods, ANZ may set-off partially or fully this amount in reduction of any other amount that I may owe to ANZ whatsoever;
 - 8.1.4.3 no time or other indulgence granted to me will operate as a waiver of ANZ's rights (except to the extent indicated by ANZ in writing) in respect of any continuous or recurring or subsequent breach by me.

9. Default

- 9.1 If:
- 9.1.1 I default in any payment due under this Mortgage or, subject to clause 8, I commit any breach of my covenants or obligations contained in this Mortgage; or
 - 9.1.2 a receiver, controller, liquidator, provisional liquidator, administrator, trustee or official manager is appointed to me or any of my assets or income;

and that default continues for seven (7) days, the Recoverable Amount will, at the election of ANZ, (and without the need for any notice of that election to be given to me) become immediately due and payable by me to ANZ and ANZ may then exercise any of the powers described in clause 10 without the need for any notice or demand.

- 9.2 If:
- 9.2.1 any distress or execution is issued against me or my assets and is not satisfied within seven (7) days; or
 - 9.2.3 I stop or suspend payment or state an intention to do so or propose or make any composition or arrangement with creditors; or
 - 9.2.4 the Goods are totally or substantially damaged, lost, stolen or forfeited; or
 - 9.2.5 ANZ believes on reasonable grounds that it was induced by fraud to enter into this Mortgage; or
 - 9.2.6 ANZ believes on reasonable grounds that I have breached or that I intend to breach any of my covenants or obligations contained in clauses 8.1.3.4 and 8.1.3.5 or that urgent action is necessary to protect the Goods;
 - 9.2.7 I die or am or become subject to any legal Incapacity; or
 - 9.2.8 the Goods are used for the commission of any offence which might result in their confiscation or forfeiture to the Crown, or any distress, attachment, execution or other form of process is levied or enforced against the Goods,

then the Recoverable Amount will be immediately due and payable by me to ANZ and ANZ may exercise the powers mentioned in clause 10 and clause 13.1 without the need for any notice or demand to be given to me.

10. Power of sale

- 10.1 The powers referred to in clause 9 include those set out in clauses 10.1.1 to 10.1.5 below, together with any implied or express statutory powers in favour of a mortgagee of goods. In particular, ANZ's powers will include the power:
- 10.1.1 to seize and take possession of all or any part of the Goods without my prior consent;
 - 10.1.2 either with or without seizing the Goods and without notice to me, to sell or dispose of part or all of the Goods, at auction or by private treaty (including disposal to or through traders dealing in goods of a like description), either in one lot or several lots at one or different times and either for cash or on terms and any other conditions as ANZ may think fit;
 - 10.1.3 to give valid discharges for purchase moneys and other consideration payable in respect of the disposal of the Goods. No such sale or disposal will be impeachable on the ground that the sale was not authorised or that any notice was not given. No purchaser

- will be obliged to see or enquire whether a sale or disposal has been authorised or that the power is otherwise properly and regularly exercised;
- 10.1.4 to execute any transfer, assignment or other instrument which ANZ considers necessary to give effect to any such sale or disposal of the Goods;
- 10.1.5 to apply money arising from any sale or disposal of the Goods toward the costs of selling or disposing of the Goods, then to the Recoverable Amount. If there is any residue, ANZ will pay it to me.

11. Rebate of interest

- 11.1 The rebate of interest referred to in clause 4 of this Mortgage will be an amount equal to:
- 11.1.1 where no part of Section 2 of the Table has been completed, the total amount of interest stated in the Table multiplied by the sum of all the whole numbers from 1 to the number of complete months in the period of this Mortgage still to go (at the Next Calculation Date) and divided by the sum of all of the whole numbers from 1 to the total number of complete months in the total period of this Mortgage;
- 11.1.2 where any part of Section 2 of the Table has been completed, the amount of interest attributable on a Monthly Actuarial Basis to the period of this Mortgage still to go after the Next Calculation Date.

12. Power of attorney

- 12.1 For valuable consideration and to secure each and every proprietary interest of ANZ and the performance of each and every obligation owed to ANZ under this Mortgage, I irrevocably grant and give power to and irrevocably appoint ANZ as my true and lawful attorney (with the power from time to time to appoint and remove a substitute or substitutes) while any money remains secured or agreed to be secured under this Mortgage. Possession of this Mortgage or a duplicate hereof will be conclusive evidence of the powers granted to ANZ under this clause. ANZ may, in my name or jointly in my and ANZ's names, do any one or more of the following acts matters or things, namely:
- 12.1.1 do any act or execute any deed or other document relating to the exercise of any of the express or implied powers contained in this Mortgage, including to perfect ANZ's title to the Goods or to further assure the Goods to ANZ;
- 12.1.2 do any matter, act or thing which I should do or should have done under this Mortgage;
- 12.1.3 conduct any legal proceedings or disputes with any person claiming any interest in some or all of the Goods, or in connection with any insurance or other money which ANZ is authorised to receive, including the giving of effectual receipts and releases relating to or affecting the Goods;
- 12.1.4 apply for and obtain any data or information of any kind relating to the Goods, their registration or location from any body authority or corporation (whether the same be public or private or State or Federal) to the same extent as if I were applying for or obtaining the information personally.

13. Additional conditions

- 13.1 This Mortgage incorporates, in favour of ANZ, all powers ("statutory powers") implied by law in favour of a mortgagee and the covenants implied in a conveyance by way of mortgage by a person who conveys and is expressed to convey as beneficial owner under an Act or Ordinance of the State or Territory of Australia in which this instrument is executed by me as if this instrument were executed as a deed of conveyance by me as beneficial owner and incorporated such powers and covenants at length, but so that such powers will, to the maximum extent permitted by that Act or Ordinance, be extended in such a manner as to be no less ample than the express powers contained in this Mortgage.
- 13.2 If I am a trustee of any trust, I am liable under this Mortgage both personally and as trustee of the trust. A reference to me is a reference to me in my personal capacity and also in my capacity as trustee of each trust. I confirm that I am authorised, by the terms of the trust deed and by the beneficiaries of the trust, to borrow money and to give a charge, pledge, lien or mortgage over the assets of the trust to secure any payments to ANZ.
- 13.3 This Mortgage is governed by the law in force in the place where the first Mortgagor resides as at the date of this Mortgage. I agree to submit to the non-exclusive jurisdiction of the courts that have jurisdiction under the law of that place, and the law of the Commonwealth of Australia, if applicable.
- 13.4 Any proceedings in respect of any cause of action arising under this Mortgage may be instituted, heard and determined in a Court of competent jurisdiction in the capital city of the State or Territory of my address shown in the agreement. It is agreed that such Court will possess territorial jurisdiction to hear and determine any such proceeding.

- 13.5 A certificate signed by any person authorised by ANZ stating the amounts of the Principal Sum, the Recoverable Amount, any Early Payment Loss, the rebate of interest and/or the Contract Rate will be prima facie evidence of those amounts or matters.
- 13.6 If there is more than one of us, then, if ANZ deals with any one of us, it will be taken to have dealt with all of us.

14. Use of commercial credit information

- 14.1 I agree that ANZ and Esanda Finance Corporation Limited may obtain from each other information about my commercial activities and commercial credit worthiness.

15. Variations and changes

- 15.1 Subject to providing me with not less than 30 days prior notice in writing, ANZ can do any of the following:
- 15.1.1 introduce a new fee or charge;
 - 15.1.2 change the manner in which interest is calculated, charged or debited; and
 - 15.1.3 change the number of the repayments, together with the dates of which they are to be paid.
 - 15.1.4 ANZ may vary any of the remaining terms and conditions of this Mortgage by giving me written notice of the variations no later than the date on which the variation takes effect by advertisement in a national newspaper or by written notice. That notice may be comprised of a copy of the terms and conditions, as varied.

16. Joint and several liability

- 16.1 If there is more than one person who is a party to this Mortgage as the Mortgagor, then each of us is liable to ANZ individually under this Mortgage, as well as jointly liable with each other.

17. Privacy and confidentiality – ANZ Group’s collection, use and disclosure of personal information

- 17.1 References to ANZ Group in the following clauses, means Australian and New Zealand Banking Group Limited ABN 11 005 357 522 and Esanda Finance Corporation Limited ABN 64 004 346 043.
- 17.2 Where I am an individual, I understand that when I deal with ANZ Group, ANZ Group is likely to collect and use some of my personal information. ANZ Group may collect and use my personal information in the following circumstances.
- 17.2.1 ANZ Group may collect my personal information:
 - 17.2.1.1 to assist in providing information to me about a product or service;
 - 17.2.1.2 to consider my request for a product or service;
 - 17.2.1.3 to enable ANZ Group to provide a product or service;
 - 17.2.1.4 to tell me about other products or services that may be of interest to me;
 - 17.2.1.5 to assist in arrangements with other organisations (such as loyalty partners) in relation to the promotion and provision of a product or service;
 - 17.2.1.6 to perform other administrative and operational tasks (including risk management, systems development and testing, credit scoring, staff training, and market or customer satisfaction research);
 - 17.2.1.7 to prevent or investigate any fraud or crime (or suspected fraud or crime); and
 - 17.2.1.8 as required by relevant laws, regulations, Codes and external payment systems.
- 17.3 I understand that if I do not provide some or all of the information requested by ANZ Group, it may be unable to provide me with a product or service.
- 17.4 Although ANZ Group is subject to a general duty of confidentiality towards its customers, ANZ Group may need to disclose my personal information to:
- 17.4.1 my referee(s);
 - 17.4.2 credit reporting or debt collection agencies;
 - 17.4.3 an organisation that is in an arrangement or alliance with ANZ Group for the purpose of promoting or using their respective products or services (and any agents used by that organisation in administering such an arrangement or alliance);
 - 17.4.4 any external provider ANZ Group engages to carry out or assist its functions and activities, including service providers located overseas;

- 17.4.5 any other party who has an interest in the property offered as security, or who acquires an interest in that property or the credit facility provided by ANZ Group to me;
 - 17.4.6 regulatory bodies, government agencies, law enforcement bodies and courts;
 - 17.4.7 other parties ANZ Group is authorised or required by law to disclose information to;
 - 17.4.8 any intending guarantor of the proposed credit facility, and during the life of the guarantee to any guarantor;
 - 17.4.9 other financial institutions (such as banks);
 - 17.4.10 mortgage insurers and any reinsurer of any such mortgage insurer;
 - 17.4.11 any Intermediary who introduces me to ANZ Group;
 - 17.4.12 any person acting on my behalf, including my financial advisor, attorney, lawyer, accountant or executor.
- 17.5 I consent to the disclosure of my personal information to any of these persons by ANZ Group where the need for such disclosure arises.
- 17.6 Subject to the provisions of the *Privacy Act 1988*, I may access my personal information at any time by asking to do so at any ANZ branch. ANZ Group may charge me a reasonable fee before providing access.
- 17.7 If I can show that personal information held by ANZ Group about me is not accurate, complete and up to date, ANZ Group must take reasonable steps to ensure it is accurate, complete and up to date.
- 17.8 I understand that ANZ Group will not collect sensitive information about me, such as health information, without my consent.
- 17.9 If I give ANZ Group personal information about someone else, I will show them a copy of this clause so that they may understand the manner in which their personal information may be used or disclosed by ANZ Group in connection with my dealings with ANZ Group.

18. Application of the Code of Banking Practice

- 18.1 If I am an individual or a small business (as defined in the *Code of Banking Practice*) ANZ is bound by the *Code of Banking Practice* when it provides its products or services to me.

19. Notices

- 19.1 ANZ can send a written notice, or demand for payment to me by sending it by post, facsimile or similar facility to my residential or business address or by leaving it at that address. ANZ can use the last known address it has recorded for me. If I change my name or address, I must let ANZ know as soon as possible. If there is more than one person who is a party to this Mortgage as the Mortgagor, any notice, or demand will be given to each of us at our residential or business address.
- 19.2 A notice, or demand from ANZ will be considered to have been received by me:
- 19.2.1 if left at my address, on the date delivered or the date it bears, whichever is the later;
 - 19.2.2 if sent by post, on the date it would have been delivered in the ordinary course of post or the date it bears, which ever is the later; and
 - 19.2.3 if sent by facsimile or other electronic means, on the date the transmitting machine reports it was sent, whichever is the later; and
- a demand for payment can be signed by any officer of ANZ, or any agent authorised by an officer of ANZ. Any other form of notice need not be signed, unless the law requires it.

20. Transfer of ANZ's rights

- 20.1 ANZ may, without telling me or obtaining my consent:
- 20.1.1 assign any of its rights under this Mortgage; and
 - 20.1.2 give information about this Mortgage and your obligations under this Mortgage to any assignee of ANZ's rights under this Mortgage, or anyone who is considering becoming an assignee.

21. Complaints and dispute resolution

- 21.1 If ANZ makes a mistake, or its service does not meet my expectations, I should inform ANZ. For the fastest possible resolution to my complaint, I may call ANZ on 1800 805 154, talk to staff at my local ANZ branch or business centre, or send a letter to ANZ Customer Response Centre via:

ANZ Customer Response Centre

Mail: Locked Bag 4050, South Melbourne, VICTORIA, 3205

Email: YourFeedback@anz.com

Fax: +61 3 9683 9267

21.2 I understand that the ANZ's specialist complaints team, at the Customer Response Centre, will take responsibility and work with me to fix the matter quickly. ANZ's aim is to resolve all customer complaints within ten (10) working days. If this is not possible, ANZ will keep me informed on the progress of my matter and how long it expects it will take to resolve my complaint.

21.3 If my complaint is not resolved to my satisfaction, I can ask to have it reviewed by ANZ's Customer Advocate who will provide a free review of more difficult complaints to help achieve a prompt solution. Contact details:

ANZ Customer Advocate

Mail: 100 Queen Street, Melbourne, VICTORIA, 3000

Tel: +61 3 9273 6523

Email: customeradvocate@anz.com

21.4 If I am not satisfied with the steps taken by the ANZ to resolve the complaint, or with the result of its investigations, I may wish to contact the following alternative dispute resolution scheme:

Financial Ombudsman Service Limited

Mail: GPO Box 3, Melbourne, VICTORIA, 3001

Tel: 1300 780 808

Fax: +61 3 9613 6399

Email: info@fos.org.au

22. If I meet financial difficulty

I understand that I should inform ANZ as soon as possible if I am in financial difficulty. In such a situation, I can request that ANZ try to help me overcome any financial difficulties I may have in meeting my obligations under this Mortgage. ANZ may, for example, be willing to discuss or agree to a new repayment plan.