

Schedule 4B Part 1: Acknowledgment of Legal Advice by Proposed Borrower/Grantor of a Security Interest (Trustee)

*Delete words that do not apply

I, _____ (signatory)

acknowledge that, *as duly appointed Trustee of the _____

_____ Trust,

pursuant to a duly constituted and subsisting Deed of Trust dated _____

or * as duly appointed Trustee of the Estate of _____

to whom a grant of Probate/Letters of Administration was made on _____

1. I have instructed _____ (name of Solicitor) (my solicitor) to give me legal advice concerning the following loan and security documents:

(i) Loan agreement/Offer of loan between _____)

and

_____ the borrower/grantor of a security interest

(ii) Mortgage over trust property (specify address or other description) _____

(iii) Memorandum registered number _____

(iv) Charge over _____

(v) Other _____ (the loan documents)

2. I produced to my solicitor the following evidence as to my identity and legal authority as Trustee:

(a) Passport

(b) Driver Licence

(c) Medicare Card

(d) Credit Card

(e) Rate Notice

(f) Deed of Trust or Grant of Probate/Letters of Administration* dated _____

(g) Other

3. The advice given to me by my solicitor included that:

(a) As Trustee I have a duty to the beneficiaries of the

_____ trust/estate*

of _____

under the Trustee Act 1925 (NSW) / *Trustees Act 1962* (WA)* and under the Trust/Will/Estate*

of _____

(b) Provided that there are no unsatisfied claims by the said beneficiaries or litigation concerning their interests affecting the said trust/estate, and subject to the powers and authorities contained in the said trust instrument/Will of the deceased, I am as Trustee legally empowered to enter into such loan/security documents on behalf of

and for the benefit of the beneficiaries of the _____

_____ Trust/Will/Estate*

of _____

(c) by signing the loan documents I will be liable for regular payments of interest and repayment of the amount of the loan at the due date;

(d) if I fail to make any payment on time, the lender can charge a higher rate of interest, and the lender's costs of rectifying that failure;

(e) if I fail to comply with any of the terms and conditions of the loan documents including the obligations to pay principal or interest, the lender can sue me personally; and the lender may take possession of the trust property; and after notice, sell the trust property to recover the amount owing together with interest and other costs including solicitor's costs, the costs of selling the property and the costs of maintaining the property; and if the proceeds of the sale of the trust property are insufficient to satisfy the debt to the lender, the lender can sue me for the deficit; and regarding

(f) the additional obligations, rights and remedies set out in the loan documents if the National Credit Code or the *Personal Property Securities Act 2009* (Cth) apply; and that

(g) I owe a professional duty of care as a trustee towards the persons entitled as beneficiaries under such Deed of Trust/Grant of Probate/Letters of Administration*; and that

(h) by making a Statutory Declaration verifying the giving of the advice I am making a statement having the force of an Oath which can be relied upon by the lender.

4. Generally, in relation to the proposed transaction my solicitor specifically advised me that:

- solicitors by virtue of their profession possess no special skill to give financial (as distinct from legal) advice; and

- if I have any doubts about the wisdom of the transaction, or its possible financial consequences for me or I have any other questions about any financial aspect of the transaction or the documents, I should consult an accountant or other financial counsellor of my choice before signing the documents.

5. After receiving the above advice I freely and voluntarily signed the loan documents.

DATE: _____

SIGNED: _____
(Signatory)