AU-LDGloa16

Loan agreement: company; secured on financial instruments

Borrower: [Name]

Lender: [Name]

Date: [Date]

This agreement is dated [date] ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ :

[ABC] Pty Ltd, a company registered in Australia [with Australian Company Number [number] and] whose ■ [■ ■ ■ ■ ■ ■ ■ ■] (■ ■ ■ ■ " ■ ■ ■ ■ ")

And

[DEF] Pty Ltd, a company registered in Australia [with Australian Company Number [number] and] whose ■ [■ ■ ■ ■ ■ ■ ■ ■], (■ ■ ■ ■ " ■ ■ ■ ■ ").

And

[Name] of [full address], (■ ■ ■ ■ " ■ ■ ■ ■ ")

Background:

The purpose of this agreement is to set out the contractual terms under which the Lender will lend and the Borrower will borrow the sum of the Initial ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

“Initial Loan”	means the principal sum agreed to be lent ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ .
“Loan”	means the total amount of money outstanding at any time and due ■ .
“Repayment”	means a sum paid by the Borrower to the Lender which has ■ .
“Security”	means a financial instrument or other valuable right.
“Default”	means the one of the circumstances set out ■ ■ ■ ■ ■ ■ ■ ■ 9 ■ ■ ■ ■ .

2. Interpretation

In this agreement unless the context otherwise requires:

2.1 a reference to one gender includes any or all genders and a reference to the singular may be interpreted where ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

2.7 [except where stated otherwise,] any obligation of any person arising from this ■ ■ ■

3.7 the Financial Information has been prepared to conform with generally accepted accounting principles applied on a [redacted];

3.8 the Borrower has no undisclosed contingent obligations;

3.9 there are no material, [redacted];

3.10 the Borrower will advise the Lender [redacted];

3.11 no litigation, arbitration proceedings or governmental proceedings are pending [redacted];

3.12 none of the assets of the Borrower is subject [redacted];

3.13 the Borrower has filed all tax returns, [redacted];

3.14 the proceeds of the [redacted].

4. Amount of Loan and Advances

4.1 The Initial [redacted] $[ ].

4.2 The Loan will be advanced in [redacted].

OR

4.3 The Loan will be drawn [redacted].

OR

© NL Document Library Ltd

4.4 The initial draw down of the Loan shall [redacted].

AND/OR

4.5 Before any new Advance is drawn [redacted], [redacted]/[redacted], [redacted]:

[specify information required].

5. Security

5.1 The Borrower pledges [redacted].

5.2 The Securities are listed in Schedule 1 where each is marked [redacted]. [redacted].

5.3 Whilst ever any part of the Loan remains outstanding, [redacted].

5.4 If the Borrower is asked to transfer title in a [redacted], [redacted], [redacted].

5.5 If the transfer of title to any Security results in either any payment by, [redacted], [redacted], [redacted].

5.6 If and whenever the value of the Security, as published in a recognised publication or by a recognised market, falls below [80]% of the value today, [redacted]. [redacted] [[redacted]] [redacted], [redacted].

© NL Document Library Ltd

6. Interest payable

6.1 Interest on the ■■■

7.4.1 in multiples of $[number];

7.4.2 a minimum of $[number];

7.4.3 applied to any instalments [redacted].

7.5 The Borrower may, not more than once in every [two calendar months], demand a statement from the Lender [redacted].

7.6 All payments due to the Lender of both capital and interest [redacted].

7.7 The Borrower may repay all or part of the Loan before the due date for Repayment provided that not [redacted].

8. No change to capital structure and administration

Until the Loan [redacted]:

8.1 make any share issue by way [redacted];

8.2 issue new share capital nor modify the rights attaching to [redacted];

8.3 reduce its share capital or any uncalled [redacted];

8.4 change the location [redacted];

© NL Document Library Ltd

8.5 sell its undertaking or any fixed [redacted] $[000];

8.6 change its accounting system [redacted];

8.7 make any other [redacted].

9. Event of Default

An “Event of Default” occurs when:

9.1 the Borrower fails to pay in full and on the [redacted] [[redacted]] [redacted]; [redacted]

9.2 a petition is presented [redacted]; [redacted]

9.3 one or more Security is dealt with [redacted]; [redacted]

9.4 in the opinion of the Lender, [redacted]; [redacted]

9.5 a receiver is appointed to the Borrower; [redacted]; [redacted]

9.6 a petition is presented for the [redacted].

10. Notice of Default

10.1 Where an Event of Default has occurred the Lender may issue a “ [redacted] ”. [redacted], [redacted] [redacted].

10.2 From the date when the Lender issues a Notice of Default, [redacted]

© NL Document Library Ltd

[redacted].

10.3 Each Event of Default stands on its own, [redacted].

10.4 When an Event of Default happens, the [redacted].

11. Consequences of Default

11.1 At any time after issue of a valid Notice of [redacted], [redacted], [redacted]:

11.1.1 asserting that the beneficial interest [redacted], [redacted];

11.1.2 [redacted], [redacted];

11.1.3 [redacted].

11.2 [redacted], [redacted], [redacted].

11.3 [redacted], [redacted]/[redacted].

11.4 [redacted], [redacted]. [redacted].

© NL Document Library Ltd

12. Assignment

12.1 [redacted], [redacted], [redacted].

12.2 [redacted].

12.3 [redacted], [redacted].

13. Promise to provide information

[redacted], [redacted], [redacted], [redacted]:

13.1 [redacted] [[redacted]] [redacted] / [redacted], [redacted] 3;

13.2 [redacted] [[redacted]] [redacted], [redacted] ([redacted]) [redacted], [redacted];

13.3 [redacted], [redacted];

13.4 [redacted].

© NL Document Library Ltd

14. The Guarantor

The Guarantor agrees:

14.1 [redacted];

14.2 [redacted];

14.3 [redacted];

14.4 [redacted]. [redacted], [redacted], [redacted];

14.5 [redacted] [28] [redacted];

14.6 [redacted].

15. Miscellaneous matters

15.1 [redacted], [redacted] - [redacted], [redacted].

15.2 [redacted].

15.3 [redacted].

© NL Document Library Ltd

15.4 [redacted].

15.5 [redacted].

15.6 [redacted].

15.7 [redacted].

15.8 [redacted].

It shall be deemed to have been delivered:

[redacted]:

[redacted]:

[redacted] 72 [redacted];

[redacted]: [redacted] *24* [redacted]. *[*[redacted]*].*

15.9 [redacted].

© NL Document Library Ltd

15.10 ■■■

Schedule 1: the Securities

1

2

3

4

© NL Document Library Ltd

Schedule 2: Loan Repayment

Dates	Amount to paid
dd-mm-yy	$000
dd-mm-yy	$000
dd-mm-yy	$000
dd-mm-yy	$000

© NL Document Library Ltd

Schedule 3: example financial report

[[redacted].]

© NL Document Library Ltd

Explanatory notes:

Loan agreement: company; secured on financial instruments

General notes

1. Registering a charge

You should consider registration of the debt as a “security interest”. Registration of security interests protects you against your borrower’s insolvency and preserves ■ ■ ■

The definition of interest rates is important. It is not lawful to specify a "penalty" in any contract, no matter what you call it. A claimant is only ever entitled to his "■ ■ ■ ■ ■ ■ ■ ■ ", ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ , ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

This paragraph provides options for alternative draw down arrangements. The [redacted].

If the lender requires further information, you [redacted].

A provision for scheduled repayments by date is usually simplest to administer. If you go for other trigger events, they should be carefully [redacted].

5. Security

We have no idea what securities will be lodged as security as that is for your negotiation. Shares in a private company are usually evidenced by a certificate. Shares in [redacted].

To strengthen the lender's position, we have provided for the possibility of securities being transferred into the name of the lender for the duration of the loan. This will not always be possible or practical. We have therefore also provided for the lender to be able [redacted].

If the security or part of it, is quoted publicly and falls [redacted].

6. Interest payable

The provision for cumulation of interest should have careful attention, particularly if the interest rate is high. Cumulation has the effect of adding the interest to the capital, so that the [redacted].

7. Repayment

We have provided a menu of suggestions. [redacted].

© NL Document Library Ltd

8. No change to capital structure and administration

This is obviously an important provision for a corporate borrower. If the lender [redacted], [redacted].

9. Event of Default

Provisions for "what happens if [redacted]" [redacted]. [redacted], [redacted].

10. Notice of Default

No comments

11. Consequences of Default

The last sub paragraph is the law. [redacted]. [redacted] - [redacted].

12. Assignment

No comments

13. Promise to provide information

It is entirely the lender's choice what information he requires. It [redacted] - [redacted]. [redacted]. [redacted], [redacted].

14. The Guarantor

Delete if there is no guarantor. [redacted], [redacted]. [redacted].

15. Miscellaneous matters

A number of matters each [redacted]. [redacted].

Schedule 1: the Securities

List the securities [redacted], [redacted] / [redacted].

© NL Document Library Ltd

Schedule 2: Loan Repayment

This covers the option mentioned in the agreement. [redacted], [redacted], [redacted], [redacted].

Schedule 3: example financial report

Delete if not required.

End of notes

© NL Document Library Ltd