

## TERMS AND CONDITIONS

These are specimen terms and conditions. Applications to offer to enter into a credit contract between Elantis and the Borrower will be subject to their terms. Offers will be valid for 15 days and acceptance of any offer is subject to a satisfactory credit risk assessment of the Borrower.

### 1. Defined Terms

**Additional Charges** are those fees and charges described in clause 4.

**Annual Percentage Rate (APR)** is the rate that is used to calculate the cost of the loan taking account of the reducing balance of the Loan Amount, expressed as an annual rate. For the purposes of calculating the APR, the cost of the loan is exclusive of fees. The APR is indicative and assumes the loan starts on the inception date of the insurance policy(ies) being funded. The Total Repayment Amount (including Application Fee) will not exceed the sum shown even though the APR will differ if the date of acceptance of the offer is later than the inception date of the insurance policy. The APR is not a term of the offer and is provided to allow a simple comparison of insurance premium funding products. For further details see APR on our website at <http://www.elantis.com.au/resources>

**Application Fee** means any fees charged by the lender which is in relation to the application for the Credit Contract.

**Business Day** means a day which is not a Saturday, Sunday or a public or bank holiday in the place where the relevant act is to be performed.

**Commission** is a fixed percentage of the Total Amount Financed.

**Default Interest Rate** means the Westpac Reference Lending Rate published by Westpac Banking Corporation from time to time plus 3%.

**Event of Default** is any one of the events described in clause 7.

**Flat Interest Rate** is the rate calculated as the Total Cost of Credit excluding the fees divided by the premium being funded. It does not take into account the Loan Term or reducing the balance of the loan.

**Insurance Proceeds** is any and all moneys payable by the Insurer to an insured on cancellation of any Policy or upon the occurrence of any claim, event or circumstances covered by any of the Policy, including any refund of premium paid or payable by the Insurer in respect of the Policy.

**Intermediary** means the entity named as the 'Intermediary' on page 1 and/or any Australian Financial Services licensee of which the entity is a representative.

**Intermediary (Broker) Group and/or Authorised Representative Network** means a parent company, with subsidiaries, members, affiliated companies, corporate authorised representatives, or a company which is an Australian financial Services licence holder and is part of a larger multinational broker group.

**Loan Amount** is the total amount of the finance made available, or to be made available, under the Credit Contract.

**Loan Term** is the period expressed as a number of months (including any part of a month) over which the Total to be Repaid is to be paid to the lender.

**Policy** is the insurance policy or policies listed on our Offer to Borrow and any other insurance policies agreed by Elantis.

**Potential Event of Default** means anything which with notice, time or both would become an Event of Default.

**Service Fee** means a fixed fee payment for services provided to Elantis in connection with the distribution, referral or marketing of the insurance premium funding product (such as administration, accounting, payments processing, data management, training, marketing, and information technology software or support).

**Total Amount Financed** represents the Total Premium less any deposit paid to Elantis.

**Total Cost of Credit** is calculated on the Total Amount Financed and includes all interest charges, GST and other statutory fees and charges payable for the loan plus the application fee.

**Total Premium** includes the premium charged by Insurer, GST, fire services levy, stamp duty and any fees/brokerage/charges payable to the Intermediary or anyone else in relation to the Policy.

**Total to be Repaid** is the Total Amount Financed plus Total Cost of Credit.

All other capitalised terms including 'Application Fee', 'Date of First Instalment', 'Date of Last Instalment', 'Total Initial Payment' and 'Total to be Repaid' have the meaning given to them on page 1 of our Offer to Borrow.

### 2. Provision of Finance and conditions precedent

(a) Upon acceptance of the Borrower's Offer, the Borrower must pay to Elantis the Total Initial Payment and the Application Fee (if applicable) by the Date of First Instalment.

(b) The obligations of Elantis under this agreement are subject to the following conditions precedent:

- (i) any representations and warranties by the Borrower in the Offer are true in all material respects and not misleading as though they had been made at each date in respect of the facts and circumstances then subsisting;
- (ii) no Event of Default or Potential Event of Default continues or will result from the provision of the financial accommodation; and
- (iii) the Borrower has made all required payments to Elantis including those under clause 2(a).

(c) Subject to the satisfaction of clause 2(b), Elantis will pay the Total Premium to the Intermediary or Insurer(s). Payment of the Total Premium to the Intermediary or Insurer is a full and complete discharge of Elantis' obligations under this agreement; and

(d) If a Policy allows payment by instalments, Elantis may pay the Total Premium by instalments on or before the dates due except where an Event of Default occurs.

### 3. Borrower's Payment Obligations

The Borrower must pay to Elantis the Total to be Repaid by equal monthly instalments. Subsequent instalments must be paid on the same day of each month thereafter ending on the Date of the Last Instalment. The Total to be Repaid can be repaid at any time, by the Borrower, all outstanding amounts to Elantis. Subject to the terms of this Agreement, no further obligations to repay will apply after Elantis receives the Total Amount to be Repaid. Any amount owing to Elantis must be paid by the Borrower in full without any withholding or deduction. The Borrower waives all rights of set-off, combination or counterclaim in relation to money owing under this agreement.

### 4. Fees and Charges

The following Additional Charges may be charged to reimburse Elantis for reasonable costs incurred in enforcing its rights under this agreement:

**Cancellation Fee** – may be charged for termination of this agreement following an Event of Default. No Cancellation Fee will be charged where the Total Amount Financed is for Policies used wholly or predominantly for personal, domestic or household purposes

**Default Interest** – charged at the Default Interest Rate and accruing daily on the outstanding instalment if it is not paid by the due date and for the period it remains outstanding..

**Dishonour Fee** – incurred for each payment returned as dishonoured. Details of these fees are advised on our website at: <http://www.elantis.com.au/resources>

## 5. Security and Powers of Attorney

By signing the Offer, the Borrower authorises Elantis to make enquiries with each Insurer as to the nature, validity, currency and existence of the relevant Policy at any time before or after Elantis pays the Total Premium.

To secure its obligations under this agreement and any other agreement with Elantis, the Borrower:

- (a) absolutely assigns to Elantis the right to claim, demand, sue for, recover, settle and receive the Insurance Proceeds;
- (b) absolutely assigns to Elantis the right to cancel the Policy;
- (c) promises, whilst any part of the Total to be Repaid is unpaid, and/or while the Borrower remains indebted to Elantis under any other agreement, that it will:
  - (i) not do or allow anything which might prejudice the assignment under clause 5 or any security granted to Elantis; and
  - (ii) ensure that any Policy will remain free from all security interests other than any security interest granted to Elantis; and
- (d) for valuable consideration irrevocably appoints Elantis and any director, secretary or employee of Elantis or any related corporation as the Borrower's true and lawful attorney with power after the occurrence of an Event of Default to the extent allowed by law (and pursuant to clause 8) to cancel or otherwise deal with any Policy, to make, pursue and settle any claims in connection with any Policy, to receive and give receipts for Insurance Proceeds, receive notices from the insurer and otherwise deal with any Policy and Insurance Proceeds as the attorney considers desirable to ensure the Borrower pays the Total Amount Financed and all other moneys owing under this agreement to Elantis.

The Borrower agrees and accepts that as the Borrower's attorney, Elantis, any director, secretary or employee of Elantis or any related corporation may instruct the Intermediary in relation to the Policy and in accordance with this agreement, the Intermediary may act on those instructions as if they had been given by the Borrower. The Borrower may upon prior written notice to Elantis, cancel any Policy funded under this agreement on the condition that the Insurance Proceeds are paid to Elantis to repay the Total to be Repaid and any other moneys owed to Elantis. To the maximum extent permitted by law, nothing shall affect Elantis' right to exercise its powers under this agreement. Upon payment of all money owing to it, Elantis' rights to any Insurance Proceeds in priority to the Borrower will cease immediately.

## 6. Intermediary Offers

The Borrower for valuable consideration irrevocably appoints the Intermediary and any director, secretary or employee of the Intermediary as the Borrower's true and lawful attorney with power to make an offer to Elantis to fund other insurance premiums for the Policy including for renewals, variations and endorsements to any Policy on behalf of the Borrower. Elantis may engage and communicate with the Intermediary or any director, secretary or employee of the Intermediary as the Borrower's attorney and representative and is entitled to rely on the instructions of the Intermediary and any information or representations made by them. Elantis relies on the accuracy of the information provided by it to by the Borrower, the Intermediary or by others on behalf of the Borrower. Elantis will not normally seek to verify or check any information provided to it by them. If Elantis, in its absolute discretion, accepts an offer to fund other insurance premiums for the Policy from the Intermediary, it will confirm with the Borrower or the Intermediary in writing the details of that funding and the funding will be provided on the terms and conditions contained in that document.

## 7. Events of Default

An Event of Default occurs if:

- (a) the Borrower fails to make a payment to Elantis when due and payable and if this is the first time the Borrower has defaulted, it will only be an Event of Default if the Borrower fails to make the payment within 7 days after a written notice of the default is given by Elantis;
- (b) any terms of a Policy or the Insurer interferes with Elantis' exercise of its rights upon the occurrence of an Event of Default;
- (c) a corporate Borrower becomes or may (on the granting of an application made or the passing of any resolution) become an externally administered body corporate within the meaning of the Corporations Act;
- (d) an individual Borrower commits an act of bankruptcy or a trustee in bankruptcy is appointed to an individual Borrower;
- (e) the Policy is cancelled or becomes or is claimed to be void or voidable;
- (f) the Borrower is not able to perform its obligations under this agreement or Elantis' security under this agreement is not exercisable in the manner intended by Elantis or has been or is likely to be prejudiced in some way;
- (g) any representation or warranty given by the Borrower to Elantis is materially false or misleading;
- (h) the Borrower breaches any other undertaking under this agreement it will only be an Event of Default if the Borrower fails to remedy the breach within 7 days after a written notice of the breach is given by Elantis; (i) there is a claim for a total or substantial loss of the property the subject of the Policy; or
- (j) a claim arises under the Policy and the Borrower fails to meet the Insurer's requirements.

## 8. Elantis' rights upon Event of Default

If an Event of Default occurs:

- (a) Elantis may terminate any of its obligations under this agreement;
- (b) Elantis may declare that any money owing to it under this agreement are immediately due and payable or payable on demand whereupon they shall become payable on demand; (c) the Borrower must upon demand by Elantis immediately pay any moneys which are due and payable to Elantis (including any Additional Charges, and any other reasonable costs and expenses which Elantis determines are attributable to the period up to the date of the demand);
- (d) Elantis may cancel or otherwise deal with any Policy, including exercising the Borrower's rights under any Policy and dealing with the Insurance Proceeds as it considers desirable to protect Elantis' position and recover money owing by the Borrower to Elantis;
- (e) Elantis may make and pursue (by legal action or otherwise) and settle any claim under any Policy and receive and give receipts for any money payable in connection with any Policy
- (f) Elantis may apply any money received from or on account of the Borrower (including from Insurance Proceeds) against any of the Borrower's indebtedness to Elantis; and
- (g) Elantis is not obliged in any way to maintain the Policy or pay the Total Premium (or any instalment thereof) to an Insurer or Intermediary for the Policy.

## 9. Demands and Notices

For Borrowers where the Total Amount Financed is wholly or predominantly used for household, domestic or personal purposes, Elantis will not cancel the Policy unless the Borrower has breached its obligations under this agreement and only if after Elantis gives the Borrower 7 days' notice of cancellation of the Policy, the breach is not remedied by the Borrower within that time. Any written demand or notice by Elantis may be signed by an officer or employee of Elantis. Elantis may serve demand or notice upon the Borrower by hand delivery or post to the address nominated by the Borrower, delivery to the Borrower's last known facsimile number or to the email address nominated by the Borrower.

A notice posted will be deemed received on the 3rd business day after posting.

A notice sent by email will be deemed to be received immediately after sending.

A notice sent by facsimile transmission will be deemed received on production of a transmission report showing the facsimile was sent to the Borrower's facsimile

number without error. Any communication by or to the Intermediary will be regarded as having been given by or to the Borrower. Such communication sent by Elantis will be deemed received by the Borrower when it is received by the Intermediary.

## 10. Commissions and other Service Fees

We may pay Commission to the Intermediar(ies). The amount of the Commission paid to an Intermediary will be calculated by reference to a percentage (%) of the Total Amount Financed. We pay this Commission to the persons entitled when the Total Premium funded amount has been paid to the Intermediary or Insurer(s).

In limited circumstances, we may pay a Service Fee to an Intermediary and/or to an Intermediary (Broker) Group and/or Authorised Representative Network

## 11. Enforcement expenses/costs

The Borrower must reimburse Elantis for all costs, expenses, fees (including, legal costs on a full indemnity basis) and interest reasonably incurred by Elantis in enforcing its rights under this agreement following an Event of Default.

## 12. Indemnities and Releases

To the maximum extent permitted by law:

(a) the Borrower is, and remains, liable to repay amounts due and payable to Elantis including the Total to be Repaid under this agreement and any other agreement with Elantis, and no act or omission of Elantis or the Intermediary (other than any wilful misconduct, fraud or negligence of Elantis or its employees) will relieve the Borrower of that liability;

(b) Elantis is not liable in respect of any loss suffered by the Borrower whatsoever in respect of any conduct, misconduct, omission, delay, breach of duty or negligence of the Intermediary or the Insurer of any Policy;

(c) Elantis is not responsible to the Borrower or any other person for, or in respect of, the cancellation of any Policy where it has exercised its rights in accordance with this agreement, and the Borrower indemnifies Elantis and the Intermediary in relation to any claims arising out of such cancellation; and

(d) the Borrower indemnifies Elantis against all losses incurred arising from a breach of warranty in relation to a lack of authority of any person who has signed the Offer (including where an Offer has been made by the Intermediary in accordance with this agreement), other than any loss caused directly by the wilful misconduct, fraud or negligence of Elantis or its employees.

Each indemnity is separate and independent of any other obligation under, and survives any termination of, this agreement.

## 13. General

(a) Where the Borrower is 2 or more persons, this agreement binds them jointly and each severally

(b) References to the singular include the plural and vice versa.

(c) The law of New South Wales governs this agreement.

(d) The parties irrevocably and unconditionally submit to the jurisdiction of the courts of New South Wales.

(e) Elantis may at any time assign its interest in this agreement.

(f) The Borrower authorises Elantis to complete or correct any information on or missing from this document.

(g) The Borrower consents to being given information in electronic form by Elantis and acknowledges that anything done electronically in connection with the Offer and/or this agreement is as valid and enforceable as if it were done other than by electronic means.

(h) If any part of this agreement is illegal or unenforceable, it will be severed from this agreement and neither that part nor its severance will affect the enforceability of the remainder of this agreement.

(i) Time is of the essence in relation to the performance of the parties' obligations. No waiver or period of grace will apply unless given in writing by the other party.

(j) Where no time is specified for payment of any amount payable in connection with this agreement, that amount shall be payable upon demand.

## **PRIVACY**

Elantis Premium Funding Limited (“our”, “us”, “we”) collects, discloses, handles and uses personal information and credit-related information about you to assess your Offer and decide whether to enter into a Credit Contract with you. By signing the Offer, you consent to us collecting, using, disclosing and handling your personal and credit-related information for the purposes explained below. **How we collect, use and disclose your information**

We collect and use personal and credit-related information about you to enable us to assess the Offer, provide finance to you or establish, administer and manage the Credit Contract with you and exercise our rights when taking appropriate action if an Event of Default occurs. We also use it where there is fraud or a serious credit infringement; where required or authorised by law (including under the Anti-Money Laundering and Counter-Terrorism Financing Act 2009 (Cth), the Privacy Act 1988 (Cth) and the Credit Reporting Privacy Code (“CR Code”); and the Income Tax Assessment Act 1936 (Cth)); and to comply with our arrangements with credit reporting bodies.

We may contact you using the personal information you have supplied to inform you of products and services that may be of interest to you but we will give you the opportunity to unsubscribe if you don’t want to receive it. If you do not provide the personal or credit-related information we require, we will be unable to provide finance to you or enter into a Credit Contract with you.

We may collect personal or credit-related information from you, the Intermediary, from the insurers, insurance brokers and agents, your bank and other financial institutions, your accountant(s), and other professional service providers, current and past employers, credit reporting bodies (CRBs), collection agents and finance or industry bodies.

We may use an automated tool to facilitate loan renewals. The tool is used to identify loans for auto-renewal by Elantis. Your personal information may be used in conjunction with this tool, in particular your name and other personal information provided to us in relation to your loan.

### **Exchanging information with CRBs**

The CRBs we usually deal with are Illion (contact details and privacy policy available at [www.illion.com.au/privacy-policy/](http://www.illion.com.au/privacy-policy/) and [www.illion.com.au/illion-credit-reporting-policy-australia/](http://www.illion.com.au/illion-credit-reporting-policy-australia/)) and Equifax (contact details and privacy policy available at [www.equifax.com.au/privacy](http://www.equifax.com.au/privacy) and [www.equifax.com.au/credit-reporting-policy](http://www.equifax.com.au/credit-reporting-policy)). We may exchange your personal and credit-related information with CRBs to verify your identity, assess your finance application and provide/administer and manage your loan. If you fail to meet your payment obligations in relation to consumer credit or you commit a serious credit infringement, we may disclose this to a CRB. The types of information that may be provided to a CRB and our management of credit-related information are explained in our Privacy Policy. For more details, refer to: <http://www.elantis.com.au/resources>

CRBs may include information in reports provided to other credit providers to assist them to assess your credit worthiness. However you have a right to request that a CRB: (i) not use or disclose your credit-related information if you believe on reasonable grounds that you have been or are likely to be a victim of fraud; and (ii) not use your credit-related information for the purposes of pre-screening of direct marketing by other credit providers (pre-screening is a process that enables a credit provider to determine whether you are ineligible to receive communications about credit offers from that provider, before those offers are sent). Please contact relevant CRBs by following the website links provided above if you require further information about CRBs use of your credit-related information.

### **Target Market Determination**

A Target Market Determination (TMD) is required by law to be produced by us if you are a retail client obtaining funding for a retail product eg domestic car, house, travel or accident & illness insurance - the TMD provides information on:

1. who our Target Market for the product is;
2. any conditions or restrictions on who the product can be sold to;
3. events and circumstances that would reasonably suggest that this TMD is no longer appropriate and review periods; and
4. reporting obligations and periods.

The TMD for this product are available from us. Please refer to your funding documents for our contact details.

### **Access, correction and complaints handling**

The privacy statement and privacy policy on our website (<https://www.elantis.com.au/privacy-policy/>) explain how we manage your personal and credit-related information, how you can access and seek correction of such information (including any credit eligibility information we hold about you), how you can complain about a breach of the Privacy Act (including the Australian Privacy Principles and Credit Reporting Code) and how we will deal with such a complaint. You can request a hard copy of the privacy statement by telephoning the number below.

If you wish you can access the personal information we hold or make a complaint about the way we have handled your personal information, contact our Privacy Officer at:

Privacy Officer - Elantis Premium Funding  
PO Box R1873  
Royal Exchange, NSW 1225  
Telephone: 1800 451 111  
Email: [admin@elantis.com.au](mailto:admin@elantis.com.au)



1800 451 111



[admin@elantis.com.au](mailto:admin@elantis.com.au)



[elantis.com.au](http://elantis.com.au)

**PO Box R1873, Royal Exchange, NSW 1225**